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Marc Ott, Manager City of Austin
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Subject:

- Lead Smart Program
- Still unresolved questions regarding possible criminal conduct by CoA employees/contractors reflected in depositions taken from City of Austin officials/employees, including: forgery; unaccounted for federal housing funds, possible contract fraud; patterns/practices; other

Saturday, February 28, 2009

Dear Mr. Ott,

This letter is in response to the certified letter dated February 26, which was made available to me today, and is from the City of Austin's Housing Development Supervisor/LeadSmart Program Manager Mr. Coby Ramirez. The hard copy version of this letter is on its way -- receipt requested.

The fact of the matter is, that while I appreciate Mr. Ramirez' recent letter, it does not address the Legal and Fiduciary Accountability concerns (of which the lead issue is **only a part**) that I expressed to you and Council Member Morrison back in July/August '08 when I (and others) requested that a number of the issues reflected in the following letters, **and which involve the questions of forgery and unaccounted for federal funds** as well as other possible criminal violations be referred to the Office of the US Attorney.

You may recall my letters addressed to you and Council Member Morrison (attached herein) of July 31, August 10, and August 22, '08.

(1) **July 31, '08 Letter:**

- provides a brief history of the events/actions involving the City of Austin &/or its agents **and which involve questions of forgery and unaccounted for federal funds** in conjunction with one of the City's H.U.D. home 'rehabilitation' programs.
- The City's acts of commission/omission in relation to the CoA housing project at my home **are the reasons that my home incurred subsequent extensive damages, including the hazardous-waste levels of lead-paint dust contamination (which was so toxic that it was ruled unacceptable by the City dump), and therefore made the house uninhabitable.**

(2) **August 10, '08 Letter:**

- comprehensive list of supporting documentation, including witness testimony taken under oath from CoA officials and specialists' reports reflecting such things as:
 - the City's alleged electrical work posed a fire hazard (which CoA inspector & contractor alleged to have passed inspection);
 - the home's severely elevated levels of lead-paint dust contamination and the specialist's report that *"...both paint and soil would be classified as hazardous waste", "...all areas tested exceeded the EPA maximum recommended lead levels", "...recommended that they be abated as soon as possible."*
 - the home's lead paint dust contamination was attributed to the actions of the City contractor, who under the auspices of CoA's federally-funded 'rehabilitation' program, used a machine sander in preparation for repainting. The specialist's report reflects: *"the exterior paint...has lost its integrity due to paint failure from sanding in preparation for re-painting and are cracking, chipping, flaking etc."*
 - possible contract fraud and patterns & practices w/ regard to:
 - CoA inspectors signing for payment for work that was **not** done;
 - **lead paint practices in general** for ALL CoA 'rehab' projects from that time;
 - loan servicing reports; & Project completion/abandonment status reports
 - other

(3) **August 22, '08 Letter:**

- additional supporting documentation & witness testimony;
- My request (of at least 3 requests) that you and CM Morrison refer these related criminal issues and questions to the U.S. Attorney's Office -- which again involve the questions of forgery and unaccounted for Federal funds on the part of City of Austin personnel.

For your information, during our August 11, 2008 meeting with Mr. Ramirez and Ms. Simmons of the LeadSmart Program, my husband and I explained that our family was currently living outside of our home (prompted initially by the safety and environmental hazards that resulted from the City's botched 'rehabilitation' project at my home). I also explained to you within my July 31, '08 letter that my son (who was a **toddler** when the City's actions contaminated his home; and who had to live in the hazardous waste for no less than 6+ subsequent years, because of CoA's **mandatory residence requirement**, enforced by a lien with **Power of Sale**):

"...my son has been confronted with an array of neurological and health issues...my family and I have tested positive for elevated levels of lead (urinalysis & other); and a specialist has confirmed that we incurred bodily injury as a result of the prolonged exposure to lead-based paint dust. We would like to have the opportunity to go home and begin the healing process."

Naturally, the additional expenses associated with my son's neurological/educational interventions; our family's efforts to remedy the hazards on our own; and our long-term need for alternate housing has imposed tremendous financial hardship upon my family. Consequently, we have reluctantly confronted the possibility of having to sell or lease our only home. Clearly, however, considering the lead contamination and the other disclosure requirements associated with the City's botched 'rehab' project at my home, such 'options' have presented our family with additional conundrums and limitations. **This raises additional questions of deliberate, negligent, and intentional prolonged actions by the City of Austin against my family.**

When I wrote to you and CM Morrison in July/August of 2008, my hope was that the City of Austin would take responsibility for the contamination and other hazards CoA caused to my home and family. Unfortunately, Mr. Ramirez' recent February 26 letter, and the letter of August 14, 2008 from NHCD Director Margaret Shaw, **raises questions whether the City of Austin instead plans to pass this responsibility/expense onto the Federal Government, the taxpayers and my family?**

