

6th ICA Quarterly Report for 2022-23 Term (Q2 2023)

Sixth Quarterly Report of the 2022-23 Independent Consumer Advocate (“ICA” or “Consumer Advocate”) for the Metropolitan District of Hartford County (MDC)

(Q2 2023: April 1, 2023 – June 30, 2023)

Introduction

In my capacity serving as the ICA for MDC’s customers, I submit this sixth Quarterly Report for the 2022-23 term, which summarizes work and tasks performed during the second quarter of calendar year 2023 (April 1, 2023 – June 30, 2023).

Most of the ICA’s work during this quarter revolved around several overarching policy issues that are summarized below. Otherwise, much of the ICA’s time spent during this quarter focused on addressing customer complaints or inquiries, attending MDC board and committee meetings as well as non-MDC organization meetings, and monitoring communications between the MDC’s leadership and government agencies.

Internal Audit Committee and Independent Counsel’s Report

Upon the independent counsel’s release of its report (“Report”) summarizing its factual findings and recommendations regarding several MDC Commissioners’ alleged misuse of public funds,¹ the ICA spent time reviewing the Report and related District materials. Ultimately, the ICA prepared and submitted written comments regarding the Report to the District Board at its May 1, 2023 meeting (see DB May 1, 2023 Meeting Minutes at pp. 184-85, available at <https://themdc.org/app/uploads/2023/05/M-District-Board-05.01.2023-DRAFT.pdf>), where the Board received, discussed, and ultimately adopted the proposed resolution (“Resolution”) that had been prepared by MDC, which was identified as agenda item #14 at that meeting. As stated in my comments, I support the Board’s adoption of the Resolution.

In connection with the ICA’s review of the Report and preparation of public comments, I also spent time both communicating with District staff and researching related District Charter provisions, District Ordinances, District By-laws, and other policy documents, as well as relevant statutes and regulations. Although staff was cooperative and forthcoming in responding to the ICA’s requests for this information, there was one instance where information was withheld on the claimed basis that it constituted privileged communications between attorney and client, meant only for District Commissioners’ eyes only. Although the ICA considered resorting to the Freedom of Information Commission to contest the claimed exemption from public disclosure, counsel unfortunately did not have the time or resources to do so.² As a result of this and other

¹ More specifically, the allegations leading to the District’s hiring of independent audit counsel largely stated, among other things, that several Commissioners had used public funds to pay for legal services that appeared to be unrelated to duly-authorized District business. This matter sometimes has been referenced as the “Sandler & Mara legal invoices [bills] matter,” or some variation thereof.

² As stated previously, however, the ICA respectfully submits that *regardless* of the FOI Act’s requirements, the ICA should *always* have access to District records like those related to the Report, even those that may be claimed to be exempt from FOIA’s public disclosure requirements. It cannot credibly be disputed that such records are “relevant to the duties of the Independent Consumer Advocate,” given that the underlying allegations involved improprieties as to expenditure of public funds. See Connecticut General Statutes (“C.G.S.”) § 7-334a(b)).

6th ICA Quarterly Report for 2022-23 Term (Q2 2023)

scheduling and budgeting constraints affecting me at the time, I therefore did not have as much involvement in preparing the draft of the Resolution, at least as much as I would have preferred.

North Hartford Flooding Issues, Sewer Improvement Projects, and Revised Consent Order with Connecticut Department of Energy and Environmental Protection (“CT DEEP” or “DEEP”)

The ICA continued to devote attention and time towards addressing policy issues concerning stormwater flooding and its effects on the District’s operations and combined sewers, particularly in the neighborhoods of northern Hartford. I regularly communicated with individual customers, business and property owners, and municipal officials from this area and other parts of Hartford as well. The collective sentiment expressed by many customers in this area was one of dissatisfaction and frustration, largely due to deteriorating sewer infrastructure, drastic increases of inflow and infiltration (I&I) through sewer laterals, and lack of coordination among MDC staff, contractors, and City staff in working to repair or improve the MDC’s combined sewer system in the area. An example of the culmination of these issues was shown by the Upper Albany/Magnolia Street matter discussed in previous reports. All of this being said, however, it became evident during this time period that both MDC and CT DEEP officials generally agreed that the magnitude of the policy problems related to street flooding and the combined sewers in this area was so great that a policy shift was warranted. If this indeed was the thinking among MDC and DEEP officials in amending the 2018 Integrated Plan and Long-Term Control Plan (the “2018 IP/LTCP”) and the Consent Order No. WC 5434 (the “Consent Order”), the ICA commends them because he agrees that resources a policy shift was overdue in this area.

