

# **PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL**

**REPORT TO COMMISSIONERS**

**FROM JON M. GUTZMANN  
EXECUTIVE DIRECTOR**

**REGARDING** Public Housing Agency Plan;  
Annual Plan for PHA Fiscal Year 2015

**DATE** November 27, 2013

Staff recommends approval of Resolution No. 13-11/27-2 approving the Annual Agency Plan for the PHA's Fiscal Year 2015, which is Federal Fiscal Year (FFY) 2014. This year the Agency Plan does not include the Capital Fund Program (CFP) funding application for FFY 2014. A draft of that application is being provided as a separate informational report, along with the CFP Five Year Action Plan and the CFP annual reports for the active grants, FFY 2010-2013 and Replacement Housing Factor (RHF) grants for 2007-2012.

HUD staff informed the PHA on November 19, 2012 that the Capital Fund Program (CFP) funding application for FFY 2014 should not be included in the Agency Plan this year. They cited the Final Rule for the Capital Fund that was published on October 24, 2013 as requiring the CFP application and annual reports to be submitted separately with the signed amendment to the Annual Contributions Contract (ACC) after the actual amount of the PHA's CFP grant for FFY 2014 is announced. Based on past years' experience, that could occur anytime between March and August of 2014, after Congress approves the appropriations and HUD announces the actual CFP grant amounts.

The PHA held the required public hearing on the Agency Plan on Tuesday, November 19, 2013 at Neill Hi-Rise, 325 Laurel Avenue. Staff announced that the draft Agency Plan was available for public review and comment at the beginning of October by publishing a notice in the St. Paul

Pioneer Press and posting a notice and the draft Plan on the PHA's website. The updated Plan is substantially the same as last year's. Members of the Resident Advisory Board (RAB) discussed the Plan updates in five meetings held in August, September, October and November. The agendas and announcements of RAB meetings were mailed to the Hi-Rise Presidents Council, the City-Wide Residents Council, Section 8 representatives and SMRLS.

No written comments on the Agency Plan itself were submitted by the RAB or the public. During the course of the RAB meetings members offered a wide range of suggestions for policy and procedure changes, sometimes in writing and sometimes verbally. Staff will summarize those resident comments and the PHA's response in the Agency Plan attachment.

The PHA's Agency Plan is posted on the PHA's website, [www.stpaulpha.org](http://www.stpaulpha.org), and on HUD's website: <http://www.hud.gov/offices/pih/pha/approved> .

FAH

Attachments: Resolution 13-11/27-2 including HUD-50077,  
"Certifications of Compliance with PHA Plans  
and Related Regulations";  
Agency Plan and Attachments

**PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL  
RESOLUTION NO. 13-11/27-2**

**PUBLIC HOUSING AGENCY PLAN FOR PHA FISCAL YEAR 2015 (FFY 2014);  
CERTIFICATIONS OF COMPLIANCE WITH PHA PLANS  
AND RELATED REGULATIONS**

WHEREAS, the PHA is required to prepare and submit to HUD each year an Agency Plan including required attachments; and

WHEREAS, HUD approved the PHA's Agency Plan for the current fiscal year on March 7, 2013; and

WHEREAS, there have been presented and considered at this meeting of the Board of Commissioners draft plans which describe the PHA's current programs and plans for the next fiscal year, which plans are in the form required by HUD; and

WHEREAS, the PHA's Resident Advisory Board (RAB) assisted staff in developing the draft plan; public notice was published of the draft plan's availability and the plan was presented at a public hearing as required; and

WHEREAS, HUD requires the Agency Plan to be accompanied by "Certifications of Compliance with the PHA Plans and Related Regulations" executed by the Board Chair;

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the PHA as follows:

1. The Annual Agency Plan for the PHA Fiscal Year beginning April 1, 2014 is hereby approved.
2. The Chair of the Board and the Executive Director or his designee are authorized to execute the "Certifications of Compliance with the PHA Plans and Related Regulations" in the form prescribed by HUD, and such other documents as may be necessary to complete the Agency Plan for submission.
3. The Executive Director or his designee is authorized to submit the Agency Plan and related documents to HUD by January 15, 2014 or such later date as HUD may approve.

# PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL

**REPORT TO COMMISSIONERS**

**FROM JON M. GUTZMANN  
EXECUTIVE DIRECTOR**

**REGARDING** Annual Executive Director Salary Increase  
2012 & 2013

**DATE** November 27, 2013

Staff recommends Board approval to increase the Executive Director's salary by 2.8% effective retroactively to December 1, 2012, and 2.8% on December 1, 2013, with both increases to be given as two smaller increases to comply with the Minnesota Local Government Salary Cap, as explained below. A small amount of each increase would be paid from the Building Fund to comply with the current limit on PHA salaries paid from HUD funds, also explained below. The recommended 2.8% increases are the same percentage approved by the Board for the AFSCME represented employees effective June 1, 2012 and June 1, 2013; and the Local 132 represented employees effective January 1, 2013 and January 1, 2014; and the Supervisory and Confidential (S & C) employee group effective December 1, 2012 and December 1, 2013. While the Executive Director is not a member of the S & C employee group, he usually receives similar salary increases and benefits at the same or similar time. His last increase (2.3%) was effective December 1, 2011, as approved by the Board on December 21, 2011.

The Executive Director's current salary is \$155,184.02/year. Without considering the State salary cap, the recommended 2.8% increase on December 1, 2012 would raise his salary by \$4,345.12, to \$159,529.14. The recommended 2.8% increase on December 1, 2013 would raise his salary by \$4,466.80, to \$163,995.94. The tables below show how the increases would be split between December 1 and January 1, to comply with the State salary cap. The Minnesota Local Government Salary Cap was \$157,181 in 2012 and it increased to \$160,639 effective January 1, 2013. Since the

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**EXECUTIVE DIRECTOR SALARY INCREASE**  
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2014 salary cap had not been announced when this report was written, the amount of the final increase is uncertain. Staff anticipates that the 2014 salary cap will be high enough to allow the Executive Director to receive the full 2.8% increase recommended.

Current Salary	12/1/2012 Increase	12/1/2012 Salary	1/1/2013 Increase	1/1/2013 Salary	Total 2.8% Increase
\$155,184.02	\$1,996.80	\$157,180.82	\$2,348.32	\$159,529.14	\$4,345.12
		\$157,181		\$160,639	
		State cap		State cap	

Projected salary	12/1/2013 Increase	12/1/2013 Salary	1/1/2014 Increase	1/1/2014 Salary	Total 2.8% Increase
\$159,529.14	\$1,109.68	\$160,638.82	\$3,357.12	\$163,995.94	\$4,466.80
		\$160,639		?	
		State cap		State cap	

December 1, 2012 Salary Increase: Staff is recommending that the Executive Director’s salary be retroactively increased to stay just under the 2012 State salary cap amount at \$157,180.82 effective December 1, 2012 and be increased the remainder of the 2.8% to \$159,529.14 retroactive to January 1, 2013. That amount would be \$1,109.86 less than the 2013 State salary cap. The total amount of this first year proposed increase is \$4,345.12.

December 1, 2013 Salary Increase: Staff is recommending that the Executive Director’s salary be increased to \$160,638.82 effective December 1, 2013 to stay under the 2013 State salary cap and be increased the remainder of the 2.8% to \$163,995.94 effective January 1, 2014, if allowed by the 2014 State salary cap. If the new State salary cap is lower, the Executive Director would only receive the portion allowed by the salary cap. Based on past practice, the Minnesota Management and Budget office should release the 2014 State salary cap amount in December 2013. The total amount of this proposed increase would be \$4,466.80 if the 2014 State salary cap allows it.

