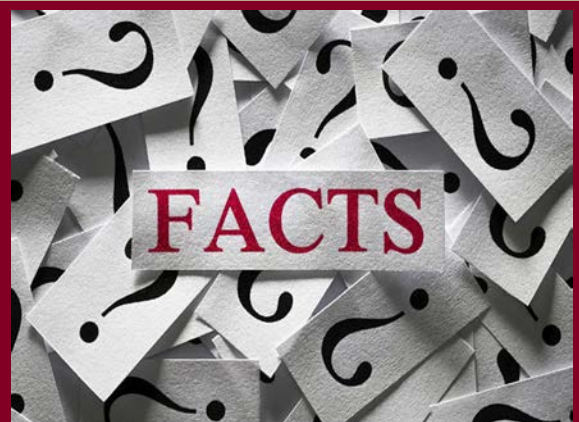




DIVISION OF INSPECTOR GENERAL
Ken Burke, CPA
Clerk of the Circuit Court and Comptroller
Pinellas County, Florida



INVESTIGATION OF HOUSING FINANCE AUTHORITY BOARD APPLICATION PROCESS



Hector Collazo Jr. - Inspector General/Chief Audit Executive

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REPORT NO. 2019-21
JULY 23, 2019



Ken Burke, CPA

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July 23, 2019

The Honorable Chairman and Members of the Board of County Commissioners

The Division of Inspector General's Public Integrity Unit has completed an investigation of the allegations below.

In order to obtain a Housing Finance Authority (HFA) Board of Directors (Board) position, the Respondent did not disclose the following on the HFA Board application:

- The Respondent is a certified contractor subject to the regulation of Pinellas County. **Unfounded.**
- The Respondent received violations for building permit issues. **Unfounded.**
- The Respondent was convicted of a financial felony. **Unfounded.**
- The Respondent was arrested, charged, or indicted for violation of federal, state, county, or municipal law, regulation, or ordinance. **Substantiated.**

The IG investigated the following additional allegation uncovered during its investigative activities:

- The Respondent engaged in misconduct by falsifying an engineer certification on a technical drawing. **Substantiated.**

On July 1, 2019, the Division of Inspector General received a memo from the County Administrator, which served as the County's response to this report. In the memo, the County Administrator stated,

"At the outset, I would like to recognize that the County is not 'management' for the Housing Finance Authority (HFA), which is a separate 'public body corporate and politic' per Sec. 159.608, Fla. Stat."

The Division of Inspector General agrees, the County is not Management in this investigation. As part of our investigative process, if we identify investigative findings and recommendations,



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The Honorable Chairman and Members of the Board of County Commissioners
July 23, 2019

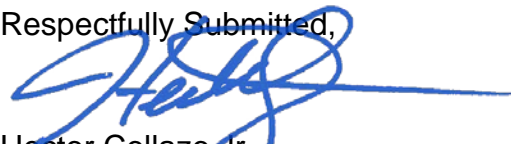
we typically request Management Responses from the relevant Department Director or Designee where the Respondent works, or where the investigative findings have been identified. In this investigation, the Respondent is the Chairman of the HFA Board. Since the Board of County Commissioners (BCC) appoints the members of the HFA Board, we directed our request for Management Responses to the BCC. It is not clear why the County Administrator provided responses to the investigative findings.

The County Administrator also provided responses from the Respondent and several documents. We had previously reviewed and analyzed the documentation and responses provided by the Respondent and his personal legal counsel. After we interviewed the Respondent, the Respondent provided us with his written responses, which we reviewed for evidence relevant to our investigation. We also interviewed the Respondent again, upon his request, as he wanted to submit and explain additional evidence. Our investigative procedures and professional standards require that we include any relevant facts of the case, including exculpatory evidence. If any information provided to us after we reach our initial conclusions affects the conclusions, we modify our conclusions. The draft report sent to the BCC for Management Responses contained our conclusions based on reviewing complete and relevant evidence and testimony.

To determine whether the allegations were substantiated, we reviewed policies, procedures, and appropriate records. We also interviewed staff and other parties, as needed. Our investigation was performed according to the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation.

