



**Berkeley Housing Authority**

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Office of the Executive Director

Item 4  
**NEW BUSINESS**  
April 14, 2016

To: Honorable Chairperson and  
Members of the Berkeley Housing Authority Board

From:  Tia M. Ingram, Executive Director

Subject: Status Report

HUD

1. Program Utilization

In February, the Board approved new Payment Standards at 105% of the final 2016 Fair Market Rents (FMRs), increasing the maximum BHA can pay by several hundred dollars for every bedroom size. Unfortunately while *new listings* have improved (though removed almost immediately due to quick lease ups), we have not seen the significant increase in program participation we anticipated, and need to increase: (a) utilization to 95% or better in units, and (b) earned revenue (administrative fee). We are continuing our efforts to attract new/increased participation, and to monitor expenditures to ensure we have sufficient funding to support all assisted tenancies.

	Units	% Budget Authority	Avg Unit Listings	New Owners	Out/Port	In/Port
February	1,655	96%	5	1	1	1
March	1,651	95.4%	1.5	1	1	0

Average monthly HAP expense increased from \$1,089 to \$1,102 in March.

2. Mandatory Contract Servicing

	Late Annual Recerts (14 months)	Late Annual Inspections (13 months)
February	25	1
March	28	0

3. Use of Disposition Proceeds

We received written notice from the HUD (Special Application Center) relative to the approval process for utilizing up to \$2.7 million of the disposition proceeds to cover operational deficits in the Section 8 Voucher Program over a 15-year period. While annual approval is still required, the letter grants some relief in that (a) authority has

been delegated to the SF Field Office for approval, and (b) approval is granted by default if HUD fails to act within thirty (30) days of the request.

You may recall the initial and each subsequent approval included language that the annual approval (to use proceeds for shortfalls) would be “*subject to HUD regulations in effect at the time,*” a condition that continues to concern us. We learned recently (orally) that HUD regulations have changed, and use of proceeds to cover operating deficits is no longer an eligible use. Provided we don’t seek another amendment of the approval, we have authority to utilize up to \$2.7 million. What is not clear is (a) the ability to use any of the other proceeds in excess of \$2.7 million (from the carryback loan) for shortfalls, or (b) if approval to use up to \$2.7 million would be in jeopardy if, for example, we sought an amendment to use proceeds as part of a future development project.

#### 4. Move-to-Work (MTW)

MTW is an important, highly sought, and coveted designation for Public Housing Authorities across the country. With an MTW designation everyone wins:

- a. PHAs are subject to fewer regulations, and given much greater flexibility to administer the Section 8 program in a way that more effectively and efficiently addresses local needs; and
- b. assisted households receive all the standard protections/benefits of the S8 program plus additional services the PHA can provide.

On April 4 HUD issued an important notice seeking comments on the MTW program. The notice advises: the intent to award MTW designation to an additional 100 PHAs over the next 7 years; the requirement that applicants form regional cohorts; and seeks comments on 11 various policy areas including those listed below. While all are important, of particular interest for BHA is the flexibility with regard to project-based vouchers.

- Increasing moves of low-income families to high-opportunity neighborhoods;
- Improving education outcomes through housing partnerships;
- Using administrative flexibilities to reduce costs and improve operations, governance, and financial management;
- Structuring alternative rent-setting methods;
- Streamlining admissions and/or occupancy policies (*i.e.*, work requirements, time limits, waitlist preference alterations);
- Developing strategies to better utilize project-based vouchers;
- Improving the health and well-being of elderly and disabled residents;
- Achieving the goal of ending homelessness for families, veterans, youth, and the chronically homeless; and
- Cultivating supportive or sponsor-based housing policies.

We have an excellent example of the benefits of a MTW designation via our sister agency, the Oakland Housing Authority. OHA has used its MTW designation to serve its residents, establish itself as a major player in affordable housing, and showcase the important work of PHAs on both a local and national level.

