

March 31, 2016

Elidia Duarte

ITEM 7B

Sent via facsimile and US Mail: (510) 981-5480

Board of Directors: Cox, Agostino, Cremer, Moody, Rossi, Wilkinson, Norris,
Berkeley Housing Authority
1936 University Avenue, Suite 150
Berkeley, CA 94704

Re: **APPEAL OF INTERIM ADJUSTMENT NOTICE OF CHANGE DATED MARCH 22, 2016**
Duarte household

Dear Board,

This is an appeal and request for a hearing regarding the 03/22/16 interim adjustment notice (attached). The BHA's 03/11/16 Interim Adjustment Notice changes the total tenant payment to \$ this 03/22/16 changes the TTP to with no explanation. The rent change notice incorrectly purports to make the effective date 01/01/16. On 12/22/15, I requested an interim re-examination for my reduced income, effective 10/01/15. However, despite numerous letters to the BHA, the BHA refuses to reduce my TTP retroactive to 10/01/15.

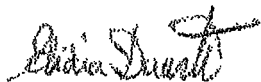
Next, this 3/22/16 Rent Change notice indicates a Utility Reimbursement; whereas, on 03/11/16 Tia Ingram contends that I am not entitled to one and implies that no one in the BHA programs is entitled to one. In prior years, Tia Ingram has similarly made that false assertion; it is false because other participants receive a utility allowance and the law requires it. This conclusion is patently incorrect, as I pay and have been paying utilities for several years, but have been denied the utility allowance.

It is apparent that Tia Ingram perjured herself on 03/11/16 and on all prior occasions. All that has changed since my last appeal for denial of the utility allowance is that on 02/27/16 I complained to HUD and the Berkeley City Council.

I do not waive my prior complaints and appeals, all of which remain outstanding and you refuse to hear, despite an undisputed right to a hearing. 24 CFR §982.555 ((a) *When hearing is required.* (1) a PHA must give a participant family an opportunity for an informal hearing to consider whether the following PHA decisions... (i) [computation of] the housing assistance payment, (ii) A determination of the appropriate utility allowance, (iii) A determination of the family unit size under the PHA subsidy standards, (iv)...a larger number of bedrooms...exception); 24 CFR §982.552 (c)(2)(i) & (iv), (d)(right to a hearing for denial of assistance to a disabled person).

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



ELIDIA DUARTE
Tr. By Jose Duarte



Berkeley Housing Authority

1936 University Ave, Suite 150 Berkeley, CA 94704
Telephone: (510) 981-5470 Fax: (510) 981- 5480

March 22, 2016

Elidia Duarte
1501 Blake St, #309
Berkeley, CA 94703

Re: Section 8 Voucher Rental Assistance

Dear Ms. Duarte:

I am responding to communications you submitted to Berkeley Housing Authority (Dated March 17, 2016 received on March 21, 2016 by BHA), and BHA Board of Commissioners. As an Agency, we pride ourselves on being responsive to the needs of our customers.

1. Interim recertification/reduction in income

A review of your case file confirms your December 21, 2015 report of a reduction in income. Specifically, you advised your SSI benefits were reduced (in October 2015) in response to a \$ cash settlement you received from AC Transit. You also provided evidence of your failed appeal to Social Security Administration for reinstatement of benefits.

1. Effective Date. You requested the change be effective retroactive to October 2015. A decrease in family rent is effective the first of the month following the date a properly documented request is received.
2. The interim recertification has been processed, effective January 1, 2016. Your rent portion is reduced to and BHA's rental subsidy increased to Your landlord will receive the additional (Jan, Feb and Mar) on or about March 17th.
3. Utility Allowance. You are responsible for PG&E for heating and "other electric/lighting"; you disputed the allowance provided for all households in accordance with BHA's Utility Allowance schedule claiming your actual expense is greater: your request was denied, and you were advised to register with PG&E for the CARE program.

March 17, 2016

BERKELEY HOUSING
AUTHORITY

Elidia Duarte

2016 MAR 21 PM 2 47

Sent via facsimile and US Mail: (510) 981-5480

Board of Directors: **Agostino, Cox, Gale, Cox, Rossi, Moody, Norris, Hemphill**
Executive Director Tia Ingram
Berkeley Housing Authority
1936 University Avenue, Suite 150
Berkeley, CA 94704

Re: APPEAL OF RENT CHANGE NOTICE DATED MARCH 9, 2016
Duarte household

Dear Board and Tia Ingram,

This is an appeal and request for a hearing regarding the 03/09/16 rent change notice (attached). The BHA's Rent Change Notice changes the total tenant payment to [redacted]. The rent change notice incorrectly purports to make the effective date 04/01/16. On 12/22/15, I requested an interim re-examination for my reduced income, effective 10/01/15. However, despite numerous letters to the BHA, the BHA refuses to reduce my TTP retroactive to 10/01/15.


