



August 25, 2015

Honorable Marla O. Anderson
Presiding Judge of the Superior Court
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Re: Housing Authority of the County of Monterey
Response to Monterey County Civil Grand Jury Final Report No. 6

Dear Mr. McKee:

The following correspondence is the Housing Authority of the County of Monterey (HACM) Board of Commissioners' response to the Findings and Recommendations of the Monterey County Civil Grand Jury's Report concerning HACM's process for documenting, responding to, and following up on inquiries and complaints from citizens regarding HUD project based program and Housing Choice Voucher Program assistance inadvertently going to clients not eligible for aid. The Grand Jury Report sets forth a number of findings and recommendations based on their investigation.

In response to the Grand Jury Report, the Board of Commissioners ("Board") directed the Executive Director to formalize the process for the intake, investigation and documentation of complaints from various sources regarding the possibility of program violations by either tenants or landlords receiving benefits from any housing program managed or administered by HACM. The details of HACM's newly instituted Program Complaint Resolution Procedure are set forth in more detail in the Board's responses to specific recommendations of the Civil Grand Jury.

Findings:

F1. HACM does not currently have any meaningful procedure for the receipt, processing, investigation or response to complaints regarding abuse of its housing assistance programs.

Board Response: The Board agrees in part and disagrees in part with Finding No. 1. At the outset of the Grand Jury's investigation, HACM did not have a specific complaint log which centralized the documentation of incoming complaints, the subsequent investigation of such complaints, and the outcome. However, HACM has at all times responded to complaints utilizing the available resources in an effort to



*Mission Statement:
To provide, administer, and encourage quality affordable housing and related services
to eligible residents of Monterey County.*



determine if the substance of a complaint could be substantiated, and if so, remedial action was promptly taken. The Program Complaint Resolution Procedure was created to standardize and formalize the previous ad hoc practices. HACM's newly adopted process for responding to complaints designates HACM's Quality Control Supervisor as the individual who should be forwarded all incoming complaints from individuals outside the agency. The individual then assigns investigative responsibility to a specific department and/or individual, and maintains a log of the permanent documentation consisting of the key information and outcome for each such complaint.

F2 The Board of Commissioners has not had a formal complaint tracking mechanism.

Board Response: The Board agrees in part and disagrees in part with Finding No. 2. Inquiries or complaints made in the public comment session of an open meeting of the Board have always been documented by the Board's secretary in the Minutes of the meeting. It was the practice of the Board Chair to refer such inquiries to the Executive Director for appropriate follow-up. The Board acknowledges that at the time of the Grand Jury investigation they did not have a written policy directing the Executive Director to respond back to the person who presented the issue to the Board, or a policy mandating that the Board be apprised that follow-up had occurred and a meaningful response to the commentator had been made. The lack of a formal policy has been addressed by the Board's adoption and implementation of Resolution 2813. Both the Resolution and the associated policy are attached to this Response as **Exhibits 1 and 2**.

F3. Resolution 2813 adopted by the Board in March 2015 does not provide for an ongoing complaint log that should be available for the public and staff at Board meetings.

Board Response: The Board agrees in part and disagrees in part with Finding No. 3. Comments by the public, including any complaint, formal or otherwise, are included in the Minutes of the Board meetings which are a public document and available on the HACM website. Complaints that are presented to HACM staff, other than at a Board meeting, are not public and, for privacy reasons, including, but not limited to, the Federal Privacy Act and the right to privacy guaranteed under the California Constitution, HACM staff must limit the information available to the public concerning the complaints and the results of any investigation.

F4 Resolution 2813 does not require a process whereby analysis of complaints by the Board is mandatory as a regular item.

Board Response: The Board agrees with Finding No. 4, but notes that the finding is based on a misunderstanding of the Board's role. Analyzing or investigating complaints concerning alleged abuse of housing assistance programs is not a function of the Board. The Executive Director has that responsibility, and meets the responsibility by making sure that complaints are properly assessed, investigated and responded to.

Inquiries or complaints received by HACM staff outside a Board meeting run the gamut from anonymous, nonspecific allegations, and false or misleading complaints brought by individuals for improper purposes, to detailed complaints of HUD rules concerning a specific landlord, client, and/or a detailed complaint attached to a complete address. These latter type of complaints permit an investigation to be completed and where an investigation leads to the conclusion that a violation probably occurred staff will take action up to the termination of the client's benefits if appropriate.