There is tremendous interest in MTW designation in the Bay Area, and we, along with others, will be submitting comments by the May 4<sup>th</sup> deadline.

5. Criminal History. On April 4 HUD issued notice regarding use of “arrests” as *the basis* for refusing to rent (by a landlord). Previous notice had been released to housing authorities regarding denying or terminating participation in the Section 8 program. The HUD guidance cautions that reliance on an arrest, alone, could be deemed discriminatory. An arrest can be *a factor* in assessing suitability for tenancy, and denial or termination of assistance, but further investigation and analysis is required. BHAs policies and practices are consistent with HUD guidance.

### Administration

1. Human Resource Management. There remain concerns about our management of this critical area. We have done well, relying heavily on Goldfarb and Lipman (legal counsel) to respond to situations, and our contract with ADP (our payroll service) for alerts of new developments. As we begin preparing for the next negotiations with our labor organizations, we should consider contracting with a firm that specializes in HR services for a comprehensive review of our policies, procedures, practices and contract language. Major developments in the past 30-days:
  - A. Recruitment for Executive Director (by Ralph Andersen & Associates) opened late March, and closes April 29<sup>th</sup>;
  - B. Two opportunities for job growth/professional development:
    - Interim appointment of Tilda Barnes, to Housing Occupancy Manager position effective March 14<sup>th</sup>;
    - Interim appointment of Omar Flores, to Housing Specialist position effective April 10<sup>th</sup>;
  - C. Open/competitive recruitment to fill vacant Receptionist (Office Assistant I) opened April 4 and closes April 8; and
  - D. One adverse personnel action (performance) pending.
  - E. Policy/Regulatory issues:

Unpaid Leave for child-related activities. New rule requires employers (with 25 or more employees) to provide 40 hours of UNPAID time off in one calendar year to be used for the following child-related activities:

1. to find, enroll or reenroll the child in a school or with a licensed child care provider, or to participate in activities of the school or licensed child care provider of the child.
2. to address a child care provider or school emergency, meaning that the child cannot remain in school or with a child care provider due to one of the following:

- the school or child care provider has requested that the child be picked up or has an attendance policy, excluding planned holidays, that prohibits the child from attending or requires the child to be picked up from the school or child care provider;
- behavioral or discipline problems;
- closure or unexpected unavailability of the school or child care provider, excluding planned holidays; or
- a natural disaster, including, but not limited to, fire, earthquake or flood.

We have 12 employees, and thus are not required to adopt this policy. That said, we have a number of parents/guardians on staff, and a family friendly policy – allowing employees to take paid leave (vacation, floating holiday, comp-time) or non-paid leave as necessary to attend to family situations. We may wish to consider a more formal policy during the next negotiations with the labor unions.

Anti Harassment/discrimination. The California Fair Employment and Housing Department recently announced that employers have an affirmative duty to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct. Employers are further required to share information about the policy and in particular, reporting procedures with all staff. BHA adopted an anti-harrassment policy on April 1<sup>st</sup>, and provided notice about reporting procedures to all staff late March (Attachment 1).

## Operations

### 1. Owner Retention/Recruitment.

Owner Forum. Very successful Owner Forum held on Saturday, March 19<sup>th</sup> at North Berkeley Senior Center; approximately 50 owners were present. Mayor Tom Bates welcomed attendees; Chairperson Norris and Commissioner Moody represented the Board; Jay Kelekian, Leah Talley and Kristin Lee were present from the City; and BHA staff included Tia Ingram, Jesy Yturalde and Tilda Barnes. Feedback was very positive with an overwhelming demand to repeat the session at least annually (if not more frequently).

