



**BALTIMORE
HOUSING**

STEPHANIE
RAWLINGS-BLAKE
Mayor

PAUL T. GRAZIANO
Executive Director, HABC
Commissioner, DHCD

March 28, 2011

To: David McClintock, Inspector General
Office of the Inspector General

From: Paul T. Graziano
Commissioner
Department of Housing and Community Development

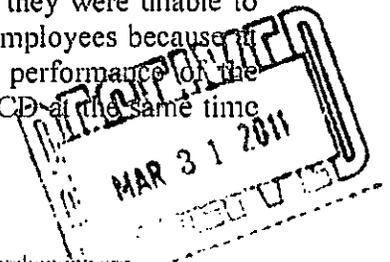
RE: Response to IG Investigation # 101409-106

The Department of Housing and Community Development (DHCD) has had the opportunity to review the final report from the Office of the Inspector General regarding the former Superintendent of Housing Inspections, Algie Epps. DHCD takes all investigations of this manner seriously, and our response seeks to provide your Office with the history of Code Enforcement, Housing Inspections and Special Investigations Unit (SIU), our management decisions and resulting actions.

In 2005, I appointed a new management team in Code Enforcement led by Deputy Commissioner Michael Braverman. At the outset, the principal focus was on reorganizing management, retraining staff, and repositioning inspections on a new IT platform (designed and built in-house). Shortly, a new culture and a new set of business rules (positioned on a modern automated work platform) emerged and Housing Inspections began to maximize efforts to outcomes. During this time DHCD nearly doubled inspector productivity, reduced housing code enforcement response times from 14 days to 4, re-engineered cleaning and boarding operations, reducing average response times from 245 days to 10 while doubling outputs from 15,000 to 30,000 work orders and collected \$6,745,000 in new cleaning and boarding revenue.

In May of 2007 DHCD, at the request of the administration, assumed the city's sanitation enforcement program and integrated it into its existing housing inspections operations. Through business re-engineering, citations increased by more than 40% and revenue collected rose to a record \$5,000,000. Prior to the assumption of these duties DHCD did not focus on citations and rarely issued any. Accordingly, prior to 2007 record keeping with regard to whether SEO certification was obtained was poor.

After 2007, when citations became a principal focus, DHCD required all housing inspectors to apply for the SEO certification. By this time DHCD was operating under a new culture of performance and had already performance-managed out, or otherwise replaced, more than 80% of the inspectors. A senior management decision was made at that time to retain our good performers and to continue to promote those among them that demonstrated a pattern of leadership and high performance even if they were unable to obtain SEO certification. DHCD determined to grandfather these employees because at the time we believed that to do otherwise would jeopardize the performance of the organization and its new can-do culture. While grandfathering, DHCD at the same time



determined to require certification going forward. Accordingly, new hires who failed to obtain certification within their probationary period were terminated. Considering the broad range of duties within housing inspections, and the relatively large number of inspectors (around 80), this was believed at the time to be a sensible short-term solution.

Linda V. Jones was the Personnel Administrator responsible for DHCD-HR from November 1, 2006 through October 3, 2008. It is noted in the report that there was some difficulty in locating Ms. Jones. In an effort to pinpoint exactly what happened, the HR Director, Kimberly Graham, contacted Ms. Jones, as she was the responsible staff for DHCD-HR process and worked closely with Code Enforcement on a variety of issues. Ms. Graham spoke with Ms. Jones, and she indicated that she remembers having some concern about Mr. Epps and his denial for Special Enforcement Officer (SEO). Ms. Jones said that she had an intern at the time that was conducting an internal audit of Housing Inspectors, because of the reclassification process that was underway for the class. During the audit, the intern came across the denials of SEOs for several Housing Inspectors to include Mr. Epps. When this information was discovered, Ms. Jones said that she contacted Mr. Booker and recommended that he terminate the affected employees immediately. Ms. Jones explained that her memory was a little fuzzy regarding everyone she discussed the matter with, but she was fairly certain that she had spoken with the City's Law Department and the Labor Commissioner's Office. She said that there was a negative response from the City Union of Baltimore (CUB) regarding this action, because many of the employees had been employed with the Department for some time without obtaining the SEO. CUB's argument was centered on DHCD's possible termination of employees that were high performers, and the fact that the statement in the job specification was not a definite means of termination. Ms. Jones said, ultimately the determination was that DHR would change the requirements in the specification to grandfather employees, but she wasn't sure if that ever happened.