PHA Salaries Limited by the Consolidated and Further Continuing Appropriations Act: The federal government is currently operating under a Continuing Resolution (CR) that continues the funding levels and related provisions in last year's appropriations act, including the limit on public housing agency staff salaries. The Consolidated and Further Continuing Appropriations Act of 2012 stated that HUD funding for public housing and Section 8 could not be used for any amount of salary for any employee of a public housing agency that exceeds the annual rate of pay payable for a position at the Level IV of the federal Executive Schedule. The maximum pay for Executive Schedule Level IV for calendar year 2013 is \$155,500 (the same as 2012). The recommended Executive Director salary of \$159,529.14 (January 1, 2013) would be \$4,029.14 over this maximum.

However, under the FY 2014 Operating Budget approved by the Board, \$1,590 of the Executive Director's salary is paid from the Building Fund and therefore that amount is not counted toward the federal budget salary cap. Following industry groups' analysis and guidance, staff interprets the federal limitation as applying to the total salary paid to the Executive Director in a PHA Fiscal Year, whereas the federal limit itself is based on a calendar year. Staff is recommending that any salary amount of the Executive Director's salary that exceeds the operative federal limit for the appropriate time period be paid from the Building Fund. The additional amounts paid from the Building Fund will be under \$10,000. There are sufficient funds in the Building Fund to pay those amounts.

Salary Comparability Study. A year ago staff completed a salary comparability study as required by HUD, that indicated that the Executive Director's current and proposed salary is comparable and competitive with other Public Housing Executive Directors in similarly-sized housing agencies and with other local government agency department directors.

During this past year staff has collected news articles relating to Executive Director compensation from Housing News Highlights (the “Sherwood Report”). Some representative salaries reported during the year are \$169,500 for New Marin (California) Housing Authority; \$169,744 for Dayton (Ohio) Housing Authority, \$152,000 for Saratoga Springs (New York) Housing Authority; \$242,000 for Harris County (Texas) Housing Authority; \$175,000 for Durham (North Carolina) Housing Authority; \$166,529 for Brockton (Massachusetts) Housing Agency, and \$164,800 for Somerville (Massachusetts) Housing Agency.

The attachments to this report provide further background on the Executive Director’s compensation and benefits history.

- History of the Minnesota Local Government Salary Cap amounts.
- Notice from HUD regarding the maximum amount of HUD funds that can be used for an employee’s salary.
- Spreadsheet showing the increases in the Executive Director’s pay and benefits from date of hire (August, 1987) to present.

#### **VACATION CARRYOVER**

Staff is also recommending that the Board affirm that the Executive Director is permitted to carry over any amount of unused vacation (annual leave) from one year to the next. The Policies for Supervisory and Confidential Employees allow staff in that group to carry over more than 280 hours only with the permission of the Executive Director. The Executive Director is not a member of the S & C employee group, so the restriction does not apply to his position anyway.

DMM/ANH/RPM/FAH

Attachments

# **PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL**

**REPORT TO COMMISSIONERS**

**FROM JON M. GUTZMANN  
EXECUTIVE DIRECTOR**

**REGARDING** Operating Budget Revision No. 1  
Fiscal Year 2014

**DATE** November 27, 2013

Staff requests Board approval to revise the Fiscal Year 2014 Operating Budget to adjust staffing and contract costs as explained below. The net effect of the recommended changes would be to increase budgeted expenditures by about \$28,350 for this fiscal year. These are changes that were not anticipated when the Board approved the Fiscal Year 2014 Operating Budgets for the Low Rent Public Housing Program and the Section 8 Program at the March 27, 2013 meeting, or the Supplemental Operating Budget that was approved on May 22, 2013. (Copies of those Board reports are attached.)