We appreciate the full cooperation and assistance of HFA staff and Management during our investigation. If you have any questions, please do not hesitate to contact me at 464-8371.

Respectfully Submitted,



Hector Collazo Jr.
Inspector General/Chief Audit Executive

cc: Ken Burke, CPA, Clerk of the Circuit Court and Comptroller
Barry Burton, County Administrator
Honorable Chairman and Members of the Housing Finance Authority Board of Directors
Kathryn Driver, Executive Director, Housing Finance Authority



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INTRODUCTION

Synopsis

The Division of Inspector General (IG) initiated an investigation upon receiving allegations that a Housing Finance Authority (HFA) Board of Directors (Board) member failed to disclose information on his Board application. The IG substantiated one of four allegations, and the remaining three allegations were unfounded. During investigative activities, the IG uncovered an allegation that the Respondent, who is a general contractor, engaged in misconduct by falsifying an engineer certification on a technical drawing. The IG substantiated the allegation and determined the Respondent falsely represented an engineer's certification on technical drawings provided to a client.

Included in this report are investigative findings and recommendations related to the allegations noted above, as well as an additional investigative finding due to the HFA Board counsel advising the Respondent on a personal matter during the investigation.

Background

The Housing Finance Authority (HFA) of Pinellas County is a Special District established by the Board of County Commissioners (BCC), which helps families and individuals purchase their first home. The HFA issues multi-family bonds to provide financing for multi-family projects within Pinellas County (County). The HFA also issues single-family bonds to provide funds for first time homebuyer mortgages in the County and, by interlocal agreements, in Pasco and Polk Counties. The HFA provides funds for down payment and closing cost assistance as companion second mortgages. The HFA has also provided funding for the development of affordable multi-family housing for residents who desire rental opportunities.

The HFA's mission is to assure that financing for affordable housing remains available to the residents of the County. The HFA Board is composed of five members appointed by the BCC. The Respondent in this investigation is a member of the HFA Board. As the HFA Board, its main function is to oversee the HFA. The HFA Board has the power to borrow in order to purchase property, make loans, and facilitate lending institutions to help persons or families who otherwise cannot borrow for affordable housing.

The IG initiated an investigation upon receiving allegations related to the Respondent's HFA Board application. Specifically, the Complainant alleged that, to obtain an HFA Board position, the Respondent did not disclose the following on his Board application:

- Allegation #1 – The Respondent is a certified contractor subject to the regulation of Pinellas County.
- Allegation #2 – The Respondent received violations for building permit issues.
- Allegation #3 – The Respondent was convicted of a financial felony.
- Allegation #4 – The Respondent was arrested, charged, or indicted for violation of federal, state, County, or municipal law, regulation, or ordinance.

During investigative activities, the IG uncovered information, which led to the following additional allegation:

- Allegation #5 – The Respondent engaged in misconduct by falsifying an engineer certification on a technical drawing.

As part of our investigation, we reviewed Florida Statutes, Florida Administrative Code, Florida Building Code, County Ordinance 82-32, County Board procedures, HFA Board applications, and case records from various County and state agencies. We also conducted interviews with County staff, citizens with knowledge of the facts of the case, and the Respondent.

The IG determined that the Respondent is a certified contractor subject to regulation by the County's Building and Development Review Services Department (BDRS), as BDRS regulates and enforces compliance with the Florida Building Code, and by the Pinellas County Construction Licensing Board through its Special Act. Although the Respondent's response to a

question on the application indicated the County did not regulate him, the Respondent did disclose that he was a contractor in another section on the application. The IG concluded the Respondent was not attempting to conceal this relationship. The application did not include a question related to permit violations. Therefore, the Respondent was not required to disclose any. In addition, the Respondent has not been convicted of a financial felony. Therefore, Allegations #1, #2, and #3 are unfounded.

The IG concluded that the Respondent was arrested for a violation of state law. Therefore, the IG substantiated Allegation #4. In addition, the Respondent, as a general contractor, falsely represented an engineer's certification on a drawing he prepared and provided to a client. The IG reviewed evidence and testimony that resulted in substantiating Allegation #5. Based on information gathered during the investigation, applicable recommendations are presented below.