The rent change notice does not include any calculation, methodology, or bases for arriving at that sum. Please provide the basis for your rent calculation, methodology, and bases demonstrating how you arrived at the conclusion of:

Next, the Rent Change notice does not indicate a Utility Reimbursement. That is patently incorrect, as I pay utilities.

I do not waive my prior complaints and appeals, all of which remain outstanding and you refuse to hear.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,


ELIDIA DUARTE
Tr. By Jose Duarte

BERKELEY HOUSING
AUTHORITY
2016 MAR 21 PM 2 47



Berkeley Housing Authority

1936 University Ave, Suite 150 Berkeley, CA 94704
Telephone: (510) 981-5470 Fax: (510) 981-5480

Office of the Executive Director

March 16, 2016

Elidia Duarte
1501 Blake St, #309
Berkeley, CA 94703

Re: Section 8 Voucher Rental Assistance

Dear Ms. Duarte:

I am responding to communications you submitted to Berkeley Housing Authority (December 2015), BHA Board of Commissioners (February 2016), and subsequently, to Julian Castro, Secretary, U.S. Department of Housing and Urban Development (February 2016). As an Agency, we pride ourselves on being responsive to the needs of our customers. Regrettably, your communications, including those addressed to the Board of Commissioners, were combined with the documents for the *interim*, and filed away without being forwarded to the Executive Director or Board of Commissioners. The communications (and this response) will be included in the next Board packet.

1. Interim recertification/reduction in income

A review of your case file confirms your December 21, 2015 report of a reduction in income. Specifically, you advised your SSI benefits were reduced (in October 2015) in response to a cash settlement you received from AC Transit. You also provided evidence of your failed appeal to Social Security Administration for reinstatement of benefits.

- a. Timely processing. In accordance with BHA policy, your request should have been processed within 10 days after submission of a properly documented reported change. It is arguable if your change was properly documented, as you note "*I will separately provide receipts for my medical treatment and transportation for medical treatment.*" As of this date no such documentation has been received. Giving you the benefit of the doubt, and in recognition that BHA offices would be closed, and all employees furloughed from December 24 through January 1, an effort should have been made to complete processing before the 1 1/2-week closure, or immediately upon our return to the office on January 4th. We failed to do so.
- b. Effective Date. You requested the change be effective retroactive to October 2015. A decrease in family rent is effective the first of the month following the date a properly documented request is received.

The interim recertification has been processed, effective January 1, 2016. Your rent portion is reduced to _____ and BHA's rental subsidy increased to _____. Your landlord will receive the additional (Jan, Feb and Mar) on or about March 17th.

Note: your Annual Recertification is scheduled for renewal April 1, 2016. We can use the Personal Declaration you completed for the interim recertification (December 21, 2015). In the event circumstances have changed, please complete the enclosed packet and return it by March 23, 2016; to avoid any delay, please include any out-of-pocket medical expenses you anticipate in the next 12 months.

2. Reunification of family

You claim BHA has denied your request to "reunite my disabled family...". You do not identify the family member(s) to be reunited, but I assume it is your son) _____ : to whom you refer. If so, our records show:

- a. You requested to add _____ as a family member in March 2009;
- b. BHA approved the request; adjusted household income to include _____ monthly income; increased your voucher from 1, to 2- bedrooms; adjusted the family rent portion accordingly; and advised your opportunity to move from the 1- to a 2-bedroom unit of your choosing.
- c. You failed to pay the required family rent to your landlord March and April 2009.
- d. You requested an Informal Hearing of the newly determined rent amount, advising while approved, _____ never joined the household, asking that he be removed, and requesting a retroactive reduction in the rent.
- e. In September 2010 you requested to add _____ and his fiance, and her son. We initiated the process, which you withdrew, advising _____ had not yet entered the country.

You may request to add someone to your household at any time by completing the required forms, and submitting proper documentation of his/her identity and income for staff review.

3. Request for Reasonable Accommodation

You applied for assistance as a single person, elderly household. You were admitted to the Section 8 Project Based Voucher Program in October 2006.