Since the implementation of Resolution 2813 when a member of the public makes a complaint or query at a Board meeting, the Board Chair will direct the Executive Director to investigate the matter and respond back in writing to the commentator with a copy to the Board Chair, who both documents they have received the response and reports back to the full Board under new business that a response has been provided to the commentator. For the privacy reasons discussed above, it may not be possible to detail the substance of the response at the public hearing.

F5. The Executive Director of HACM did not respond to at least one member of the public, even though she stated in writing that she would. Therefore, this particular complaint was unresolved. There may still be ongoing violations at that particular address.

Board Response: The Board denies Finding No. 5. The Board requested the Executive Director to review all her correspondence concerning the complaint referenced and based on that review it does not appear that there was a written communication to this individual that the Executive Director would "respond to him in writing". The suggestion in Finding No. 5 that no investigation was undertaken by HACM in response to the subject complaint is inaccurate. The Executive Director instructed Program Manager Joni Ruelaz to follow up on the complaint which was to the effect there were persons residing at a multiple-unit address that were undocumented and therefore not eligible for benefits. The individual providing the complaint could not identify which unit the suspected ineligible individual(s) resided, and when contacted for more information responded that "all the persons" in "all of the units" were "illegal". HACM staff undertook an investigation; however, based on the limited information provided and the complainant's inability to provide any additional information, there was no way to either substantiate or disprove the complaint as presented. Review of the

HACM client information was insufficient, as some of the units at that address were not managed by HACM, not subject to a HAP contract, and not occupied by HACM clients. Thus, other than interrogating all of the individuals in all of the units at that address regarding their residency status, the report of individuals ineligible for benefits residing in a HACM-managed unit and receiving benefits could not be confirmed. Without a stronger factual basis for suspecting a specific HACM client(s) was unlawfully receiving benefits, a demand for information from both the HACM and non-HACM clients residing in all units at the address, or even interrogating just those individuals at the address who receive benefits, would create the risk of legal action against HACM on the basis of race or nationality discrimination, harassment, and invasion of privacy from HACM clients who were subject to an investigation based on a non-specific complaint.

The individual who made the complaint was advised by phone of staff's inability to confirm the accuracy of the complaint due to the inability to link the allegation to a specific unit under HACM management at that address.

Moreover, Finding No. 5 fails to take into consideration that all individuals receiving assistance undergo an annual eligibility review by a HACM housing specialist. The annual eligibility review requires the recipients of benefits to provide information under penalty of perjury concerning the identity and residency status of the individuals living in the unit, all sources of income, along with backup documentation. The fact that the HACM clients residing in a specific unit at the address identified by the complainant have undergone annual reviews since the complaint was made, minimizes the likelihood of any ongoing violation at any unit subject to oversight by HACM at that location. Finally, it appears that this complainant was unaware that the presence in a household receiving benefits of an individual who lacks the required documentation for residency in the United States does not necessarily preclude other members of the household from receiving HUD assistance. Such circumstances will typically result in the reduction in the amount of the assistance available not the total denial of benefits. For example, a residence whose occupants consist of children who are citizens of the US, a parent who has citizenship and one who does not have documentation, will result in a prorata reduction of benefits, but not the total elimination of benefits.

F6. HACM staff did not respond readily to complaints about a given address, and preferred to focus on individual clients by name, despite the fact that addresses can be cross-referenced on the data base, and names of clients currently living at that address can be called up.

Board Response: The Board disagrees with Finding No. 6 based on the belief that it does not reflect staff preferences or methodology. Where a complaint which only references a given address permits HACM to identify the individual that receives housing benefits, HACM staff will promptly investigate the complaint. The HACM

database can go from an address to a client, and then the client's eligibility file can be reviewed. The eligibility file lists the individuals who reside in that unit and therefore provides a baseline to compare the residents at the unit at the time of the complaint. That information is sufficient to determine if there has been a change which would affect the client's right to receive benefits. However, where a street address identifies an apartment complex or other multi-unit dwelling and does not identify a specific unit, such cross-referencing is not possible. In those situations, it is common that some units will have residents receiving benefits, whereas, other units will not. As discussed above, HACM cannot subject all tenants/residents in each unit at a particular street address to an investigation in an effort to determine if a unit with residents receiving benefits managed by HACM was the subject of a complaint that undocumented individuals reside there and thus not eligible to receive benefits.