The recommended revisions are summarized as follows and explained below:

1. Add a 0.5 FTE (Full-Time Equivalent) staff position in the Finance Department for a Business Systems Analyst.
2. Eliminate a vacant 0.5 FTE Program Coordinator position in the Executive Department and move this 0.5 FTE to the Resident Initiatives Department for the Department Director position that was approved by the Board on February 27, 2013.
3. Reduce a budgeted 1.0 FTE Program Coordinator position in the Resident Initiatives Department to 0.75 FTE.
4. Add the cost of two part-time, long term temporary Grant Coordinator positions in the Resident Initiatives Department); estimated to start February 1, 2014, after funding is received from the next SHIP grant (Statewide Health Improvement Program) and to end on October 31, 2015 if future SHIP grants are not received; not counted as "FTE" additions in the budget since they are temporary positions.
5. Increase the salary of the second attorney provided to the PHA by the St. Paul City Attorney's Office to reflect David Palm's promotion to Senior Assistant City Attorney effective August 1, 2013.

6. Reclassify the Executive Assistant position from 1.0 FTE Executive Assistant to 0.5 FTE Executive Assistant and 0.5 FTE Program Coordinator (C42) to more accurately reflect current duties and responsibilities of the position and to create capacity for new initiatives around web-based content information-sharing and advocacy. This reclassification would be effective December 1, 2013.

All of the recommended FTE changes are shown on the attached table of Agency staffing levels since 1990. With the proposed changes, the overall staffing level is still below what it was in 1993. Further explanation of each change follows.

Finance Department/MIS Division Business Systems Analyst. The current MIS (Management Information Systems) staff of 6.0 FTEs is fully occupied with keeping the Agency moving in its current technology (business applications, network capabilities, communications, and so on). (The MIS Manager position is temporarily vacant since Rick Jordan's retirement, but it will be filled shortly.)

The PHA's initiative to become more active and visible in digital media has required shifting the job responsibilities of a current Business Systems Analyst to focus more on upgrading the PHA's Internet web page, as well as the Intranet web page, electronic communications, social media, and printed materials such as the annual reports and fact sheets. This Business Systems Analyst position will spend more time working with the Executive Assistant who is leading the PHA's efforts to promote PHA's web-based content information-sharing and advocacy. More details are provided in the paragraph below regarding the proposed reclassification of the Executive Assistant.

An additional 0.5 FTE Business Systems Analyst is needed to keep pace with other requests from staff for specialized data and technological solutions to business problems; providing internal support for PHA's communication equipment, fax/copier/printers and document imaging; assisting the Network Administrator with tasks such as establishing e-mail accounts and installing software remotely; providing remote training; and other tasks.

Resident Initiatives Department:

- a. Resident Initiatives Director: This 0.5 FTE position was approved by the Board on February 27, 2013 on a budget-neutral basis, pending other anticipated staffing and budget adjustments. The position was included in the Operating Budget approved on March 27, 2013 but without a specific FTE allocation. Alicia Huckleby was promoted to that position in July 2013, vacating the 0.5 FTE Program Coordinator position in the Executive Department she had previously held. Staff now proposes to eliminate that vacant Program Coordinator position and assign the 0.5 FTE to the Resident Initiatives Director position.
- b. Program Coordinator: Staff proposes to reduce one Program Coordinator position from the budgeted 1.0 FTE to 0.75 FTE. Although this position was budgeted as full-time, the program's needs can be met by a 0.75 FTE. The incumbent has been working those reduced hours on a trial basis since May 1, 2013 and staff has determined that the necessary tasks can be accomplished that way.
- c. SHIP Grant Coordinators (long-term temporary positions, not permanent FTEs): On November 12, 2013 the PHA was notified by Saint Paul - Ramsey County Public Health (Public Health) staff that the Minnesota Department of Health (MDH) has approved continuation of the work between Public Health and the PHA in the areas of Nutrition, Active Lifestyle and Tobacco Reduction proposed as part of Public Health's third Statewide Health Improvement Program grant (SHIP 3). Public Health is in the process of submitting a revised grant application to MDH that includes a request for \$218,000 to continue and enhance its work with the PHA.