During this quarter, the ICA spent time reviewing the proposed modifications to the Consent Order, which implemented new procedural and policy requirements for how the MDC carried out its sewer improvement projects in North Hartford. Notably, the proposed modifications also changed the requirements for how the ICA would be involved in these projects going forward, so I spent considerable time reviewing these proposed modifications to the Consent Order. I also reviewed the legislative proposals that ultimately were enacted as part of Public Act 23-204 (discussed below).

Proposed Legislation

Although the ICA did not have the opportunity to submit formal testimony to the General Assembly himself, the ICA did attempt to review and assess the impact that Senate Bill 1139, AAC THE METROPOLITAN DISTRICT OF HARTFORD COUNTY (“SB 1139”) and House Bill 5888 (going by the same name) (“HB 5888”), would have had on the District’s customers in the event the legislation was enacted. Ultimately, neither of these bills passed and so it became moot, but the ICA believes that the intent of these legislative measures is sound and deserving of more legislative attention.

The other legislative measure that ultimately did pass and which became effective in June 2023 was codified in Sections 142-144 of Public Act 23-204 (see [AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2025, AND MAKING APPROPRIATIONS THEREFOR, AND PROVISIONS RELATED TO REVENUE AND OTHER ITEMS IMPLEMENTING THE STATE BUDGET](#), at pages 231-235 of 878). See also C.G.S. §§ 7-261 – 7-623 (codifying the Hartford Property Damage Repair and Reimbursement Program. The ICA feels that this sweeping legislation ultimately did address many of the important policy concerns that had been

6th ICA Quarterly Report for 2022-23 Term (Q2 2023)

raised by MDC customers during this time period. The ICA also began to develop a strategy for how he and successor ICAs might be involved in administering the programs resulting from the legislation.

Attendance at Meetings Held by Various Community Organizations

In addition to attending District Board, Bureau, and Committee meetings, the ICA also attended several public meetings that were held by various community advocacy groups. One such organization was the Upper Albany Main Street Design Committee, primarily comprised of local business owners, community organizers, legislators, and residents in North Hartford. This organization meets regularly and it inevitably focused its discussion and advocacy efforts during this quarter on addressing MDC's operations in North Hartford. As a result, I attended a meeting of the committee in order to give a brief presentation and to receive comments and questions from customers in attendance.

I also attended a meeting that was jointly organized by members of the Connecticut Coalition for Environmental Justice and/or the Connecticut Equity and Environmental Justice Advisory Council ("CEEJAC") (<https://portal.ct.gov/deep/environmental-justice/01-our-commitment-to-environmental-justice>). At this event, the ICA again provided some limited information about MDC's programs, policies, and utility operations in disadvantaged areas of Hartford. The ICA also discussed water quality and service issues raised by customers at this meeting, and he communicated with some other water policy advocates and government officials who attended this meeting.

At both of the aforementioned meetings, candidates for Mayor of Hartford were in attendance given that the campaign was in full swing. As a result, much of the discussion at these meetings concerned how the mayoral candidates would work with the MDC if elected.

Public Hearing on Sewer Ordinance Revisions re: Private Property Sewer Connection Power Rodding or Repair

The MDC—primarily through its Committee on MDC Government and its BPW—proposed noteworthy revisions to the District Sewer Ordinances during this quarter, most of which were focused on implementing the MDC's Sewer House Connection Program and on providing customers relief in the event that their properties suffered damage as a result of sewer connection issues. See [https://themdc.org/app/uploads/2023/05/Town-Clerk-Notice-Sewer-Ordinance-Revisions.DRAFT .pdf](https://themdc.org/app/uploads/2023/05/Town-Clerk-Notice-Sewer-Ordinance-Revisions.DRAFT.pdf) Given that several customers complained to the ICA about this issue, at least one of which formally submitted a claim for damage caused to her property in excess of \$10,000, the ICA particularly was focused on addressing these concerns in his efforts to advise the MDC on the ordinance revisions.