INVESTIGATIVE FINDINGS

1. The County's Board Application Process Is Insufficient.

The County uses a standard appointment application for all County boards, which applicants who wish to serve must complete. The Respondent applied for appointment to the HFA Board, and the BCC appointed him to a four-year term in 2014.

Allegation #2 stated the Respondent failed to disclose permit violations on his HFA Board application. This allegation was unfounded, as the application did not include a question to elicit this information. However, we requested information from the BDRS, and found the Respondent received two permit violations in the past. During a review of one of the permit violations, for a project at a private residence, we noted an accompanying complaint from the homeowner. This complaint led to Allegation #5, detailed in investigative finding #2 below. Additional screening of the applicant would have identified the permit violations and homeowner complaint to assist the BCC in its appointment decision.

Allegation #4 stated the Respondent did not disclose criminal charges on his HFA Board application. The application contains a question to confirm if the applicant has been arrested, charged, or indicted for violation of any federal, state, County, or municipal law, regulation, or ordinance. Although the question indicates traffic violations of \$150 or less may be excluded, the Respondent answered "yes," with an explanation that he received traffic citations. During investigative activities, we found that the Respondent submitted an application for reappointment to the HFA Board in 2018. In this new application, the Respondent answered "yes" again to the question, and included a comment regarding making a poor decision in the past. However, he did not provide any additional details.

We reviewed County criminal court records and noted the Respondent was arrested on June 1, 2006, and although adjudication was withheld, the Respondent was charged with a scheme to defraud, a third-degree felony. Although the Respondent answered the question truthfully on both applications, neither explanation included the details of the felony charge. Therefore, we substantiated Allegation #4, as the Respondent was not forthcoming with the criminal charge.

An application process should elicit all relevant information about the applicant, including criminal history, to allow the appointing authority to make an informed decision. Screening and vetting candidates is an important and necessary step in the application process; it allows selecting a candidate with skills and experience relevant to the position, and reduces the risk of appointing an unfit candidate.

The Hillsborough County Board of County Commissioners requires all board applicants to submit the following documents:

- Application Questionnaire for County Appointments
- Standards of Conduct Form
- Background Investigation Disclosure and Authorization Form (for certain boards)
- Financial Disclosure Form 1 (for certain boards)

Using a similar process may better assist the BCC in assessing each candidate's qualifications to serve.

The current application process does not include verifying an individual's background or the information provided on his or her application. While having a standard application helps to streamline the application process, standardization can result in missing pertinent information about an applicant. Supplementing the application with additional review can help identify relevant information specific to each vacancy. In this case, the Respondent had prior permit violations, which if reviewed, would have alerted the BCC to other potentially unethical behavior. Since the application process did not produce this information, the Board appointed a member who engaged in misconduct, as documented below in investigative finding #2.

We Recommend Management:

- A. Implement a procedure for conducting a criminal background verification for each applicant, including having the applicant sign a background verification disclosure and/or authorization.
- B. Ensure all applicants sign a Standards of Conduct or Code of Conduct form.
- C. Leverage the County's records by identifying if applicants have any current or prior trade violations, such as permit violations for contractors.
- D. Assess if additional applicant vetting procedures are warranted.

Management Response:

"As to Finding #1, the County partially concurs. The County does not agree that each applicant for a board or committee should be required to submit to a criminal background check. The County no longer asks applicants for employment to answer whether they have been convicted of crimes due to the impact this employment practice had on ex-offenders. The same policy implications are present for applicants for boards and committees. However, the County will consider whether criminal background checks or other screening measures may be appropriate for certain board or committees, as well as a Standard of Conduct form. Appointees are already required to file financial disclosure when required by law for a particular board, such as the Local Planning Agency, even though this is not noted on Pinellas County's webpage for Boards and

Committees like it is on Hillsborough County's webpage. The County does not agree that County records should be searched for potential permit or other violations for every applicant. The time and effort that would be involved in such an analysis when compared with the value of such information does not support implementing the practice. Finally, the County would like to recognize in this response the difficulty it already has recruiting applicants for its boards and committees. It does not want to implement any practice that is not required by law that could impede recruitment, unless the County determines the practice to be warranted.”

