



June 13, 2018

[REDACTED]
[REDACTED]
San Jose, CA [REDACTED]

Re: Termination of Rental Assistance

Dear [REDACTED],

A hearing on your informal appeal was held on Wednesday, June 6, 2018 at 2:00 pm regarding the termination of your housing assistance voucher and the Housing Authority's (HA) demand for a repayment of \$104,712.00 in alleged unentitled subsidies received by you. On the above date I met with you and Housing Compliance Coordinator, [REDACTED]. The purpose of the hearing was to review the facts and documentation to determine whether the termination of your housing assistance voucher and demand for repayment was valid.

On April 5, 2018, by letter to you, the HA terminated your rental assistance effective on May 5, 2018. The HA also sought return to it from you the sum of \$99,871.00 in claimed unentitled subsidies you received. The termination was based upon your non-compliance with the Family Obligations (24 CFR 982.551 and 552) and claims of fraud committed by you in connection with your receipt of housing subsidies under the Federal Housing Program. You have appealed this decision.

The reasons for the HA's termination of your assistance and demand for a refund were set forth in the HA's Case Brief, a copy of which was provided to you. [REDACTED] presented the Case Brief at the hearing. In summary, the Case Brief set forth a practice of yours since approximately 2010 to report to the HA only one-half of your income resulting in payment of a housing subsidy to you for almost 8 years far in excess of the amount to which you were entitled. The practice described in the Case Brief, along with the exhibits attached thereto, was during the years you worked as a paralegal for [REDACTED]. [REDACTED] were, in fact, individual attorneys having separate practices and sharing expenses. You worked for both attorneys during the time period involved and received equal amounts of income on a monthly basis from each which were paid separately by each.

The Santa Clara County Housing Authority (SCCHA) does not discriminate in the provision of housing in accordance with federal, state and local laws. It is the commitment of SCCHA to provide persons with disabilities equal access to housing programs and services. For more information, contact the Section 504 Coordinator at (408) 275-8770; TDD (408) 993-3041.

The amounts paid were approximately \$3,000.00 per month for each attorney. However, the only amount you reported to the HA as income since 2010 was the income you received from [REDACTED]. This resulted in under reporting of income to the HA of approximately \$36,000.00 per year. All of the above information was verified by an Employment Income Verification (EIV) report.

At your interview with [REDACTED] on April 4, 2018 concerning this matter you were requested to bring with you your income tax records such as W-2 forms and 1040's for 2016 and 2017. You produced the W-2 forms only from [REDACTED]. You also produced 1040 returns that only showed one-half of the income you actually received.

In the interview you admitted in a written statement, under oath, that in [REDACTED] you received approximately \$3,000.00 per month from each attorney and that you did not report the income from [REDACTED] because "...I am supporting both my [REDACTED] and don't want to see them in a foster home."

In addition to the above the HA asserted that your daughter, [REDACTED], who was part of your household and living with you in your assisted unit, married [REDACTED] on [REDACTED] when she moved to [REDACTED]. You did not report this move out to the HA. You were receiving a voucher subsidy which was calculated based upon your daughter being a member of your household. Since she left in October without you reporting it to the HA, you received excessive and unentitled subsidy payments to the date of the hearing. In support of the HA's determination it produced a checking statement for December of [REDACTED] for your daughter with her address deliberately obscured by someone which showed payments made to persons and companies all in or about the [REDACTED] area.

During the April 4, 2018 interview you were asked about your daughter's marriage. You responded, at first, with a denial of any knowledge of it. Later you admitted you were actually at the wedding.

According to the HA, your conduct as described above and the documents you produced and/or failed to produce showed an intent to deceive the HA and cover up your failure to report your true income and your daughter's moving from your assisted residence.

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Your response to the HA's evidence of fraud and under reporting of income since approximately 2010 was that you reported all your income. You admitted you received approximately \$3,000.00 per month from each of [REDACTED] during the time period in question and you insisted that at each of your bi-annual reexaminations you fully disclosed those amounts. You do not know why the HA only included one-half of your income. When you asked for an explanation of how your housing assistance was calculated, it was not provided to you. Since you did not know how your assistance was calculated, you could not know that only one-half of your income was being used in that calculation. Your position is that it was the HA that made a mistake and you withheld nothing.