F7. HACM staff also do not maintain a formal log of complaints received.

Board Response: The Board acknowledges that at the time of the Grand Jury investigation HACM did not have a specific person who had the responsibility to maintain a log of all complaints received from the public. The issue has now been addressed by the adoption and implementation of the procedures outlined in the Program Complaint Resolution Procedure.

Recommendations

R1. That Resolution 2813 be expanded to provide transparency to the public and staff as to how complaints are analyzed and managed. A log of these issues with timelines and responses documented should be the basis of an ongoing quality management review by the Board, thus checking their status and being responsive to the public.

Board Response: The spirit of this recommendation has been adopted, subject to the privacy and confidentiality issues which are a necessary component of any investigation of complaints concerning clients who receive benefits managed by HACM. The HACM Board meets approximately monthly. When a complaint is received during the public comment portion of a Board public meeting, the procedures mandated by Resolution 2813 require a response to that complaint. However, the investigation and follow-up is not undertaken by the Board, but rather by staff under the direction of the Executive Director. Information obtained in the investigation typically includes matters which are protected from disclosure by the Federal Privacy Act and/or the California Constitution right of privacy. However, under Board policy 2813, the Executive Director is required to respond in writing to the person raising the issue, confirmation of the written response is documented by the Board Chairperson, who also reports back to the full Board that the inquiry or complaint has been appropriately investigated, and, to the

extent permitted under the applicable privacy laws, the outcome that was communicated to the individual raising the issue.

R2 That HACM adopt a formal written complaint Resolution policy and procedure. This would include a log of incoming complaints, to whom they were assigned, and how and when they were resolved.

Board Response: The Board has adopted this Recommendation. The Executive Director has formalized HACM's response to complaints from the public received by staff and created a robust documentation structure to ensure all available data relating to a complaint is obtained in a timely and efficient manner. The procedure includes that all complaints be promptly communicated to the Quality Control Supervisor; that the QCS assign the responsibility to investigate each complaint to the appropriate department/individuals, that the QCS keeps a log of all complaints in chronological order by date received, with basic information concerning the complaint, to whom the investigation was assigned, and the results of the investigation once completed. The Quality Control Supervisor also has responsibility to monitor the status of the investigation to ensure it is completed in a timely fashion, and will report monthly to the Executive Director on the status of all open investigations and the results of those that have been concluded. In addition, HACM staff will now receive specific training on the Program Complaint Resolution procedures and instructions on the use of the Program Violation Allegation Report Tool for documenting the report as initially received, and the Inquiry Request Tool for use with regard to inquiries from the public regarding possible violations.

R3 That HACM respond to complaints about particular addresses where their clients are located as readily as they do complaints about individual clients by name. They are encouraged to use all data bases entries available for pertinent information.

Board Response: The Board believes this Recommendation is unnecessary, in that complaints about particular addresses are responded to as readily as complaints about individual clients by name. Utilization of the Program Complaint Resolution Procedure will provide the necessary documentation to ensure that complaints based on address are properly responded to within the scope of the information available to HACM.

R4 That HACM establish a Quality Management Committee to review, analyze and report on complaints received by the agency.

Board Response: The Board believes that the Program Complaint Resolution Procedure will accomplish the purpose of a Quality Management Committee without the expense associated with hiring new personnel, or the delays and inefficiencies often

associated with committees. The Quality Control Supervisor, responsible for monitoring complaints in accordance with the new procedure, will have immediate direct communication with those assigned to conduct the investigation, and the Executive Director with whom he/she will meet monthly to review the status of open investigations and results of those concluded.

R5 That HACM hire a Program Integrity staff member to work with the housing program for outreach and investigation of possible fraud and mismanagement. The person in that position would assist HACM in fiscal management by identifying misuses. He/she would work with the DA to prosecute and recover monies.

Board Response: In response to this recommendation, the Board notes no funding source was identified from which HACM could hire new staff for that purpose. Current staff are assigned responsibility for completing annual reviews of recipients' eligibility, and utilize the currently available tools to investigate possible fraud. HACM staff has recent experience in referring matters to the District Attorney where they uncover evidence of fraud. The determination of which matters the District Attorney will prosecute, while subject to some input from HACM, is in the sole discretion of the District Attorney and subject to their available resources and priorities.

R6 That HACM investigate, currently, the address that was the subject of the complaint referred to in this document.