IG Reply:

The IG reviewed the County’s standard appointment application for potential enhancements in order to improve the candidate vetting process and because the Respondent misunderstood or did not fully answer all questions on the application. During preliminary meetings, concerns about the application process indicated some change might be helpful. Based on our finding and the above concerns, we developed our recommendations that exemplify a common sense approach to vetting applicants. While we understand that performing a background verification and searching County records will amount to some additional work, the time spent would be nominal and the information obtained would be valuable. Given the importance of preserving public trust, we believe board applicants that desire to serve our citizens should be thoroughly screened. We believe that the County’s due diligence is well worth the effort involved to ensure that the County only appoints the best qualified citizens to important roles within the County. We recommend that the additional steps be included as a standard part of the application process.

2. A Housing Finance Authority Board Member Engaged In Misconduct.

During a review of one of the permit violations noted in the preceding finding, which occurred on a residential project, we reviewed an accompanying complaint from the homeowner. The homeowner alleged the Respondent created a technical drawing for the homeowner for proposed construction plans. Within the drawing, the homeowner alleged the Respondent transposed a third-party engineer’s contact and qualification information from another project onto the drawing, thereby creating the appearance that an engineer generated and approved the drawing. This information resulted in Allegation #5, that the Respondent engaged in misconduct by falsifying an engineer certification on a technical drawing.

We interviewed the homeowner to obtain additional information about the complaint. Per the homeowner, the Respondent agreed to remove a load-bearing wall on the second floor in the homeowner’s residence and install proper support on both the second and first floors. The homeowner said the Respondent indicated he would have an engineer review the project plans and would charge the homeowner only for the engineer’s costs, excluding profit.

use the Engineer's title block when providing drawings to clients. If the client wishes to proceed with a project, the Designer submits the drawings to the Engineer for review, and the Engineer will sign and seal the drawings. The Engineer reviewed their files to see what documentation was associated with the job number listed on the Designer's title block. The Engineer noted the job was a residential remodel of the Respondent's home.

The Engineer inquired with the Designer and learned the Respondent was the Designer's client. The Designer had previously provided drawings to the Respondent for his home (see Figure 2 on the following page). The Engineer had not yet reviewed those drawings, and therefore, the Engineer had not signed and sealed his title block on the drawings. The Engineer concluded the Respondent fraudulently lifted the Engineer's title block from the drawings the Designer provided to the Respondent, and placed them on drawings the Respondent created for the homeowner.

The IG interviewed the Engineer, who verified the information the homeowner previously provided. The Engineer believed the Respondent copied the title blocks from his personal residence project drawings and fraudulently applied them to the drawing provided to the homeowner, implying both the Designer and the Engineer created and/or reviewed the drawing.

The Respondent and the homeowner became engaged in a civil lawsuit related to their contract, and the IG obtained and reviewed transcripts of the Respondent's deposition for the case. During the deposition, the Respondent admitted to removing a wall, which the Respondent thought could be load-bearing, but he indicated the work performed was not structural in nature. The Respondent also indicated the Engineer did not create the drawing provided to the homeowner, but the Engineer did verbally advise the Respondent on the job.

The Respondent further explained that the Designer's and Engineer's title blocks were on the drawing because the Respondent recycles drawing templates, and leaves the title blocks affixed from one drawing to another. The Respondent placed his signature and corporate seal on the drawing, but the Respondent admitted he did not inform the homeowner that it was his signature on the Engineer's title block because he did not believe it was relevant to the homeowner.

