

**HAWAII PUBLIC HOUSING AUTHORITY
NOTICE OF MEETING
SPECIAL BOARD OF DIRECTORS MEETING
1002 North School Street, Building A Boardroom
Honolulu, Hawaii 96817
December 07, 2016
9:00 a.m.**

AGENDA

I. CALL TO ORDER/ESTABLISHING QUORUM

II. PUBLIC TESTIMONY

Public testimony on any item relevant to this agenda shall be taken at this time. Pursuant to section 92-3, Hawaii Revised Statutes, and section 17-2000-18, Hawaii Administrative Rules, the Board may limit public testimony to three minutes per agenda item.

III. FOR INFORMATION/DISCUSSION

- A. **SUBJECT:** Board Training on Public Housing by the U.S. Department of Housing and Urban Development by Mr. Jesse Wu and Ms. Lora Han.
Training topics to include:
1. Public Housing Ethics:
 - Conflicts of Interest: Public Housing Agency Plans, Procurement Conflicts, Public Housing & Section 8 Conflicts
 - Hatch Act
 - Litigation Reporting
 2. Lead The Way – Public Housing Agency Governance and Financial Management video series

If any person requires special needs (i.e., large print, taped materials, sign language interpreter, etc.) please call Ms. Jonessa Burns or Ms. Didi Ahakuelo-Kepa at (808) 832-4694 by close of business three days prior to the meeting date. Meals may be served to the Board and support staff as an integral part of the meeting.

HAWAII PUBLIC HOUSING AUTHORITY
MINUTES OF THE SPECIAL MEETING
HELD AT 1002 NORTH SCHOOL STREET, BUILDING A,
HONOLULU, HAWAII 96817
ON WEDNESDAY, DECEMBER 7, 2016
IN THE COUNTY OF HONOLULU, STATE OF HAWAII

The Board of Directors of the Hawaii Public Housing Authority (HPHA) held their Special Board Meeting at 1002 North School Street, Building A on Wednesday, December 7, 2016. At approximately 9:13 a.m. Director Myoung Oh called the meeting to order. Those present were as follows:

PRESENT: Director Myoung Oh
Director Lisa Darcy
Designee Lila King

Deputy Attorney General, Jennifer Sugita
Deputy Attorney General, Klemen Urbanc
Deputy Attorney General, Nalani Wilson-Ku

EXCUSED: Director Pono Shim, Chairperson
Director George De Mello
Director Jason Espero
Director Alena Medeiros
Director Laura Smith
Director En Young

STAFF PRESENT: Rick Sogawa, Procurement Officer
Ursula Jackson, Chief Compliance Officer
Helen Enobakhare, Property Management and Maintenance
Services Branch Chief
Stephanie Fo, Section 8 Subsidy Programs Branch Chief
Becky Choi, State Housing Development Administrator
Shirley Befitel, Personnel Supervisor
Renee Blondin-Nip, Hearings Officer
Nelson Lee, IT Supervisor
Dylan Fujitani, Housing Compliance & Evaluation Specialist
Beatrice Martinez, Resident Services Specialist
Deidra Ahakuelo-Kepa, Secretary

OTHERS PRESENT (and signing in as):

Ira Calkins, Punchbowl Homes tenant

Daniel Webster, Punchbowl Homes tenant

Proceedings:

Director Myoung Oh called the meeting to order at 9:13 a.m. Due to the lack of quorum, the Board did not conduct any official business, but the meeting was conducted for informational purposes.

Public Testimony

Ira Calkins, Punchbowl Homes tenant mentioned that he is addressing Agenda Item number 3 because they all affect residents in public housing. He stated that he has been emailing Executive Director Hakim Ouansafi, Executive Assistant Barbara Arashiro, Property Management and Maintenance Services Chief Helen Enobakhare, and Jesse Wu (HUD) to address the situation at Punchbowl Homes and after three months nothing has changed; the problems are still in existence. He questioned whether the HPHA is only an agency or a landlord. He further stated that fair housing or rental agreements that the housing authority is a landlord because there are certain number of people at Punchbowl Homes that are over the ages of 55, 65, 75, 85 and 90 who are protected by state laws on fair housing. He stated that only the HPHA's Board can make people do their job and that Jesse Wu had a hand in all the information that is on the agenda because things are not happening the way it is supposed to.