Board Response: The Board notes that investigation has been completed, and to that extent the recommendation has been accepted and implemented.

R7 That HACM increase interactions with Law Enforcement so that there could be cross-reporting on address of police calls (such as when police know it is a HACM project-based unit).

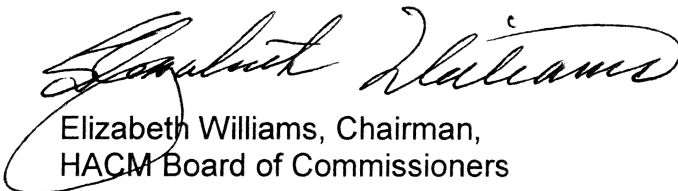
Board Response: HACM has an excellent working relationship with both the City and County law enforcement agencies and will continue to work on improving cooperation and relationships with those agencies. Law enforcement agencies are limited in the information they can share without a subpoena or court order with private agencies such as HACM. HACM's staff training includes instruction concerning the circumstances under which information can be obtained from law enforcement. For example, staff are instructed to request a copy of the police report in the event of an arrest of an individual at an address where a HACM client resides. The police report provides staff with information as to what, if any, involvement with illegal activity may be occurring, and its potential effect on the client's right to the receipt of benefits.

Charles J. McKee
County Counsel
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R8 HACM establish a program to create more owner/landlord awareness of current and ongoing regulations that they may need reminders about. Quarterly meeting with landlords would be useful, in addition to a HACM newsletter.

Board Response: HACM currently reaches out to landlords and owners. A recent example was HACM's open house for landlords and owners. Landlords and owners are educated concerning the regulations through the use of an approved HAP contract. HACM distributes a semi-annual landlord newsletter that is an excellent vehicle for providing the landlords with information regarding current and ongoing regulations and related matters. Regular meetings with landlords are not feasible, as landlords would not be required to participate and experience has shown that the proposed quarterly meetings would be unlikely to generate meaningful participation on their part.

Very truly yours,



Elizabeth Williams, Chairman,
HACM Board of Commissioners

Board Policy Regarding Response to Public Comments Received at a Board Meeting

At every public meeting of the Board of Commissioners, the public is permitted to make comments for up to three minutes on any item not addressed on the published Board Agenda. This comment period is generally at the beginning of each meeting and those persons wishing to address the Board are asked to sign up prior to the start of the Board Meeting providing their name, address and phone number so that appropriate staff can respond to their questions or concerns. The Board does not answer questions or respond to the speaker during the meeting.

When a person makes a comment that requires a response (such as a complaint or query), the Board Chair will direct the Executive Director to look into the matter and respond back to the commenter. The Executive Director will respond in writing to the commenter if the commenter has provided an address to which it can be directed. The Board Chair will receive a copy of the response, read and initial that he/she has received it, and report back to the full Board under New Business that the response has been provided to the commenter.

RESOLUTION 2813

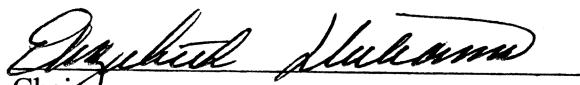
**AUTHORIZATION TO CREATE A BOARD POLICY REGARDING RESPONSE
TO PUBLIC COMMENTS RECEIVED AT A BOARD MEETING**

WHEREAS, the Housing Authority of the County of Monterey's Board of Commissioners conducts regular meetings; and

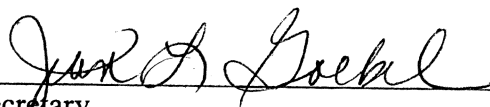
WHEREAS, the Housing Authority of the County of Monterey's Board of Commissioners requires that public comments be accepted at each meeting; and

WHEREAS, the Housing Authority of the County of Monterey's Board of Commissioners has authorized the Chair of the Board to receive these comments and to direct staff to respond to them as needed.

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners of the Housing Authority of the County of Monterey hereby approves the Board Policy Regarding Response to Public Comments Received at a Board Meeting.


Chairman

ATTEST:


Secretary

3-24-2015
Date

PASSED AND ADOPTED this 23rd day of March 2015, upon motion of Zenk, seconded by Ballesteros and carried by the following vote- to-wit:

AYES: Williams, Espinoza, Zenk, Ballesteros
NOES: None
ABSENT: Healy, Gama