

Memorandum



Date: July 18, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Updated Report of Proposed U.S. Department of Housing and Urban Development
Take-Over of Miami-Dade Housing Agency Negotiations and Meetings

Supplement to
Agenda Item No. 6(F)
EDHS

This updated report serves to provide the Board of County Commissioners (BCC) with a chronology and overview of the meetings and discussions that have taken place over the last several months with the U.S. Department of Housing and Urban Development (HUD) regarding the governance of the Miami-Dade Housing Agency (MDHA):

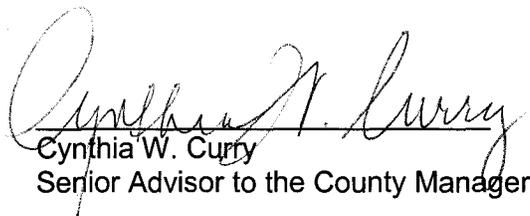
- On February 15, 2007, the first of five meetings were held at HUD Washington, D.C. headquarters with Secretary Alphonso Jackson and HUD staff. Miami-Dade County representation included the Mayor, Commissioner Edmondson, the County Manager and other County staff. During the meeting, the Secretary indicated that increased oversight was needed at MDHA and discussed aspects of a Cooperative Endeavor Agreement (CEA), particularly the role of a recovery administrator who would serve as a single-member board with oversight over all aspects (legislative and administrative) of MDHA. The Mayor shared with the Secretary all the improvements and on-going efforts in MDHA by the new management team. The County also requested a copy of the Deloitte report as well as back-up documentation to support the report.
- From February 26 through March 2, 2007, approximately 14 HUD officials arrived for a surprise review at MDHA that consisted of file reviews for both Public Housing and Private Rental as well as Real Estate Assessment Center (REAC) inspections and a financial review as a follow-up to the Deloitte findings.
- The second meeting with HUD occurred during the Washington Fly-in (held from February 27 through March 1, 2007) with the Mayor, the Chairman, the County Manager and other County officials. HUD officials present were HUD Deputy Secretary Roy Bernardi, and other HUD staff. The discussion revolved on achieving an amicable agreement between HUD and the County.
- The County received a draft CEA from HUD on March 5, 2007, which was discussed at the March 6 and 8, 2007 BCC meetings.
- At the March 6, 2007 BCC meeting, Commissioner Edmondson's Resolution (R-305-07) urging HUD to leave control of Miami-Dade County's housing programs with the County was approved.
- At the March 20, 2007 BCC meeting, the Board was updated by staff regarding the CEA letter and the County's response which was sent to HUD the same day. The response encouraged the alternative of a Memorandum of Understanding (MOU), and provided MDHA's Improvement Plan. At that same Board meeting, direction was given by the Board to challenge any takeover.
- On March 26, 2007, HUD responded with correspondence asking the County to only mark-up the CEA. To meet HUD's deadline of April 4, 2007, the County responded on April 2, 2007 with a revised CEA.

- On March 27, 2007, Deloitte and Touche held their entrance conference at MDHA. They returned to further review findings in their report and began work on March 28, 2007. Approximately 11 to 15 individuals took part in the review, and they were pulled out by U.S. HUD around the end of April.
- On April 19, 2007, a meeting was held at HUD Washington headquarters to continue discussions. The County was represented by the Chairman, the County Attorney and other assistant county attorneys, the County Manager and other County staff. HUD was represented by Deputy Secretary Roy Bernadi, Acting General Counsel Robert Couch, Assistant Secretary Orlando Cabrera and other HUD staff. The outcome of the meeting was HUD's position that there were five non-negotiable terms, those being: 1) the Recovery Administrator's role; 2) the issue of governance with the separation of the Board from oversight of MDHA; 3) an independent General Counsel; 4) an independent auditor; and 5) a recovery plan with specific milestones. HUD referred to the arrangement as a receivership, which is not the direction set by the Board.
- Following the last meeting in Washington, DC, correspondence was sent on April 20, 2007 to Deputy Secretary Bernardi restating the County's position with respect to oversight of MDHA. In addition, the Chairman and Mayor signed a joint letter to the HUD Secretary expressing their disappointment regarding the outcome of the April 19, 2007 meeting.
- A follow-up request was made to HUD for a meeting with Secretary Jackson. An e-mail from Assistant Secretary Cabrera stated that no meeting with the Secretary would be allowed until the CEA was signed.
- At the April 24, 2007 BCC meeting, the Board was briefed on the April 19, 2007 meeting in Washington, D.C. The Board was resolute in its position regarding HUD's attempts to take over MDHA. On this same date, the County received the breach of the Annual Contributions Contract (ACC) letters which gave a response date of May 9, 2007 to cure stated violations.
- At the April 30, 2007 Special Meeting of the BCC, a second directive was issued by the Board to be more flexible in negotiations with HUD. At that meeting, the Board suggested that we request another meeting with HUD Secretary Jackson to continue negotiations.
- On May 3, 2007, the Mayor, Commissioner Audrey M. Edmondson, and the County Manager met with HUD Secretary Jackson, Assistant Secretary Cabrera, and other HUD and County staff to discuss the governance issue, day-to-day operations, and personnel related matters. The central focus of the meeting revolved around the authority issue as split between the BCC and the Mayor, and the County and HUD agreed to meet again.
- On May 4, 2007, Mr. Flynn, HUD attorney, extended the breach letter deadline to May 16, 2007.
- On May 9, 2007, Senior Advisor Cynthia W. Curry, MDHA Director Kris Warren, Assistant County Attorneys Cynthia Johnson-Stacks and Terrence Smith met with General Deputy General Counsel Michael Flynn and John Herold in Washington, D.C. The discussions were amicable, but the central issue continued to be the recovery administrator's role with respect to personnel and policy issues. The discussion also included a four-person oversight board that would report to the recovery administrator, with the Mayor and County Manager reporting to the oversight board. HUD insisted in giving the recovery administrator veto authority over all oversight decisions.