The SHIP 3 grant is expected to be retroactive to November 1, 2013 and run until October 31, 2015. The PHA will not begin spending SHIP 3 funds until a contract with Public Health is in place, which is anticipated to be on or about February 1, 2014. Public Health anticipates that MDH will approve the full grant request by late November or early December, 2013. In addition to programming, funding allocated to PHA will also be used to hire two, 30 hour/week SHIP Grant Coordinators from the effective date of the

new PHA/Public Health contract through October 31, 2015. As stated above, these positions are not counted as FTE additions in the budget since they are long-term temporary positions, not permanent positions. Assuming the grant agreement is executed and the temporary staff are hired effective February 1, 2014, the cost of their combined salaries and benefits during this fiscal year would be about \$8,600. That cost will be paid by the grant. Future costs related to these two long term temporary employees would be budgeted for the PHA's FY 2015 fiscal year, again funded by the grant.

Legal Services: David Palm was promoted by the St. Paul City Attorney's Office to Senior Assistant City Attorney retroactive to August 1, 2013, with a corresponding salary increase from \$97,010 to \$102,830 (6%).

Executive Assistant: Staff recommends reclassifying the Executive Assistant position (held by Mai Moua) from 1.0 FTE Executive Assistant to 0.5 Executive Assistant and 0.5 Program Coordinator effective immediately. The Executive Assistant recently successfully performed a higher level interim assignment (0.25 FTE Program Manager; C51) while the EOD Director was on maternity leave. She has "inherited" several other Program Coordinator duties that she currently performs, including maintaining the Fraud hotline since January 2013; working extensively to help update the PHA's website and serving as its gatekeeper; producing numerous Agency publications in conjunction with the Business Systems Analyst (including the Fact Sheet, Strategic Plan/Agency Goals publication, etc.). Program Coordinator duties she would assume include working with the Executive Director to create new web-based content information and advocacy pieces that we would email directly to stakeholders on a regular basis (some samples attached); assuming the public housing Family Self Sufficiency program responsibilities (currently assigned to the Director of Resident Initiatives); coordinating, from the Executive Director's level, our numerous emerging "green initiatives" (including supervision of a possible Minnesota GreenCorps intern); and more. Duties that the Executive Assistant would shed (to be added to administrative staff she or the Director of Resident Services currently supervise) include ordering office supplies; distributing copies of the PHA Housekeeping Video to other agencies; providing administrative support for the Resident Advisory Board (sending out meeting notices, set up/clean up of meeting areas,

advertise/attend RAB meetings and public hearings); and overseeing the temporary storage and disposition of documents that contain private data at the Central Administrative Office (“Confidential Trash”).

Uncertain Federal Budget. This report was written while the federal government was operating under the short-term agreement between Congress and the Administration that temporarily ended the partial government shutdown (October 1 – 17, 2013). That Continuing Resolution maintained funding for the PHA’s programs at the current levels until January 15, 2014.

Whatever agreements may follow will determine how much subsidy the PHA will receive for public housing and Section 8 during the remainder of the PHA’s current fiscal year and the rest of Calendar Year 2014. This recommended budget revision is based on the same revenue assumptions used in the original Operating Budget for this year: 82% proration of Public Housing Operating Fund and 69% proration of Section 8 administrative fees. In fact, as shown in the quarterly financial reports that are included in this Board packet, expenses for some line items were lower than anticipated during the first six months of the fiscal year. If those trends continue, then the projected draws on the Public Housing operating reserve and Section 8 administrative fee reserve (Unrestricted Net Assets, or UNA) will be lower than shown in the Operating Budget approved by the Board on March 27, 2013 and the Supplemental Operating Budget approved on May 22, 2013. In any event, the net increased cost of the proposed budget revisions would be about \$28,350 through March 31, 2014, as detailed below. This would have little effect on the “bottom line” at the end of the fiscal year.