For Information/Discussion:

Board Training on Public Housing by the U.S. Department of Housing and Urban Development by Mr. Jesse Wu and Ms. Lora Han.

Training topics to include:

- 1. Public Housing Ethics:**
 - **Conflicts of Interest: Public Housing Agency Plans, Procurement Conflicts, Public Housing & Section 8 Conflicts**
 - **Hatch Act**
 - **Litigation Reporting**

- 2. Lead the Way – Public Housing Agency Governance and Finance Management, by Jesse Wu.**

Mr. Rick Sogawa, Procurement Officer stated that both the Executive Director Hakim Ouansafi and Executive Assistant Barbara Arashiro are attending a HUD training on the mainland.

Mr. Jesse Wu, Director of the HUD Office of Public Housing, Honolulu Field Office introduced himself and Ms. Lora Han, Regional Counsel for the HUD Hawaii Field Office. Ms. Han is based in the Los Angeles Office. Mr. Wu also explained that he will present the “Lead the Way” training tool designed by HUD to help Board members understand their roles and the HUD programs. He demonstrated how to navigate through the online training program and distributed informational materials.

Ms. Han mentioned that any legal questions should be directed to the housing authority’s legal counsel first, rather than HUD counsel directly. She clarified that questions should be sent to Jesse Wu and he will determine whether to consult with HUD Counsel.

Mr. Wu mentioned that he has a regular working relationship with HPHA senior staff and that he attends HPHA’s Board meetings on occasion to give updates about issues on the agenda.

Ms. Han explained that the housing authority should always consult with their own legal counsel, especially when it comes to their own State laws. The housing authority should perform their due diligence and seek their own counsel. Housing authorities should not rely on HUD’s advice alone because if HUD makes a mistake it can become problematic.

Ms. Han mentioned that all public housing authorities are required to follow both Federal and State laws. She also stated that the general rule of thumb is that the more stringent rule applies, which is usually the State law. The Federal law sets the bar and the State law is usually the stricter standard.

Ms. Han mentioned that the Board is in charge of the oversight and the governance of the public housing authority and setting broad policy. She mentioned that the Executive Director works for the Board and his role is managing the day-to-day operations and implementation of Board policies or contracts. The Executive Director is responsible for executing and making sure programs comply with federal, state and local laws. Ms. Han wanted to point out that the distinction is very clear.

Attached is a copy of training materials presented by Ms. Han.

Ms. Han mentioned that in Hawaii the definition of “hanai” is included as immediate family member and applies to public housing conflicts.

Ms. Han summarized that the Hatch Act is federal legislation that restricts political activity by federal government employees. It also applies to employees of State, County or municipal executive agencies that receive federal money and grants. HPHA is receiving federal funds from HUD so the Hatch Act would apply to HPHA.

Litigation Recording. Ms. Han emphasized anytime you have HUD program or HUD funds involved in litigation or settlement, it must be reported to HUD.

Director Oh asked what the Secretary of HUD is accused of doing. Ms. Han explained that he was accused of violating the Hatch Act. The Secretary was doing an interview on the "Today Show" and it gave the appearance of endorsing a candidate in his official capacity. It was very innocent and there was no malicious intent.

Ms. Han explained when accepting invitations to conferences, grand openings, etc. board members need to be careful and make sure to recognize if they are attending in an official capacity or personal capacity.

Attached is a copy of the "Lead The Way" handouts discussed by Mr. Wu.

Mr. Wu encouraged Board members to view the "Lead the Way" training on the HUD website and review brochures.

Director Oh asked what is the difference or comparison from the "Lead The Way" training and the videos from the Pasadena Housing Authority. Mr. Wu explained the videos from the Pasadena Housing Authority targeted potential Section 8 clients off the waitlist and provided information and tips on the overall rental process, such as being on time for the interview to meet with the landlord, dress nicely, etc. They also produced an educational video targeted to landlords describing why they should become a Section 8 landlord.

