



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

APR 01 2011

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Dear Mr. Elsesser and Ms. Hallisky:

Thank you for your letter of January 27, 2011, on behalf of Ms. Jimitre Smith, the LMT Tenant Association, and individual and former residents of the Sanford Housing Authority (SHA) regarding SHA's process for adopting a significant amendment to its PHA Plan on January 13, 2011, and regarding SHA's applications to the U.S. Department of Housing and Urban Development (HUD) for the demolition of the Castle Brewer Court and the William Clark Court (FL016100000) projects. In a letter dated November 5, 2010, from me, HUD responded to your previous concerns about these demolition applications. As indicated in that letter, HUD's Special Applications Center (SAC) has been carefully reviewing and considering the information you previously provided and will also consider this new information as it continues to review SHA's application in accordance with Section 18 of the U.S. Housing Act of 1937 (the Act) and 24 CFR Part 970. Your letter raises several objections to the PHA Plan amendment actions and requests certain forms of relief—all of which I address below.

PHA Plan Amendment

HUD has determined that the proposed demolition actions constitute a significant amendment within the meaning of 24 CFR § 903.21(a). Accordingly, and subject to all other regulatory requirements, HUD will not approve these demolition applications until it has evidence that SHA amended its PHA plan in accordance with 24 CFR §§ 903.13 & 903.17. Although HUD's scope of review of PHA Plans/significant amendments (including the process by which they are adopted) is generally limited to four areas, pursuant to 24 CFR § 903.23(b), HUD will review other elements of PHA Plans/significant amendments that are challenged.¹

¹ 24 CFR § 903.23(b) generally limits HUD's review to the statement of deconcentration and policies governing selection, capital improvements needed, description of planned demolition/disposition activities and applications, and civil rights certification.

Accordingly, HUD has reviewed and made the following determinations about the significant amendment to its PHA that SHA adopted on January 31, 2011:

- **Public Notification and Outreach:** Your letter asserts that SHA did not conduct “reasonable outreach to encourage broad public participation” in the hearing as required by 24 CFR § 903.17(c). This claim is based on (i) the size, font and placement of the notice that SHA published in the Orlando Sentinel on November 12, 2010; (ii) SHA’s failure to specifically inform the residents (and their attorneys) of the meeting on this amendment until one day prior; and (iii) SHA’s failure to publish the notice on Orlando Housing Authority’s website.

HUD Response: HUD provides maximum responsibility and flexibility to PHAs in determining appropriate outreach activities for PHA Plan notifications based on their individual localities. HUD encourages PHAs to employ innovative approaches to encourage public participation. In this instance, because the notice had sufficient detail of the proposed amendment, availability of draft documents, and public hearing and was published in a newspaper with a daily circulation of over 200,000, HUD finds that SHA met the regulation’s notice and outreach requirements. Moreover, HUD finds that SHA went beyond the specific requirements of the regulation by issuing a letter to all impacted residents, specifically informing and reminding them of the meeting on the proposed amendment that was to take place the following day.

- **Role of Resident Advisory Board (RAB):** Your letter asserts that, as evidenced by the attached Affidavit of Jimitre Smith, president of SHA’s RAB, SHA failed to adequately inform and consult RAB about this significant amendment, as required by 24 CFR § 903.13. Specifically, in her Affidavit, Ms. Smith alleges that notwithstanding SHA’s official minutes of a November 10, 2010 RAB meeting, there were no statements made or discussions about any proposed significant amendment to SHA’s PHA Plan at that meeting. Ms. Smith’s Affidavit further indicates that if there had been any such statements or discussion, RAB would have commented on the proposed amendment.

HUD Response: 24 CFR § 903.13(a) provides that the role of RAB is to assist and make recommendations regarding the development of any significant amendment to the Plan. 24 CFR § 903.13(c) provides that the PHA must consider the recommendations of RAB, if any, in the final preparation of any significant amendment. According to SHA Board Resolution 2011-2 dated January 13, 2011, and SHA’s official minutes from the November 10, 2010 RAB meeting, SHA consulted RAB about the demolition and relocation of residents. However, nothing in the record indicates that SHA informed RAB at that meeting that the plan would be amended before the demolition or that RAB had an opportunity to provide input regarding the plan amendment. Therefore, HUD determined that RAB had not been sufficiently consulted concerning the significant amendment to the PHA plan.

Under 24 CFR § 903.13(c)(2), HUD allowed the PHA to cure the inadequacy of consultation. On February 18, 2011, HUD notified SHA manager of RAB consultation issue and provided instructions on how to correct it. SHA took steps to remedy the issue, including: (1) notifying RAB of the plan amendment and their opportunity to provide comments through March 24, 2011; (2) holding meetings with RAB and its legal counsel on February 24, 2011, March 10, 2011, and March 24, 2011; (3) considering RAB's comments and notifying HUD of how it intended to incorporate the comments. SHA provided documentation of the cure to the HUD staff in the Jacksonville HUB office. On March 27, 2011, the Jacksonville HUB staff notified the SAC that the inadequacy of resident consultation had been cured. HUD has determined that SHA's documentation and statements on this matter are credible and persuasive and therefore finds that SHA has satisfied the requirements of 24 CFR § 903.13.