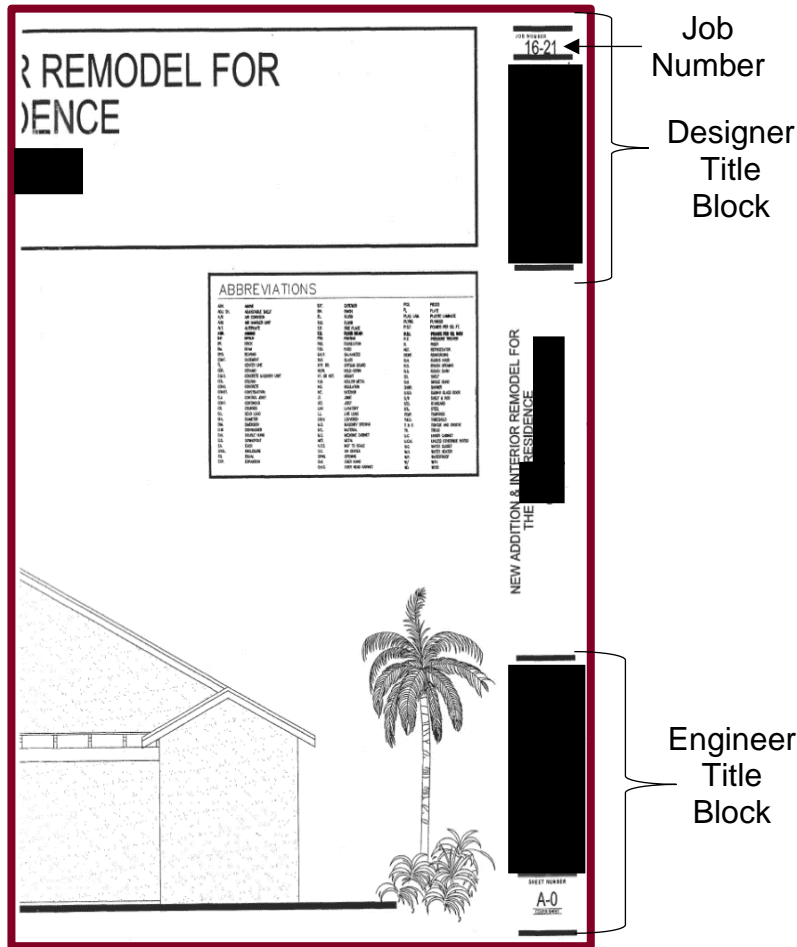


Figure 2 – Designer’s Cover Page for Respondent’s Home Remodel

After the deposition, during an interview with the IG, the Respondent indicated he only performed drywall work for the homeowner, which did not require a permit. However, when the IG informed the Respondent that it reviewed the deposition transcripts from the civil case, which included the Respondent admitting to removing a potentially load-bearing wall, the Respondent confirmed he removed the wall, but indicated it was not load-bearing.

The Respondent stated to the IG that he has a relationship with the Engineer, and as such, has the Engineer’s title block in his files. The Respondent indicated it is customary in the construction industry to maintain project files together and reuse drawing templates, maintaining title blocks from one drawing to the next, even if the individual listed on the title block did not review the subsequent drawings. The Respondent also stated he includes his personal residence project files together with his business files, which is how the title blocks from his personal residence project became part of the drawing the Respondent provided to the homeowner.

The IG asked the Respondent if either the Designer or the Engineer ever provided express consent for the Respondent to use their title blocks, and the Respondent said he would not

comment on the question due to pending litigation. The IG asked the Respondent how a client would know if an engineer reviewed and/or certified his drawings, given the Respondent's practice of utilizing title blocks, and the Respondent stated the client could call the engineer to confirm.

The Respondent stated the drawing he provided to the homeowner in this case was not an official blueprint drawing and was simply information for the homeowner. Therefore, any title blocks on the document held no significance. The Respondent referred to the drawings as "as-built," which is also how they are referenced in the written agreement with the homeowner. The Respondent confirmed it was his signature and seal on the Engineer's title block, but he stated it was not part of the title block, and instead part of the page numbering system just below the title block. Ultimately, the Respondent's position was that the signed and sealed engineering drawings were not required for the work performed, and since the drawing provided to the homeowner was not an official document, the Respondent's practice was sound.