Director Oh adjourned the meeting at approximately 10:01 a.m.

MINUTES CERTIFICATION

Minutes Prepared by:

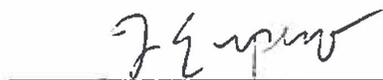


Deidra L. Ahakuelo-Kepa
Secretary

FEB 16 2017

Date

Approved by the Hawaii Public Housing Authority Board of Directors at their Regular Meeting on February 16, 2017. As Presented [] As Amended



Director Jason Espero
Board Secretary

FEB 16 2017

Date

Public Housing Ethics

Hawaii Public Housing Authority
Board of Commissioners Training

December 7, 2016



Learning Objectives

At the end of this session, participants should be able to:

- Adhere to Federal, state and local laws
- Identify areas of concern for resolution
- Assess potential conflicts
- Elevate questions to HA counsel or HUD counsel

Discussion Topics

- Conflicts of Interest
- Hatch Act
- Litigation Reporting

Program/Activity	Topic	Citations
Procurement	Conflicts of Interest in Contracts	24 C.F.R. § 85.36(b)(2), HUD Handbook 7460.8 Rev. 2 (3/07)
Public Housing	Conflicts of Interest in Contracts	Section 19(A) of Annual Contributions Contract (ACC)
Public Housing Section 8	Nepotism Restrictions	Section 19(B) of ACC
Public Housing and Section 8	Conflicts of Interest in Contracts	24 C.F.R. § 982.161, Section 13 of the Housing Assistance Payments Contract
Public Housing and Section 8	Litigation Reporting	HUD Handbook 1530.1, Rev. 5, Chap. 5
Hatch Act	Political Activity	5 U.S.C. §§ 1501-1508 5 C.F.R. § 151

Federal and State Law

- Both federal and state law apply to public housing authorities
- General rule of thumb is that the most stringent rule applies
- Waivers may not be granted for conflicts that violate state law

Conflicts of Interest

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Housing Authority Plans/Policies

- Housing Authority (HA) must use their own procurement plan/procedures that conform to applicable Federal, state and local law.
- HA must maintain a written code of standards governing the performance of their employees engaged in the award and administration of contracts.

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Procurement | Conflicts of Interest

- PHA employee, officer or agent may not participate in the selection, award or administration of a contract supported by Federal funds if:
 - The employee, officer or agent,
 - Any member of his immediate family
 - His partner;
 - Or an organization which employs him

has a financial interest or other interest in the firm selected for the award.

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Procurement Conflicts | Definitions

- "Immediate family member" is:
 - spouse
 - children
 - mother or father
 - brothers or sisters
 - "half" or "step" relatives included
- This definition also applies to Public Housing conflicts



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Procurement Conflict Quiz

Bay County HA sought a contractor to complete a parking lot by sealed competitive bids.

- The project will be funded with Capital Grant funds.
- Eric Smith and Associates is the engineering firm which will oversee the project.
- Jones Constructors, Inc. was the low bidder for the job and has been selected for the award of this contract.
- The principles of both the engineering firm and the construction company are step-brothers.

Is this a procurement or non-procurement issue?

This is a procurement of construction services covered by 24 CFR §85.36.



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Can Bay County HA award the contract to Constructors?

A Yes, because although Eric Smith and the principle of Jones Constructors, Inc. are step-brothers, Bay County HA secured the bid by sealed competitive bid.

B Yes, because they are not immediate family members.

C No, a conflict of interest exists because they are immediate family members.

D No, as long as Eric does not physically handle the money being paid to Jones Constructor's Inc.

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Answer for procurement conflict is...

C No, a conflict of interest exists because they are immediate family members.

- Conflict of interest exists for an agent of the HA to administer a contract supported by Federal funds if a member of his "immediate family" has a financial interest in the company selected for the award.
- Conflict of Interest for Eric Smith & Associates to administer a construction contract funded with Capital Grant money, since Eric Smith's step-brother is the President of Jones Constructors, Inc.