### 2. Conversion of Project Based to Tenant Based Section 8 Assistance.

We have only had one instance where we did not extend (renew) an allocation of PBV. This was SAHA's University Neighborhood Apartments project. There was some concern that the property would suffer financially, and that families would lose affordability. I am pleased to report some 10 months after the expiration, (a) 100% of the families experienced a seamless transition from PB to TB assistance; (b) the units remain fully leased; and (c) monthly rental subsidy payments have increased by approximately \$4000 per month (comparing payments made in June 2015, and Mar 2016). The households remain eligible to request a transfer voucher to move off site, with assistance, and continue their existing tenancy. We continue to work with SAHA (and RCD) to consider exhausting any existing site-based wait list, and utilize BHA's S8 Voucher program for all future leasing.

3. Rent Increases.

The demand for rent increases is still significant, but has decreased as owners become informed about the timing of when a higher payment standard is applicable. A total of 11 have been processed with an effective date of April 1<sup>st</sup>, and an additional 37 processed with an effective May 1<sup>st</sup>. The increases provide significant increases in cash flow for owners, that otherwise would not be possible – with an existing tenant. The benefit is particularly significant for our non-profit partners (in the S8PB program) where the increase of monthly income can be several thousand dollars. In a recent case an increase of \$3,560 per unit has been approved (for a single property) representing an increase of \$500 per month for 7 of the total 67 units at the property. When the rent for all 67 units is processed, the property will enjoy a single year increase of \$33,500 of rental income – without incurring any turnover expense.

4. S8 Tenant and Project Based Wait Lists.

- a. Tenant Based (TB). The last purge of the 2010 S8TB Wait List, before declaring the list is exhausted, was initiated last month, with final responses due April 8. Any applicant that does not respond will be removed from the list. This process is a prerequisite to the planned opening early May.
- b. Project Based (PB). We will initiate a purge of the list in May. We are cautiously confident the existing wait list is sufficient to meet the anticipated leasing needs for the approximate 300 PBV units over the next 12-18 months, and thus there are no plans to reopen this list. We do however have a goal of combining the applicants from the various lists (seniors-over 62 years of age, 3-bedroom, 4-bedroom, HOPWA-for people with HIV or AIDS, youth emancipated from the foster care system) into a single list from which we can make referrals for any new vacancy.

5. Family Self Sufficiency (FSS). The FSS Action Plan has been submitted to HUD for approval.

- a. We continue to await approval of the Action Plan submitted to HUD on February 10, 2016; via email April 6<sup>th</sup> we advised HUD we are moving forward with implementation, and requested a formal response to our submission by April 13<sup>th</sup>.
- b. We have been attempting to schedule initial remote training in the FSS software module with our software provider (Emphasys) for finance and case management services; as soon as the training is scheduled we will be able to test the system.
- c. Later this month, notice advising an opportunity to apply for participation in the program will be mailed to all current program participants residing in Berkeley (will not include moderate rehab SRO participants nor households that have ported to other jurisdictions). Preference will be given to former BHA FSS program participants; if more than 37 applications are received, a random lottery will be conducted to determine (1) those that are admitted, and (2) establish a FSS wait list.

6. Advocacy. State Senator Mark Leno has sponsored a Housing Opportunity bill, that will make it illegal for a landlord to discriminate against an applicant for a rental unit *based on income* – i.e. refusing to *consider* a household for tenancy based on the fact the family has a Section 8 Voucher. We were contacted by East Bay Community Law Center (EBCLC) and asked to help identify impacted individuals (voucher holders that have been unable to find housing that will accept vouchers, or tenants who have been displaced because a landlord would not accept a voucher) that can speak at policy committee meeting hearings in April and June. We identified two such families that expressed a willingness to participate. EBCLC is the lead, but we will have a staff person accompany our participants to any hearings.

**Transition Priorities**

**Increase in Affordable Housing Units**

- Expansion of Owner Participation in S8 Tenant Based Voucher Program  
Mailing to approximately 1,200 owners offering to assist with any upcoming vacancies (Attachment 2).  
  