Again, at the request of the administration, DHCD's Code Enforcement Division launched a new unit in the summer of 2009 to address, among other things, the prevalence of illegal dumping in Baltimore City. DHCD launched its Special Investigations Unit at half the personnel cost previously allocated (\$405,000, reduced from \$859,000). Two years later, it is without dispute that the performance of the SIU has been extraordinary – at less than half the cost. Moreover, DHCD projects that the SIU will generate over \$2,000,000 in new revenue (principally through Environmental Control Board citations) in its first two years of operation alone. Revenue was never more than negligible until DHCD assumed management.

Prior to DHCD's successful re-engineering, aspects of SIU's work were handled by other agencies, via job descriptions that required Special Enforcement Officer Certification. It is relevant to this discussion that although required, the majority of those employees did not in fact have SEO certification. All employees in DHCD's new unit are, and must be Special Enforcement Officers as serving criminal process is among the principal duties. The relevance of this observation will become clear in the discussion below.

While the SIU has different duties, which require that all employees be certified, as noted above, Housing Inspections is operationally different. Again as noted, all SIU employees are certified while all Housing Inspectors are not. DHCD believes that this investigation stems from its decision not to hire an existing city employee into the new SIU - an employee who although required to be certified in his/her existing position, was not in fact certified. With regard to SEO certification DHCD was never alone. In fact there are many city agencies where Minimum Qualifications are absent, most notably for incumbents in classifications that require a driver's license.

That said, the solution here is readily apparent and the IG correctly notes it should have been addressed by now. For the purpose of serving Environmental Control Board citations there is little reason to continue to use the SEO certification at all - it is a place holder from a period decades ago when all citations were criminal and returnable to the District Court of Maryland. Moreover, obtaining the equivalent of a special police officer's background check (special police officers have arrest powers and often carry weapons) is patently unnecessary for the execution of a Housing Inspector's duties (as opposed to the SIU). Finally, any unnecessary background check is an unwelcome burden on the police department. In the words of Oliver Wendell Holmes, "*It is revolting to have no better reason for a rule of law than that it was laid down in the time of Henry the IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past.*"

DHCD, working with BPD and the Environmental Control Board will immediately begin the process of amending the relevant portion of the ECB legislation. PD's can then be adjusted accordingly. There is no rational reason to restrict the pool of talent that can serve the city in the capacity of Housing Inspector by requiring them to pass the same background check as that of a Special Police Officer.

In the specific case of Mr. Epps, the IG correctly points out that Mr. Epps did in fact falsify his application for SEO Certification. For that reason, DHCD has terminated Mr. Epps employment. Although we don't condone his actions, the Agency feels that we followed the required process as outlined in AM 237-1 *Positions of Trust*. According to this Policy, "The presence of any criminal conviction may not be used as the sole basis for denying employment". Management spoke with Mr. Epps when they first learned of the conviction and learned that Mr. Epps inappropriately used his accrued sick leave at his previous employer. While his convictions were for theft, DHCD looked at Mr. Epps overall leadership skills and abilities in correlation with his charges, and chose to maintain his employment based on the progress of the Unit. Mr. Epps' subsequent termination has negatively impacted our operations, and decreased morale among the staff that reported to him.

Relative to the Mr. Epps initial hiring, it is reported that the OIG is unclear how Mr. Epps prior work met the requirements of the Housing Inspector job classification. If the OIG had the opportunity to review applications for most entry-level positions, a varying degree of experience would probably be recognized and accepted. The review of employment applications for this classification is merely an assessment, DHR has the

final authority to approve applicants and ultimately generate an eligibility list. For example, Mr. Epps was initially denied for the Assistant Superintendent of Housing Inspections on June 29, 2007, and appealed to DHR with his . . . experience. DHR accepted the . . . experience for Mr. Epps' inclusion on the eligibility list, and he was promoted in October 2007.

It is DHCD's position that rather than spending a considerable amount of the IGs limited resources on a full scale investigation with formal recorded interviews and demands on multiple agencies' limited time, this entire matter could have been addressed in one meeting. With regard to how pervasive this issue is, the IG is silent in this report, although in DHCD's opinion the driver for the investigation came from another agency that had been for years permitting the same to occur.

In summary, DHCD made a decision in 2007, during our reclassification process, to continue to employ the Housing Inspectors who did not have SEO certification but demonstrated excellent work performance. In retrospect it seems that our intent to grandfather the Housing Inspectors who did not qualify for SEO prior to 2007 was never fully implemented through the appropriate process. In the meantime, we've retained only those hires that meet the full requirements and returned extraordinary revenue to the city. Now is the time to make the changes that acknowledge that the Housing Inspector position has no need for the Special Enforcement Officer certification whatsoever. We will begin that work immediately.

cc: Hon. Stephanie Rawlings-Blake
Deputy Mayor Kaliopé Parthemós
Deputy Mayor Christopher Thomaskutty
Mr. George Nilson
Ms. Gladys Gaskins
Ms. Deborah Moore-Carter