You requested reasonable accommodations to:

- a. Add a family member: the request was approved;

- b. Be allocated an additional bedroom (2-bedroom voucher) for a “therapy room”: this request was denied as there was no disability related nexus, no physical therapy equipment was ordered for Ms. Duarte’s unit. BHA is obligated to provide the minimum level of assistance to properly house the family; our mission is to house individuals, not provide auxiliary rooms.
- c. Direct all communications to your son Jose, because you are not fluent in English [note, we have bilingual (English/Spanish) staff]: the request has been honored.

A review of your file does not identify any other past or pending requests. In the event I missed a form (your file is such that we have 2 volumes), I am enclosing our standard form should you need to submit/renew a new request.

4. Informal Hearings

Our records reflect numerous appeals primarily related to our determination of family rent portion, and more specifically:

- a. Deduction(s) from income for medical expenses. This issue began in September 2010 with your claim of _____ for dental procedures yet scheduled to be performed; following considerable discussion, you were given a deduction of _____.
- b. Utility Allowance. You are responsible for PG&E for heating and “other electric/lighting”; you disputed the allowance provided for all households in accordance with BHA’s Utility Allowance schedule claiming your actual expense is greater: your request was denied, and you were advised to register with PG&E for the CARE program.
- c. Calculation of household income. You appealed the February 18, 2009 family rent determination. The issue was inclusion of income/benefits received by _____, whom you had recently requested be added to the household. You refer to this hearing in your letter; you indicate you *prevailed in a 12/02/09 hearing*. In fact, there was no hearing, and no finding that BHA improperly calculated your rent. The issue was resolved with your acknowledgement that Jose was/is not approved to reside in the unit, and BHA agreeing to remove Jose from the household, and reducing your voucher assistance from 2- to 1-bedrooms.

Conclusion

BHA is committed to administering rental assistance on behalf of our 1,935 client households fairly, compassionately, and professionally. In addition, BHA fully embraces a fair and reasonable accommodations process to ensure our families with disabilities are able to enjoy all the benefits of program participation available to non-disabled households.

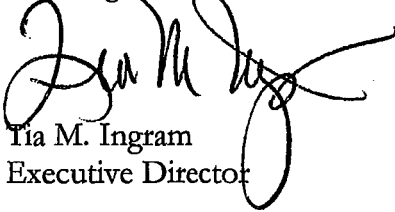
Notwithstanding the delayed response to your last series of communications, our office has a well documented history of responding to your numerous communications and requests. We

have gone to great lengths to understand the issue(s), and to respond with clear and complete information. Not only have we responded to you, but we have also responded to communications submitted on your behalf from Congresswoman Barbara Lee and various HUD officials.

Responding to your written inquiries is important, but can require considerable staff resources. Your last thorough "briefing" of important elements of the Section 8 rental program was performed in 2006. I suggest we schedule a one-on-one refresher briefing. We can have a bilingual staff person review the power point presentation, and we can respond to any questions you have specific to your situation. Please contact my Executive Assistant, Celinda Aguilar-Vasquez at (510) 981-5483 to schedule a convenient date and time.

Finally, I am happy to share the current composition of the BHA Board of Commissioners: Carole Norris, Chair, and Commissioners Val Agostino, Marjorie Cox, Marva Cremer, Damion McNeil, Adolph Moody and Dan Rossi.

Best Regards,



Tia M. Ingram
Executive Director

Enclosure:

1. Annual Re-examination packet
2. Family Notice of Change Form
3. Rent Change Notice (Effective January 1, 2016) w/S8 Resident Worksheet

cc: Julian Castro, Secretary, U.S. Department of Housing and Urban Development
Jesse Wu, Public Housing Director, U.S. Dept of Housing and Urban Development
BHA Board of Commissioners

February 20, 2016

Elidia Duarte

Sent via US Mail and facsimile: (510) 981-5480

Board of Directors: Agostino, Cox, Gale, Cox, Rossi, Moody, Norris, Hemphill
Berkeley Housing Authority
1936 University Avenue, Suite 150
Berkeley, CA 94704

Re: **SECOND REQUEST FOR INTERIM RE-EXAMINATION**
Duarte household

Dear Board,

This is the 2nd Request for Interim Re-examination due to a reduction in my income, starting in October 2015. On 12/22/15, I submitted a cover letter (attached), including the numerous family declarations (withheld) and page 2 from "Amount of Benefit" SSA-4926-SM-SP (here submitted in its entirety) received on 12/7/15 (herein included in its entirety p. 002-005).