The ICA spent time researching relevant law and District Ordinances, By-laws, Charter provisions, and Policies. The ICA also reviewed relevant case law and other legal authorities regarding the retroactive application of legislation, given that one of the chief concerns of customers on this issue was the fact that reimbursement for property damage would only apply to claims on a going-forward basis under the program implemented under the revised ordinances, not to customer claims that had already been submitted. Ultimately, the ICA prepared and submitted his comments and recommendations to the District during the May 30, 2023 public hearing that was held on the proposed ordinance revisions. As stated at this public hearing, the ICA generally supported the revisions to the Ordinances, but he took issue with the fact that they did not appear to apply retroactively, thereby putting some customers at a significant

6th ICA Quarterly Report for 2022-23 Term (Q2 2023)

disadvantage on this issue. In particular, the Hartford Sewerage System Repair and Improvement Fund was a successful outcome of this legislation, and the ICA tried to plan how he (and his successors) might allocate time and resources in the future, given the Fund's changing of the resources and remedies available for customers with problems related to sewer services in North Hartford.

Industrial Rate Proposal

During this time period, the MDC also revisited policy discussions about a potential industrial rate for certain customers within the District. The ICA accordingly did some historical research in the MDC's archives of minutes and agenda packets for board and committee meetings where Commissioners had discussed this concept, the Economic Development Rate ("EDR"), and the controversy concerning the MDC's relationship with customer, Niagara bottling plant. (See <https://themdc.org/app/uploads/2020/09/M-PH-MDC-Government-02.24.2020.pdf> for background.) The ICA submitted some comments to MDC staff about this proposed rate, and he tried to compile data showing potential cost savings (or lack thereof) as a result of implementing such a rate.

MDC Board and Committee Meetings

The ICA continued to regularly attend the public meetings held by the District Board, the BPW, Water Bureau, Board of Finance, and various District Board Committees. Many of these meetings were closely related to the issues and projects already discussed in this report, but it is worthy to mention that during this quarter, there had been a significant increase in media attention on the MDC in light of several legislative proposals discussed in this report. The ICA accordingly had to spend more time than previous quarters preparing for these meetings.

General Customer Complaints and Inquiries

As in previous quarters, the ICA devoted significant time and attention toward responding to individual customers' complaints and inquiries about the MDC. Although there were others and some of the complaints and inquiries discussed in previous quarterly reports persisted as well, some of these individual customer matters can be described as follows:

- Assisted Hartford customer with inquiry about MDC's Backwater Valve Program in light of the District's inability to install sump pumps in the City, and conflicting information the customer had received from an employee in the City's Housing Department.
- Assisted East Hartford customer with a leak adjustment request and water bill adjustment.
- Assisted West Hartford customer was property owner on Sunny Reach Drive, who had discovered obstruction in her lateral house connection located on *neighboring* private property which was not served by any connection, and who had no other choice but to hire contractor at her own expense to remove obstruction. This contractor's work ended up costing the customer in excess of \$10,000 in repairs and because it was on neighboring private property, the MDC—at least initially—would not reimburse or assist the customer with the repairs. This customer's matter became a more protracted issue,

6th ICA Quarterly Report for 2022-23 Term (Q2 2023)

and her complaint also became a topic of discussion in connection with the proposed revisions to the Sewer Ordinances discussed in this report.

- Assisted West Hartford customer with issues concerning installation of a sump pump on private property.
- Assisted Windsor customer who submitted a claim for private property damage that had been caused by an MDC contractor in connection with work done to repair a sewer lateral.
- Coordinated MDC staff's efforts to repair water main break in East Hartford, after prior repairs performed by MDC contractor were substandard and led to drainage obstructions.
- Assisted Rocky Hill customer with leak adjustment request for water bill. This matter became an ongoing dispute that required substantial follow-up and attention as a result of the customer's dissatisfaction with staff's proposed resolution of the issue.
- Advised Bloomfield resident regarding damage to customer's motor vehicle caused by MDC water main.
- Advised Hartford rental property owner and customer who had been sued by MDC in receivership action where she claimed to have been out of the country during the time period during which her property was receiving demands for payment of past due water bills.
- Assisted Windsor residential customer who complained about her water bill being excessive and who requested payment plan assistance.

Respectfully submitted,



Joseph D. Szerejko
Independent Consumer Advocate (MDC)