During his August 28, 2013 presentation to the Board on the annual audit, Mr. Corey Topp from McGladrey noted that the PHA’s administrative costs are only about 14.9% of its budget, which is well below the 25% threshold the Minnesota Attorney General uses as a guideline for

appropriate administrative expenses for non-profit organizations. The recommended budget revision would not increase the administrative cost percentage appreciably.

The specific budget increases and savings include the following:

A. Staffing Changes

1. Finance Department: Add a permanent part-time (0.5 FTE) Business Systems Analyst effective December 1, 2013; cost approximately \$45,000 annually, \$16,000 in FY 2014 (salary and benefits).
2. Executive Department: Eliminate a vacant 0.5 FTE Program Coordinator position and move this 0.5 FTE to the Resident Initiatives Department for the Department Director position.
3. Resident Initiatives Department:
  - a. Add the 0.5 FTE (transferred from Executive Department) for the Resident Initiatives Director position; net cost approximately \$17,100 annually, \$12,800 for 9 months in FY 2014 (salary and benefits).
  - b. Reduce one Program Coordinator position from the budgeted 1.0 FTE to 0.75 FTE. Savings from budgeted amount approximately \$20,800 annually, \$7,000 in FY 2014 (salary and benefits).
  - c. Contingent on receiving the SHIP 3 grant, add two part-time, long term temporary Grant Coordinator positions in the Resident Initiatives Department; estimated to start February 1, 2014 and end October 31, 2015 if future SHIP grants are not received; each 30 hours per week, but not counted as “FTE” additions in the budget since they are temporary positions; estimated cost \$8,600 in FY 2014.

B. Legal Services: Increase the salary of the second attorney provided by the St. Paul City Attorney’s Office from \$97,010 to \$102,830 (6%); cost \$5,820 annually, \$3,880 for 5 months in FY 2014.

C. Executive Assistant: Increase the salary of the Executive Assistant/Program Coordinator from \$27.50/hour (\$57,200 per year) to a blended rate of \$30.22/hour (\$62,858 per year) based on 0.5 FTE at \$25.69/hour and 0.5 FTE at \$34.75/hour; additional cost approximately \$7,700 annually, \$2,600 in FY 2014 (salary and benefits). Since the Program Coordinator salary recommendation exceeds 75% of the pay range for that classification, specific Board approval is required.

JMG/RPM/DMM/ANH/AJH/FAH

Attachments: Chart: History of Staffing Levels  
March 27, 2013 Board Report: Operating Budgets  
May 22, 2013 Board Report: Supplemental Operating Budget  
Executive Assistant: Drafts of Agency Communications

# PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL

REPORT TO COMMISSIONERS

FROM JON M. GUTZMANN  
EXECUTIVE DIRECTOR

REGARDING Property Insurance Policy Renewal

DATE November 27, 2013

Staff requests Board approval to renew the PHA's property insurance for one year effective December 1, 2013 with the Housing Authority Insurance Group (HAI) at an estimated annual premium of \$497,061 on an insurable property value of \$601,728,650. The estimated premium is slightly higher than last year's actual premium of \$479,641 (up \$17,420 or 3.5%) due to two factors: 0.5% of the increase is due to property value increase from \$600,399,010 to \$601,728,650 (up \$1,329,640), and 3% of the increase is due to reinsurer rates and the experience of the insurance industry as a whole.

HAI insures the PHA's property through its subsidiary company, Housing Authority Property Insurance. Important factors in the coverage remain the same, including:

- A \$25,000 deductible;
- No blanket coverage, replacement cost will be subject to values on file with HAI;
- Exclusion for mold and fungi;
- Exclusion for any Acts of Terrorism.