Included are:

- | | |
|--|-------------------|
| 1. 12/22/15 Request Interim Re-examination | (Bates 001) |
| 2. Cantidad de Su Beneficio ("Amount of Benefit") SSA-4926-SM-SP | (Bates 002-005) |
| 3. 02/12/16 SSA "Notice of Reconsideration" first page only | (Bates 006) |
| 4. Golden One Credit Union acct. 10/01/15- 11/01/15 | (Bates 007-0010) |
| 5. E*Trade acct. 10/01/15- 11/01/15 | (Bates 0011-0012) |
| 6. Bank of America acct. 10/01/15- 11/01/15 | (Bates 0013) |

The "Amount of Benefit" SSA-4926-SM-SP (p. 003) and Social Security "Notice of Reconsideration" (p. 006, remaining pages omitted) indicate cessation of my Suppl. Sec. Income (SSI), effective 10/15, leaving me with only \$ per month income. The Golden 1 Credit Union bank statements (009-0010) show **no further SSI deposits from 11/01/15 onward.**

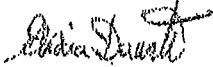
Therefore, retroactive re-examination and reduction of my Total Tenant Payment (TTP) is required effective 10/01/15, as the SSA notice was not sent until 12/07/15. 24 CFR 982.516 (d)(2)(At the effective date of a regular or interim reexamination, the PHA must make appropriate adjustments in the housing assistance payment). Rent decreases must be effective on the "first day of the month after the date of action that caused the interim certification... The action causing the interim certification is the loss of income (for example, a loss of a job or reduction in child support), and not the recertification action by the owner." HUD Handbook 4350.3, ch. 7, § 2, para. 7-13, "Effective Date of Interim Recertifications."; HUD, Public Housing Occupancy Guidebook, ch. 13, at para. 13.3 (June 2003) ("Rent decreases usually go into effect the first of the month following the reported change."). "Usually" does not foreclose effective on the date of the loss of income, i.e. 10/01/15.

The attached 02/12/16 BHA letter fails to respond to the interim request for re-examination, incorrectly asking for a response on 02/12/16 and received on 02/16/16 (attached), and incorrectly states an effective date of 04/01/16. The correct date for the re-examination is 10/01/15. If you intend to

conduct two separate examinations, please advise in which case then a different set of documents will need to be submitted for the period 01/01/16 to the present.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Elidia Duarte,
Tr by José Duarte

December 21, 2015

Elidia Duarte

BERKELEY HOUSING
AUTHORITY

2015 DEC 22 PM 12 22

Sent via US Mail and Facsimile: 510-981-5480

Board of Directors: Agostino, Cox, Gale, Cox, Rossi, Moody, Norris, Hemphill
Executive Director Tia Ingram
Berkeley Housing Authority
1936 University Avenue, Suite 150

Re: REQUEST INTERIM RE-EXAMINATION
Duarte household

Dear Board,

This is a request for interim re-examination because on October 2015, I lost my SSI benefits of \$151.40, such that I only receive \$. The housing authority should retroactively adjust my total tenant payment to October 2015, since I did not receive my SSI that month nor thereafter.

Additionally in November 2015, I received the attached judgment against AC Transit. I will separately provide receipts for my medical treatment and transportation for medical treatment.

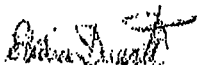
I do not waive and incorporate by reference my prior accommodation requests, including changed circumstances, for added space for medical equipment or appeals. For known disabilities like my arthritic hands, degeneration of upper back (as indicated in the Social Security Judgment in my September 22, 2008 household declaration), and knee problems, no further documentation of disability is needed for the accommodation.

I incorporate by reference my requests for reasonable accommodation to remove all barriers, including your penalty policy, preventing my disabled family from being reunited. If there is any unreimbursed cost for any disability accommodation, I am glad to pay it. I look forward to starting the interactive process.

My prior "Family Notice of Change" is/are incorporates by reference from September 22, 2008, December 12, 2008, March 26, 2009, September 21, 2009, February 16, 2011, September 2012, and January 29, 2013, February 3, 2014, February 8, 2015. . On September 22, 2008, I asked the BHA to reunite my disabled family as is my right under 24 CFR 982.201(c)(3) in order to rent a particular apartment. You did not respond until 5 months later causing the apartment to be lost and causing my rent to be more than doubled for nothing in exchange.

Your penalty policy has a disparate effect on seniors and the disabled who cannot afford to pay double rent or pay market rent waiting for your office process a request. We have a settlement agreement from October 2009, wherein you will promptly add my son. I do not waive my outstanding complaints, appeals, or requests for hearings. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Elidia Duarte,
Tr by José Duarte