We are seeking an opportunity to make a presentation, and respond to questions, at an upcoming meeting of the Berkeley Property Owners Association.
- Award of Project Based Vouchers. Capacity to “project base” is a factor of average cost per unit, and capacity within annual budget authority. Should the Board consider a Payment Standard schedule for the PBV program that is set between 95 and 100% of FMR (rather than 105% of the FMR which is the current payment standard), the amount of subsidy would be reduced, and immediate capacity to award approximately 48 vouchers.

	1-bedroom	2-bedrooms	3-bedrooms	4-bedrooms
95%	\$1,579	\$1,997	\$2,785	\$3,104
100%	\$1,663	\$2,103	\$2,932	\$3,268

Without a different Payment Standard, the Board could explore awarding additional PBVs as existing contracts expire (an allocation of 39 PBVs is scheduled to expire in September 2016).

- We were contacted by a housing developer headquartered in Irvine, CA regarding an interest in developing affordable housing in Berkeley, and the availability of project-based vouchers. We are very interested in furthering the discussion, including options for greater (financial participation) for BHA.

**CONTACT PERSON**

Tia Ingram, Executive Director, Berkeley Housing Authority, 981-5471

**Attachments:**

1. California Anti-harrassment/discrimination Policy
2. Owner mailing: offer to assist with vacancies

**CALIFORNIA EQUAL EMPLOYMENT OPPORTUNITY AND HARASSMENT, DISCRIMINATION AND RETALIATION PREVENTION POLICY**

**Company Name:** BERKELEY HOUSING AUTHORITY

**EQUAL EMPLOYMENT OPPORTUNITY**

The Company is an Equal Opportunity Employer and does not discriminate on the basis of actual or perceived race, color, national origin, ancestry, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, and gender expression, religious creed, disability (mental and physical) including HIV and AIDS, medical condition (cancer and genetic characteristics), genetic information, age, marital status, sexual orientation, military and veteran status, denial of family and medical care leave, or any other characteristic protected by federal, state or local law. Our management team is dedicated to this policy with respect to recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, employee activities and general treatment during employment.

The Company will endeavor to make a reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue hardship on the operation of our business. If you need assistance to perform your job duties because of a physical or mental condition, please let CELINDA AGUILAR-VASQUEZ know.

The Company will endeavor to accommodate the sincere religious beliefs of its employees to the extent such accommodation does not pose an undue hardship on our Company's operations. If you wish to request such an accommodation, please speak to CELINDA AGUILAR-VASQUEZ.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of CELINDA AGUILAR-VASQUEZ. The Company will not allow any form of retaliation against individuals who raise issues of equal employment opportunity. To ensure our workplace is free of artificial barriers, violation of this policy will lead to discipline, up to and including discharge.

**HARASSMENT, DISCRIMINATION AND RETALIATION PREVENTION**

It is the Company's policy to prohibit intentional and unintentional harassment and discrimination of any individual by another person on the basis of any protected classification under applicable federal, state, or local law, including, but not limited to actual or perceived race, color, national origin, ancestry, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, and gender expression, religious creed, disability (mental and physical) including HIV and AIDS, medical condition (cancer and genetic characteristics), genetic information, age, marital status, sexual orientation, military and veteran status and denial of family and medical care leave.

Note that there is a wide range of what could be considered inappropriate behavior under this policy even though such behavior may not be considered illegal. For this reason, a violation of this policy may lead to disciplinary action whether or not it violates the law.

**Sexual Harassment**

It is the Company's policy to prohibit harassment of any employee by any Supervisor, employee, customer or vendor on the basis of sex or gender. While it is not easy to define precisely what types of conduct could constitute sexual harassment, examples of prohibited behavior include all of the actions

described below under "other harassment", as well as other unwelcome sexual advances, requests for sexual favors, obscene gestures, displaying sexually graphic magazines, calendars or posters, sending sexually explicit e-mails, text messages and other verbal or physical conduct of a sexual nature, such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, improper conduct also can include sexual joking, vulgar or offensive conversation or jokes, commenting about an employee's physical appearance, conversation about your own or someone else's sex life, or teasing or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create an unprofessional and hostile working environment.