- On May 10, 2007, the BCC was given an update on the May 9, 2007 meeting with HUD. At the BCC meeting, the County Attorney requested direction from Board Members with regard to legal action. The Board gave flexibility to the County Attorney to file to protect the County's rights if negotiations were of concern.
- On May 11, 2007, HUD notified Senior Advisor Curry that closure was needed on the issue of authority by close of business that same day. Senior Advisor Curry responded with an e-mail stating the necessity of continuing on-going discussions.
- On May 14, 2007, the County Attorney's Office received a letter dated May 11, 2007 from Mr. Flynn stating there would be no further extensions to the default response deadline. The County also received a letter from Acting General Counsel Couch on May 14, 2007 stating that we had not responded to HUD on the date specified, and that the County was not acting in good faith and halted negotiations with HUD. The letter also included a new CEA and a recovery plan.
- As the result of the County's filing a Complaint for Mandamus and Injunctive Relief against HUD in the federal district court on May 15, 2007 and subsequent pleadings and motions on May 16, 2007, the County and HUD jointly filed a stipulation that HUD will review the County's response to HUD's default letters and HUD will provide the County with its response. Following receipt of HUD's response, the County will have a minimum of ten business days to proceed with litigation, if needed, with the understanding that in no event will HUD try to take any action before June 7, 2007. In the event, the response from HUD is not in the best interest of the County, the County Attorney intends to prosecute the action against HUD.
- The County filed a comprehensive response to the default letters to HUD on May 15, 2007, prior to HUD's May 16, 2007 deadline.
- On May 16, 2007, a thorough discussion on the latest communication exchanges took place at the Economic Development and Human Services Committee meeting.
- On May 16, 2007, a letter signed by the Mayor and Chairman was sent to Acting General Counsel Robert Couch in response to his letter from May 14, 2007.
- Upon receipt of the response to the breach letters submitted by the County, HUD's attorneys advised the County Attorney that they were still reviewing the submittal and would notify the County at the appropriate time of HUD's final decisions..
- On May 18, 2007, HUD representative, Nicole Faison, met with the Overall Tenant Advisory Council ("OTAC"), the countywide public housing resident council, and other resident leaders to determine their position on the possibility of HUD taking over MDHA. This was a meeting scheduled directly with residents that also included site visits. HUD also made phone calls to community leaders to determine their position of HUD's takeover efforts. No MDHA staff was involved or allowed to participate.
- On June 5, 2007 a letter from David Vargas, Director, Public Housing Management and Occupancy Division at HUD, was received informing MDHA that HUD intended to conduct another file compliance review to be conducted on site of the Private Rental program on June 6, 2007. This review was based on information submitted to HUD in the County's response to HUD's declaration of default related to the Private Rental program. HUD's review consisted of a review of more than 500 files, which were examined by approximately 11 HUD representatives. The review was to last three days, but was extended and ended on June 22, 2007.

- On June 29, 2007, a letter from James McKay, Atlanta field office Director for HUD Office of Inspector General ("OIG"), was received informing MDHA of the OIG's intent to conduct a contract review of the Capital Fund program as well as a follow-up on a HUD review conducted last year on housing inspections. The review is tentatively to commence on July 18, 2007 for a period of four to six weeks, which could be extended for several months. The years under review for the Capital Program are FY 2002 through June 2007.
- To date, HUD has made no decision regarding whether to find the County in substantial default or in default under the Public Housing and Section 8 Annual Contributions Contracts, respectively.

The County is open to continuing negotiations and is hopeful for a positive outcome. The Board will be informed as additional developments occur.



Cynthia W. Curry
Senior Advisor to the County Manager