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Public Housing Conflicts



HA, its contractors and subs may not enter into a contract in connection with a project under the ACC if the following persons have an interest in the contract:

1. **Present or former members or officers of the HA or their immediate families.**
2. **Employees of the HA, their immediate families or partners who:**
Formulate policy or who influence decisions regarding the project(s).
3. **Public officials, members of the local government body, or state or local legislators, or their immediate families who:**
Exercise functions or responsibilities regarding the project(s) or the HA.

Restriction applies during the person's tenure and for one year thereafter.

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Public Housing Conflicts

- Conflicts must be disclosed to the HA and HUD
- HUD may waive conflicts for good cause; IF permitted under State and Local law
 - Person requiring waiver cannot exercise responsibilities or functions regarding the contract to which the waiver pertains

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Public Housing Conflict Quiz

"Thrifty" Waters is the Executive Director of the Island HA.

- His wife, Alice, builds web sites as a sideline when she is not running her restaurant.
- "Thrifty" would like his wife to build the HA a web site since she can do the job "cheaper" than her competitors.
- You advise "Thrifty" that this "looks like" a conflict under Section 19 of the ACC, Part A, and he would need to request a waiver from HUD.

Should "Thrifty" have "smooth sailing" with a waiver request to HUD?

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Should "Thrifty" have "smooth sailing" with a waiver request to HUD?

A Yes.

B No.

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Answer for public housing conflict is...

B No.

- Section 19(A)(3) provides:
 - HUD may waive a conflict of interest for good cause, "if permitted under State and local law."
 - And that "no person for whom a waiver is requested may exercise responsibilities or functions with respect to the contract to which the waiver pertains ..."
- As part of the waiver request, the HA must submit an attorney's opinion that a waiver of Section 19(A)(1) is permitted by State law.
- Moreover, "Thrifty" could not "administer" his wife's contract. The HA Board of Commissioners would have to make other arrangements, acceptable to HUD, for the contract administration.

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Public Housing Conflicts
Nepotism Restrictions

- HA may not hire a person in connection with a project if the prospective employee is the immediate family member of:
 - Present or former member or officer of governing body of HA (former tenant commissioner – some exceptions)
 - Employee of HA who makes policy or influences decisions with respect to projects
 - Public official, member of local governing body, or State or local legislator, who exercises functions or responsibilities with respect to projects or HA

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Public Housing Conflicts Nepotism Restrictions

- Prohibition applies during class member's term and for one year thereafter
- Member shall disclose family ties to HIA and HUD
- These requirements may be waived by Board of Commissioners for good cause, provided such waiver is permitted by State and local law
- Board's determination of good cause should be well documented

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Public Housing Conflict Quiz

The Metropolitan HA just lifted its hiring freeze. The HA would like to hire Mona Lisa as a receptionist.

- Mona is the step sister of Leonardo da Vinci, the HA's Chief of Maintenance and Painting.
- Mona's salary will be paid with Recovery Act funds.

Is there a conflict of interest?

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Is there a conflict of interest?

A Yes.

B No.

Answer for public housing conflict is...

No.

- Section 19(B)(1)(ii) of the ACC provides in part:
 - The HA may not hire an employee in connection with a project under this ACC if the prospective employee is an immediate family member of any person belonging to one of the following classes:
 - (i) Any employee of the HA who formulates policy or who influences decisions with respect to the project(s).
- The HA's Chief of Maintenance and Painting would not normally formulate policy or influence decisions with respect to the project(s).

Section 8 Conflicts

HA, its contractors and subs may not enter into a contract in connection with tenant-based programs if the following persons have an interest in the contract:

- Present or former members or officers of a HA (except participant commissioners)
- Contractors, subs or agents of a HA who formulate policy or who influence decisions regarding the programs.
- Public officials, members of governmental bodies, or state or local legislators, who exercise functions or responsibilities regarding programs.
- Member of U.S. Congress

Restriction applies during the person's tenure and for one year thereafter.