As a capital member of the Housing Authority Risk Retention Group (HARRG) and Housing Authority Property Insurance the PHA receives dividend distributions, as shown below:

PHA FISCAL YEAR	HARRG DIVIDEND
FY 2007	\$68,882
FY 2008	\$164,479
FY 2009	\$43,758
FY 2010	\$172,011
FY 2011	\$136,216
FY 2012	\$151,863
FY 2013	\$114,932
FY 2014 YTD	\$61,441
TOTAL	\$913,582

Sufficient funds will be budgeted for this expense in the FY 2015 Operating Budget.

HMG/RPM

**PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL**

**RESOLUTION NUMBER 13-11/27-1**

**RESOLUTION IN RECOGNITION OF  
DEDICATED SERVICE**

**By**

**Harold Purtell**

**W**HEREAS, Harold Purtell has served the people of Saint Paul as a Commissioner of the Saint Paul Public Housing Agency (PHA) from October 28, 2009 until November 27, 2013; and

**W**HEREAS, he has provided distinguished service in many ways, including the following:

- As a resident of the Hamline Hi-Rise and Cleveland Hi-Rise, he brought a first-hand familiarity with resident issues and concerns to the Board's deliberations.
- He advised the Commissioners on issues that were important to hi-rise residents and to the Hi-Rise Presidents Council, drawing on his years of leadership in that Council and the Resident Councils at the Hamline and Cleveland Hi-Rises.
- He faithfully attended Board meetings, arrived early, supported his fellow Commissioners, gave full and fair consideration to all matters brought before the Board, and did not hesitate to offer an independent viewpoint when he believed it was warranted.
- He actively supported the Executive Director and staff, praising large and small accomplishments and affirming that the Saint Paul PHA is "the best housing agency in the country!"
- During his service as a Commissioner, he demonstrated his commitment both to the PHA's mission and the Agency's Board, staff and residents.

**N**OW THEREFORE BE IT RESOLVED, that we, the Board of Commissioners of the Saint Paul Public Housing Agency, on behalf of the Board, the staff and residents, do recognize and hereby acknowledge with deep appreciation and respect the service provided to the Agency and the community by Harold Purtell.

**November 27, 2013**

# **PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL**

**REPORT TO COMMISSIONERS**

**FROM JON M. GUTZMANN  
EXECUTIVE DIRECTOR**

**REGARDING** Voluntary Compliance Agreement;  
Fair Housing and Equal Opportunity  
(FHEO); Section 8 Policy

**DATE** November 27, 2013

Staff recommends Board approval for the Executive Director to execute a Voluntary Compliance Agreement with HUD to resolve a complaint that a Section 8 participant filed with HUD's Office of Fair Housing and Equal Opportunity (FHEO) in 2011. Ms. T.S. claimed that she was discriminated against by the PHA in violation of Section 504 of the Rehabilitation Act when the PHA terminated her voucher for failing to attend certification meetings and being absent from the assisted unit for more than 180 days.

The facts of the case are not in dispute. Ms. T.S. had a Section 8 Housing Choice Voucher from the PHA that paid her rent in an apartment in Saint Paul. She was hospitalized for mental health treatment in 2010, and in fact she is still hospitalized. Neither she nor anyone else notified the PHA of her whereabouts, so staff began the process to terminate her voucher after she repeatedly failed to appear for required recertification interviews. Finally a relative contacted the PHA and asked that the voucher be reinstated. Because T.S. had failed to request a hearing within the appropriate time, and failed to request an exception to that policy as a reasonable accommodation, and since a HUD regulation requires the PHA to terminate a voucher if the sole member of the household is absent from the unit for 180 days or more, the PHA refused to reinstate T.S.'s voucher. Before finalizing that decision, staff consulted with HUD staff in Minneapolis, who confirmed that the 180 limit was absolute and could not be extended even as a reasonable accommodation for a person with a disability.