The raised seal on the drawing the Respondent provided the homeowner had the following words visible: "Corporate Seal 2010 Florida." See Figure 3. Therefore, the seal provided no means of identifying its owner. We redacted the Respondent's signature in Figure 3, which also hides the visibility of the raised seal; however, the seal was not very clear, even in plain sight. In a subsequent interview, the Respondent provided the IG with his embosser, which creates a raised seal when pressed onto paper. The Respondent's embosser included the Respondent's company name, which the Respondent believed illustrated his intent was not deceptive when placing the seal on the Engineer's title block. However, the Respondent's company name was not visible on the raised seal affixed to the drawing.

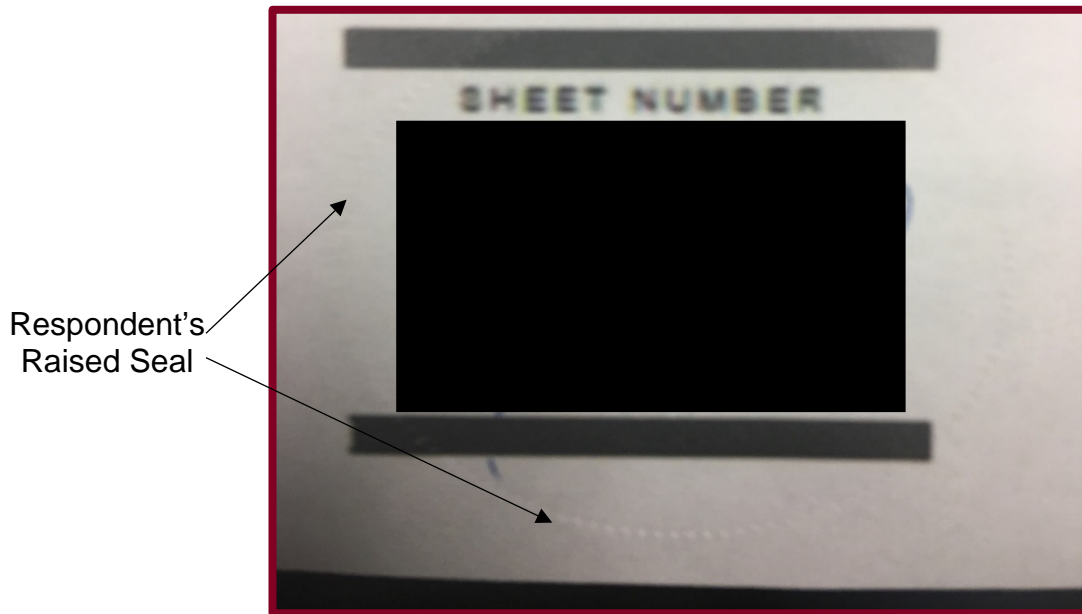


Figure 3 – Respondent's Raised Seal - Enlarged

Further, the Respondent was unable to make his company's name appear on paper when using the embosser in the IG's presence. The Respondent had to take apart the embosser to show the company name was part of the seal (redacted in Figure 4).



Figure 4 – Respondent's Embosser

When discussing the practice of placing his signature and seal on the title block of an Engineer, the Respondent eventually agreed that utilizing this practice results in misleading his clients. The Respondent indicated he has since stopped the practice and provided the IG a copy of the new template utilized by his company, which has no other companies' information on the template.

Based on the Respondent's statements that utilizing title blocks in a haphazard manner is standard in the industry, the IG interviewed a County Plans Examiner in order to gain an understanding of standard industry practice. The IG provided the Plans Examiner the drawing the Respondent gave the homeowner and asked for interpretation absent any other information. The Plans Examiner indicated the title blocks illustrate the drawing had been reviewed, signed, and sealed, although the wording on the seal was not clearly visible. The Plans Examiner also observed the drawing indicated structural work and a permit would be required to execute the work.

The IG asked the Plans Examiner to explain how title blocks are used and what they signify when placed on a drawing. The Plans Examiner indicated that if the title blocks are on a drawing, the implication is the associated individuals reviewed the drawing. It is not standard practice to include title blocks on drawings when the individuals indicated on the title blocks have not

reviewed them. The Plans Examiner also indicated signing and sealing a title block that is not one's own is misleading and potentially fraudulent, in violation of Florida Statutes, as well as Florida Administrative Code.