All such conduct is unacceptable in the workplace and in any work-related settings such as business trips and business-related social functions, regardless of whether the conduct is engaged in by a supervisor, co-worker, client, customer, vendor, or other third party.

### **Other Harassment**

Harassment as defined in this policy is unwelcome verbal, visual, or physical conduct creating an intimidating, offensive, or hostile work environment that interferes with work performance. Harassment can be verbal (including slurs, jokes, insults, epithets, gestures or teasing), graphic (including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails) or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual because of any protected characteristic.

### **Reporting Procedures**

The following steps have been put into place to ensure the work environment at the COMPANY is respectful, professional, and free of discrimination, retaliation and harassment, including sexual harassment. If you feel that you have been subjected to conduct which violates this policy, you should immediately report the matter to your manager/supervisor at (510) 981-5488 or (510) 981-5484 or (510) 981-5485 at 1936 University Ave., Suite 150, Berkeley Ca 94704. If you are unable for any reason to contact either of these individuals, or if you have not received a satisfactory response within five (5) business days after reporting any incident of what you perceive to be in violation of this policy, please contact the Executive Director.

Note: If your supervisor or next level manager is the person toward whom the complaint is directed you should contact any higher level manager in your reporting chain.

Every supervisor who learns of any employee's concern about conduct in violation of this policy, whether in a formal complaint or informally, must immediately report the issues raised to the Executive Director or to BHA Board of Directors.

### ***Investigation Procedures, Corrective Action, and Prohibition Against Retaliation***

Upon receiving a complaint, the COMPANY will conduct a prompt, fair and thorough investigation into any claim of a violation of this policy.

All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed. The COMPANY has a compelling interest in protecting integrity of its investigations. The COMPANY may decide in some circumstances that in order to achieve these objectives, we must maintain the investigation and our role in it in strict confidence.

As part of the investigation, the COMPANY generally will:

- interview the complainant, the accused, and other necessary witnesses, and provide each with the opportunity to provide input
- document the COMPANY's findings regarding the complaint
- document recommended follow-up actions and remedies, if warranted
- inform the complainant of the COMPANY's findings



All employees must cooperate with all investigations conducted pursuant to this policy. The COMPANY shall determine whether this policy has been violated based upon its reasonable evaluation of the information and credibility of witnesses gathered during its investigation. Upon completion of the investigation, the COMPANY will take corrective measures against any person who has engaged in conduct in violation of this policy, if the COMPANY determines such measures are necessary. These measures may include, but are not limited to, counseling, suspension, or immediate termination. Anyone, regardless of title or position, whom the COMPANY determines has engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

In addition, no employee will be subject to, and the COMPANY will not allow, any form of retaliation against individuals who, in good faith, report unwelcome conduct, pursue any such claim, or cooperate in any way in the investigations of such reports in accordance with this policy.

If an employee believes someone has violated this no-retaliation policy, the employee should bring the matter to the immediate attention of Executive Director or BHA Board of Directors. Anyone, regardless of position or title, whom the COMPANY determines has engaged in conduct that violates this policy against retaliation will be subject to discipline, up to and including termination.

We cannot remedy claimed violations of this policy unless you bring these claims to the attention of management. Failure to report claims of harassment, discrimination and/or retaliation prevents us from taking steps to remedy the problem.

Employees who make complaints in bad faith may be subject to disciplinary action, up to and including discharge.

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### Acknowledgement of Receipt

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Name (Print)

**[The signed original copy of this acknowledgment should be given to your manager - it will be filed in your personnel file]**



**BHA's Rent Ceilings**

Studio .....	\$1,449
1-Bedroom .....	\$1,746
2-Bedrooms .....	\$2,208
3-Bedrooms .....	\$3,078
4-Bedrooms .....	\$3,431

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