On May 19, 2011 Ms. T.S. filed a complaint with HUD FHEO alleging that the PHA had discriminated against her on the basis of her disability. HUD staff from the Minnesota Field Office reviewed the tenant file. On May 18, 2012 the FHEO Director in HUD's Chicago Regional Office issued a finding in favor of the PHA, ruling that Section 504 was not violated. Ms. T.S. appealed to HUD FHEO in Washington DC on September 8, 2012. Although she provided no new information (a requirement for appeal) and the time to appeal had passed, on November 7, 2012 FHEO reopened her case and reviewed her complaint.

In mid-September 2013 Erika Finkler, FHEO Director at the HUD Field Office, informed PHA General Counsel Louise Seeba that HUD Washington was going to reverse the Regional Office's decision and issue a determination that the PHA had violated Section 504. She called to see if a settlement was possible. Over the next several days Ms. Seeba and Ms. Finkler discussed the terms of a possible Voluntary Compliance Agreement (VCA). They were still trying to get HUD Washington's concurrence to the terms of a VCA on September 30, the day before the federal government shutdown. The HUD employees in Washington left early that day and Ms. Finkler informed the PHA that FHEO would most likely send a "letter determination" since the VCA was not completed before the government shutdown.

However, the PHA did not receive a letter determination, and after the government shutdown ended, Ms. Finkler and Ms. Seeba continued to negotiate the language in the VCA. Ms. Seeba and PHA staff continue to believe that the PHA followed HUD regulations and PHA policies in this case. However, HUD's Washington D.C. FHEO staff are adamant that the PHA was required to provide a "reasonable accommodation" in this instance, and they will issue a determination that the PHA violated Section 504 unless the PHA signs the VCA.

Legal Counsel is recommending that the PHA execute the VCA to end this dispute and to avoid a more public finding that the PHA violated Fair Housing laws. Staff concurs. The PHA's other

option is suing HUD. Ms. Seeba has advised staff that under the United States Code it is her opinion that the PHA can seek judicial review of HUD's decision. Ms. Finkler disagrees and believes that PHA's only options include executing the VCA or receiving a letter determination. In any event, staff believes a lawsuit brought by the PHA against HUD may damage the PHA's relationship with HUD. It is staff's opinion that the relationship is more important than the possibility of succeeding in a lawsuit that in legal counsel's opinion may take over a year to complete. Staff believes that this unique situation should be simply dealt with and closed by executing the VCA and complying with the commitments in it (staff training, reviewing policies, and issuing a voucher to the complainant, as described below).

Aside from the need for a VCA at all, the main point of contention has been the amount of additional training on Section 504 the PHA will provide for all Section 8 staff. FHEO initially sought a commitment of four hours training for all Section 8 staff, which staff believed was both excessive and unnecessary, especially for staff who are not directly involved in deciding issues of reasonable accommodation. The draft VCA now recommended for approval states that "employees involved in reviewing, granting or denying reasonable accommodation requests regarding Housing Choice Vouchers [will] attend a minimum of four hours of Civil Rights Compliance Training." That requirement would only apply to the Section 8 Programs Manager. For other staff who are "involved in the coordination, management or processing of Housing Choice Vouchers", the PHA will provide "a minimum of two hours of training to cover [the PHA's] Reasonable Accommodation Policy and Procedures & Section 504 of the Rehabilitation Act of 1973 and its implementing regulations pertaining to reasonable accommodations."

In the proposed VCA the PHA would also agree to the following:

"[The PHA will] review and, if necessary, revise or modify its Reasonable Accommodation Policy and Procedure [and] submit the policy and procedure to HUD. HUD will review these submissions in order to identify any policies and procedures that may be inconsistent with the requirements of Section 504 and recommend appropriate

changes. ... [The PHA] agrees to make the necessary revisions the policies or procedures within 10 business days ... and ... notify the public of these changes by placing the changes on Recipient's website and making the appropriate documents available to the public upon request."

Finally, the VCA would commit the PHA to issue a voucher to Ms. T.S. at any point in the future, if and when she leaves the medical facility where she has resided since 2010.

JMG/FAH/DJM

Attachment: Proposed Voluntary Compliance Agreement