Comments on Demolition Applications

Your letter and attachments provide information that is allegedly inconsistent with the certifications and information that SHA provided in its demolition applications to HUD. Specifically, your letter alleges two areas of inconsistencies:

- **Contradictions between Demolition Applications and the draft Development Viability Review:** Your letter alleges that several findings in the draft Development Viability review that was issued by the NFC, Inc. in September 2007 contradict the PHA's current position and demolition application materials. Specifically, you indicate that: (i) the estimated total physical needs differ by over \$12,000,000 for the Castle Brewer project and \$9,000,000 for the William Clark project; and (ii) that the draft Development Viability review recommended against the demolition of Castle Brewer.

HUD Response: HUD has thoroughly reviewed the numbers provided by SHA as well as evaluated the physical structure of the developments. Consequently, HUD has confirmed the data provided in the PHA's application through due diligence. The claims or characterizations regarding Development Viability review are, therefore, irrelevant.

- **Miscalculation of Total Development Cost (TDC):** Your letter alleges that it appears that the TDC calculations that SHA included in its demolition application for Castle Brewer Court (and possibly for William Clark Court) incorrectly included costs of demolishing the current buildings, reconfiguring the site, and replacing the former buildings. In addition, your letter alleges that the TDC for William Clark Court is incorrect in that it uses the wrong unit and bedroom counts (e.g., it uses the planned post-reconfiguration unit composition) and that the correct configuration would decrease the TDC by nearly \$3,000,000.

HUD Response: During its review of SHA's demolition applications, HUD has already made certain adjustments to the TDC rehabilitation cost estimates that

SHA originally submitted in its demolition applications, including correcting some of the miscalculations you identify in your letter. Pursuant to Section 18 of the Act and 24 CFR Part 970, HUD will consider the information you submitted in your January 27, 2011 letter as it continues to review and make determinations on whether to approve or disapprove SHA's applications. In addition, based in part on the concerns you raised regarding the rehabilitation costs in your October 14, 2010 letter, HUD engineers conducted an on-site physical inspection and needs assessment of the Edward Higgins Terrace and Castle Brewer Court projects on October 26-27, 2010. After those site visits, HUD further revised SHA's original TDC rehabilitation cost estimates.

Request for Relief

Your letter requests two forms of relief, which I address below:

- **Outreach on PHA Plan Amendment:** Your letter requests that HUD not consider (or accept) the significant amendment to the PHA Plan that SHA adopted on January 31, 2011 until SHA conducts adequate outreach to residents.

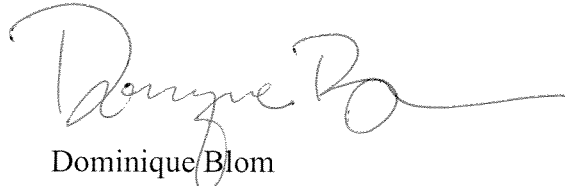
HUD Response: HUD did not consider the January 31, 2011 plan as SHA did not consult sufficiently with RAB regarding the significant plan amendment. SHA subsequently remedied the defects in the January 31st plan by consulting with RAB. SHA resubmitted an amended plan to HUD on March 27, 2011 that met the requirements of 24 CFR §§ 903.13 & 903.17.

- **HUD hold open the record on SHA's demolition applications for 30 days:** Your letter requests that HUD refrain from making any decisions on SHA's demolition applications for at least 30 days from the date of your letter (or until February 28, 2011) so that residents may submit meaningful comments and information, including a professional analysis of the TDC rehabilitation cost estimates for the projects that SHA submitted in its application.

HUD Response: HUD did not make a decision on the demolition application for at least 30 days. HUD also required SHA to consult with RAB as required under 24 CFR § 903.13, allowing residents and their representatives to submit additional comments. Finally, HUD considered the report that you submitted on February 8, 2011 providing professional analysis of the TDC rehabilitation cost estimates for the projects in SHA's applications.

Again, thank you for your letter and for continuing to bring your concerns about SHA's demolition applications and PHA plan process to HUD. As it continues to review and make decisions on SHA's demolition applications, I will instruct my staff to keep you informed.

Sincerely,

A handwritten signature in black ink, appearing to read "Dominique Blom". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Dominique Blom
Deputy Assistant Secretary
Office of Public Housing Investments

cc: Ainars Rodins
Director, Special Applications Center

Paul Ausley, Jr.,
Director, Office of Public Housing, Orlando Field Office

Vivian Bryant Esq.,
CEO & President Sanford Housing Authority