- ❖ *Is the City of Austin considering using Federal grant funds from one program (LeadSmart) to cleanup/cover-up the deficiencies (incl. possible criminal actions) from another one of its Federally-funded grant programs (HUD's Single Family Loan Program) – twice the federal tax dollars for a fraction of their intended commitment?*
- ❖ *(Of course, another question is whether official decisions might be used in order to apply a portion from the new Federal Stimulus Funds for that same purpose; or in a similar matter.)*

For your information, my family and I have had to remain outside of our home for as long as we possibly could. Clearly, as indicated in my July 31, '08 letter to you, I had hoped that you and CM Morrison would have assured us that the City of Austin would have *first* remedied the hazards that CoA caused to my home, as well as have taken prompt and appropriate action to refer these and other possible criminal issues to the U.S Attorney for investigation, as we requested.

To clarify, the over-riding **unanswered Public Official fiduciary and legal accountability issues and additional unresolved questions** that were NOT addressed within Mr. Ramirez' February 26, 2009 letter include, for example, the information contained in supporting documentation & depositions from City of Austin employees which raise questions of:

- 1) Forgery;
- 2) **Unaccounted for Federal Housing Grant Funds**
 - loan repayment/servicing records;
 - project completion/abandonment status reports
 - Other
- 3) **Contract Fraud**
- 4) **Patterns/Practices of reported possible improper or criminal activity**

These are the type of key issues that resulted in criminal referrals by the **Gray Panthers'** and **Travis County Green Party** to the **Justice Department** and to the **Travis County District Attorney** for appropriate inquiry.

Included within the August 2008 material that was sent to you, Mr. Ott, and to Council Member Morrison were references to depositions taken under oath from City Employees who apparently were instructed to take actions that may be fraudulent. **For example:**

1. **Deposition of Candelario ("Candy") Moreno pp. 117-120:**

Q: *So am I understanding you correctly that he (David Montoya) basically authorized payment on some work that wasn't done?*

CM: *"Yes."*

2. **Deposition of David Montoya pp. 108-115:**

Q: My question is were you still on the project on June 26, 1996?

DM: “*No.*”

Q: Okay. So then **how do you explain your signature** of David Montoya **authorizing a payment** to Valdez Remodeling & Weatherization, Inc. **on June 26, 1996**, after you were taken off the project?

DM: “*I can’t explain it...The only thing I could say – and I think that this – this pay request – this pay request was given to me to sign it at that time even though I was out of the case or out of the project*” already.

3. **Deposition of CoA employee Christopher Gonzales:**

pp.106-107; p. 108 lines 1-11 & line 19; pp. 114-115; p. 120; p.121 lines 8-10:

- **“They’re watching, don’t rock the boat, don’t make trouble because people are looking at this.”**
- ** Names are mentioned

For a more comprehensive list of testimony and supporting documentation, you may refer to the attached 19-page reference/testimony list.

Mr. Ott, in addition to the questions of forgery and unaccounted for federal funds, we asked that you and Council Member Morrison go forward to the Justice Department based on the examples like the ones reflected above.

Finally, a sampling of CoA housing rehab projects that myself and others have reviewed, roughly imply that approximately 48 clients of the estimated 115 projects cannot be contacted at the project address – and in fact it appears that some lots were vacant, devoid of a home at all.

- ❖ *How does the City of Austin justify the use of federal grant money for its program(s) that are promoted as ‘Homestead Preservation’ Initiatives when possibly 48 of the approx. 115 homeowners no longer live in, or own their homes?*

With compelling examples like these, Mr. Ott, how can you as the Austin City Manager avoid referring these questions of possible misuse of Federal funds and related matters for appropriate inquiry and investigation to the US Attorney?

Sincerely,

Allissa Chambers

Attachments:

1. A photo of my home taken after the city of Austin’s **alleged** ‘rehabilitation’ of my home
2. Lead Paint Dust Results for Ms. Chambers’ home – May 25, 1999
3. 7/31/08 Letter to City Manager Marc Ott From Ms. Chambers
4. 8/10/08 Letter to City Manager Marc Ott and Council Member Morrison From Ms. Chambers
5. 8/22/08 Letter to City Manager Marc Ott and Council Member Morrison From Ms. Chambers
6. 19-page Comprehensive List of Supporting Documentation & Testimony taken under oath

cc:

Laura Morrison
Margaret Shaw
Coby Ramirez
Clint Smith
Travis County Green Party
BATPAC