Section 8 Conflicts

- Any conflicts must be disclosed to the HA and HUD
- Conflicts of interest may be waived by HUD for good cause

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Section 8 Conflict Quiz

Marvin Manager is the administrator of two apartment projects in Crystal River that participate in HUD's Section 8 voucher program through the Crystal River HA.

- Marvin is also a HA commissioner.

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Is there a problem with Marvin Manager's dual role as a commissioner and project administrator?

A Yes, this is fine as long as he does not abuse it.

B Yes, because the commissioner does not directly oversee Section 8 funding.

C No, a conflict of interest exists.

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Answer for Section 8 conflict is...

C Yes, a conflict of interest exists.

- HUD's Section 8 Housing Choice Voucher regulations provide that the HA may **not** enter into any contract in connection with tenant-based programs in which any present member of the HA has an interest: *24 CFR §982.161(a)(1)*.
- Marvin must resign from the HA Board or the HA must seek a waiver of the conflict of interest from HUD.

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Hatch Act

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Public Housing and The Hatch Act

You may	You may not
<ul style="list-style-type: none"> Be a candidate in non-partisan election Attend political meetings/conventions Contribute money Campaign in partisan elections Hold office in political parties 	<ul style="list-style-type: none"> Be a candidate in partisan election Use official influence to interfere in election Coerce political contributions from subordinates in support of political party or candidate

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FAQ's For The Hatch Act



- As a HA employee, can I help sponsor a candidate for the Democratic party for a State Senator?
 - Yes, but you cannot coerce contributions from subordinates in attendance in support of your candidate
 - You can make a personal contribution to his campaign
- Can a HA employee be a delegate to the Republican National Convention?
 - Yes, you are permitted to run for election and hold office in a political party
- Is it okay for HA employee to run for school board?
 - Yes, but only if the election is nonpartisan
 - An election is partisan if any candidate is running as a representative of a party whose presidential candidate received electoral votes in the last presidential election

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Litigation Reporting

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Litigation Reporting

- Reporting Requirement for HA litigation involving HUD programs or HUD funds
- Concurrence requirement for initiation, appeal or settlement of litigation involving HA programs or funds
- Excludes routine evictions actions and Section 8 program litigation



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Litigation Reporting

Housing Authority (HA) is required to notify the HUD Regional Counsel if HA is involved in, or threatened with, any litigation involving:

- Construction or application of: a Federal, or state constitution, statute, or regulation, a HUD assistance contract, or a cooperation agreement; or
- If an adverse judgment would be satisfied from funds obtained at any time from HUD

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Litigation Reporting

HUD's Regional Counsel's written concurrence is required prior to any of the following:

- Initiation of litigation by HA, excluding routine eviction actions
- An appeal from an adverse judgment
- A settlement arising out of litigation
- Procurement of private legal services expected to exceed \$100,000

Note: Excludes Section 8 Program litigation

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When in doubt?

- Consult your PHA counsel
- Contact your HUD Public Housing Specialist to resolve a question or conflict

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Summary

- If you believe there is a potential conflict of interest (real or apparent), notify the Housing Authority and HUD!

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Questions?



LEAD THE WAY

PHA GOVERNANCE AND FINANCIAL MANAGEMENT

A Training for Board Members and Staff

What you need to know about public housing agency board and staff responsibilities is now in one place.

Lead the Way is a free new resource offered by HUD to support public housing agencies (PHAs). This dynamic online curriculum is designed for new or experienced PHA board members/commissioners and executive staff.

It's a powerful learning tool that can be used in self-paced learning or instructor-led courses, individually or in groups.

With video vignettes, audio case studies, interactive worksheets, and online quizzes, *Lead the Way* reinforces learning with real PHA staff who speak to the everyday needs of PHA leaders.



Any way you use it, *Lead the Way* is a reliable, up-to-date reference that covers:

- ✓ FUNDAMENTAL OF OVERSIGHT
- ✓ PHA ROLES AND RESPONSIBILITIES
- ✓ PUBLIC HOUSING BASICS
- ✓ ESSENTIAL PHA SKILLS

Visit the HUD Exchange at www.hudexchange.info/public-housing to create an account and access the curriculum.