With respect to your statement at the April 4, 2018 interview in which you admitted not reporting all your income in 2017, you asserted that you only did so because [REDACTED] told you that he was going to call your employers about your income if you did not provide the statement. You never actually retracted the statement or said it was false.

Regarding the fact that you only produced 2016 and 2017 W-2's and 1040's for one-half of your income at the April 4 interview, you stated that it was the result of a mistake. You forgot to bring the W-2's from [REDACTED] with you. You also stated that the 1040's were prepared by a person who you would not identify and that he prepared two separate 1040's for each year for each attorney employer. The result of this was you apparently filed two separate 1040's for each year with one-half of your income on each return. You claimed not to know how this all worked and that you relied on the unnamed person and simply signed the returns and filed them as presented.

Regarding your daughter getting married and moving to [REDACTED] in [REDACTED] without disclosing that to the HA, your position was that she did not completely vacate your residence as she comes to San Jose about one week every month to provide paid care for her grandmother and that she keeps some personal property at your residence. You had no explanation for the entries on your daughter's checking account statement or why her address was blanked out.

You did not question or dispute the HA's calculations or the amount claimed paid to you as an unentitled subsidy in the amount of \$104,712.00.

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The HA has presented an overwhelming amount of evidence supporting its contention that you deliberately under-reported your income for the past 8 years in order to receive unentitled housing assistance. This included documents from HUD's Enterprise Income Verification (EIV) system that showed your income from [REDACTED]. Your defense is a simple denial without producing any evidence to support that denial.

You have admitted to failing to report income to the HA. You state that this admission applies only to 2017. This is not creditable. Your conduct was the same in between 2010 and 2017. It makes no sense to contend that the same conduct was deliberate in 2017 but not the prior years. Also I do not believe that you admitted to what is essentially a crime because [REDACTED] threatened you with something he had an absolute right to do.

You have hidden documents from the HA such as your W-2's from [REDACTED] not because you forgot them but because to produce them as required would have been clear evidence of your deception.

It appears you created false 1040's for 2016 and 2017 that corresponded to your false reporting to the HA. You did not bring the other set of 1040's from [REDACTED] with you to the April 4, 2018 interview more than likely because they did not exist. You refused to identify the person who you say prepared the 1040's and decided not to produce him as a witness even though I told you I was willing to continue the hearing to allow you to do so. It is simply not creditable that you believed you could file your tax returns in the manner you described using duplicate sets of 1040's for each year. It is much more likely that you filed your real tax returns for 2016 and 2017 properly and attempted to conceal your deception by creating false 1040's for 2016 and 2017 for submission to the HA.

You denied knowing of your daughter's marriage when you admitted to attending the wedding. You produced a checking account statement for your daughter with her address blanked out to try and conceal her residence. The evidence presented by the HA clearly demonstrates that your daughter moved out of your residence when she married in [REDACTED] and your residence has not been her residence since then. Her occasional trips to San José to care for her grandmother do not change this fact.

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All of the above strongly indicates deception and lack of candor and results in a severe creditability problem for you and your entire defense.

It is my opinion that you violated Family Obligation Number 4 found in 24 CFR 982.551, 553 which requires that any information supplied by the family must be true and complete. It is also my opinion that you violated Family Obligation Number 12 also found in 24 CFR 982.551, 553 which requires you to promptly notify the HA if any family member no longer resides in the unit. It is also my opinion that you have committed fraud against the HA for the purpose of obtaining unentitled benefits in the amount of \$104,712.00

Based on the foregoing, I am denying your appeal and upholding the decision of the HA to terminate your housing assistance. I am also awarding the HA the sum of \$104,712.00 to be paid by you as reimbursement for the payment to you of unentitled subsidies from 2010 to 2018.

The time frame within which judicial review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6

Sincerely,


Hearing Officer

cc:  Housing Compliance Coordinator

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