Based on the evidence obtained during the investigation, the IG substantiated Allegation #5. Due to information obtained during the investigation, the IG will notify the Pinellas County Construction Licensing Board and the Florida Board of Professional Engineers regarding the facts of this allegation.

The County promulgates the following commitment to public health, safety, and welfare in its strategic plan:

"In order to secure protection to the citizens of the county against abuses and encroachments, the county shall use its powers, whenever appropriate, to provide by ordinance or to seek remedy by civil or criminal action for the following:

... (f) Protection of consumer rights. The county shall establish provisions for the protection of consumers."

Members serving on County boards should model the County's commitment to serving its citizens responsibly. The Respondent engaged in unethical behavior, which did not align with the County's mission to consumers.

County Ordinance 82-32, Section 7. Removal of Members identifies the criteria for removing a member of the Housing Finance Authority:

"A member of the Housing Finance Authority may be removed without cause by a majority vote of the Board of County Commissioners, or for neglect of duty or misconduct in office by a majority vote of the Board of County Commissioners. A member may be removed only after that member has been given a copy of the charges at least ten days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. If a member is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed with the Clerk of the Circuit Court of Pinellas County."

The Respondent's actions not only misled a consumer, but they also unnecessarily compromised an engineer's professional certification.

We Recommend Management:

Per County Ordinance 82-32, consider initiating the process to vote on the removal of the Respondent from the HFA Board.

Management Response:

“As to Finding #2, the County does not concur at this time. The facts giving rise to this recommendation are currently the subject of civil litigation. Although it recognizes the IG has done its own investigation into these facts, the County believes it is premature to take any action while the litigation remains pending.”

IG Reply:

We understand the County’s position. However, the evidence presented in our report illustrates behavior that does not coincide with the County’s mission to protect consumers. It is our responsibility to alert the BCC to risks in the environment so that the BCC can mitigate those risks. We asked the BCC to consider taking action that is available to them based on the facts of the case. The Respondent’s misconduct, and the basis of our recommendations, relates to the Respondent falsifying an engineer’s certification, which the Respondent admitted was misleading to his clients.

3. The Housing Finance Authority Board Attorney Counseled The Respondent On A Personal Matter.

During an interview with the Respondent, the HFA Board attorney accompanied and represented the Respondent in his capacity as an HFA Board member. However, during the interview, when the IG addressed a civil case the Respondent was a party to in relation to Allegation #5, the attorney advised the Respondent several times. The attorney advised the Respondent he could not answer questions about the civil case since it was pending litigation.

Chapter 4. Rules of Professional Conduct of the Florida Bar Rules include the following within Rule 4-1.7 Conflict of Interest; Current Clients:

“...a lawyer may not represent multiple parties to a negotiation whose interests are fundamentally antagonistic to each other...”

The attorney indicated he was representing the Respondent only in the Respondent’s capacity as an HFA Board member. Therefore, it is unclear why the attorney advised the Respondent regarding a personal matter. By advising the Respondent not to answer questions regarding the civil case, the IG was unable to gather certain facts related to the allegations. This may have presented a conflict of interest for the attorney with regard to HFA Board representation.

We Recommend Management:

- A. Assess if the HFA Board attorney's actions represented a conflict of interest to the HFA Board.
- B. Determine if remedial action is warranted based on the assessment in Recommendation 3A.

Management Response:

"As to Finding #3, the County does not concur. The attorney-client relationship at issue in this recommendation is between the HFA and its attorney. It is not appropriate for the County to interfere with this business relationship."

IG Reply:

During investigative fieldwork, the attorney indicated he represented the HFA Board and was serving in that capacity. Since the BCC appoints the HFA Board, we found it to be reasonable to alert the BCC to a potential conflict of interest. We recommended the BCC assess the facts to determine if a conflict exists. The BCC may wish to delegate that task to the County Attorney for an independent review of the facts.



DIVISION OF INSPECTOR GENERAL

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