

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: May 25, 2012

TO: Honorable Members of the Housing, Community
and Economic Development Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Council File No.: 09-1731, 09-1731-S1,
Assignment No.: 09-11-1721

Council Oversight of the Housing Authority of the City of Los Angeles (HACLA)

SUMMARY

On October 23, 2009, the Council instructed the Office of the Chief Legislative Analyst (CLA) to negotiate an amendment to the Cooperation Agreement between the City and the Housing Authority of the City of Los Angeles (HACLA) to create a mechanism by which the City may exercise influence over and provide input into actions of the HACLA Board of Commissioners that impact City residents (C.F. 09-1731). On December 13, 2011, Councilmember Richard Alarcon introduced Motion (Alarcon-Huizar, C.F. 11-2105) instructing the CLA, to provide the Council with a report relative to the inclusion of HACLA under the purview of Section 245 of the City Charter and the process needed to effectuate the change, including, legislative amendments to the City Charter and/or state and federal law. Subsequently, on February 7, 2012, the Council instructed the CLA to develop recommendations that would allow the City to implement selective oversight over HACLA actions, excluding day-to-day operations (C.F. 09-1731-S1). In response to the various Council requests, the CLA reviewed the California Health and Safety (H&S) Code, met with HACLA management, Council offices and the City Attorney, evaluated previous City attempts to improve management practices at HACLA, contacted state and federal officials, and examined previous research studies relative to management concerns at HACLA. While there are various options available for Council's consideration, at this time we recommend that the Council approve an amendment to the current Cooperation Agreement with HACLA to establish a process by which the Council could review items of interest prior to the Board of HACLA Commissioners taking action.

California Health and Safety Code

California Housing Authorities Law provides local jurisdictions with the ability to establish housing authorities and appoint board members as commissioners to the authority (Calif. Health & Safety Code Sections 34240 and 34270). However, once created, the housing authority is a state agency and not an agency of the city in which it functions (Calif. Health & Safety Code Sections 34240 and 34310). As such, local governments have limited ability to directly oversee the daily operations of housing authorities. Alternatively, a local governing body such as city council can establish itself as the actual commission governing housing authorities, and appoint a separate housing commission to run the daily operations of the housing authority (Calif. Health & Safety Code Sections 34290 and 34291). Furthermore, under California Housing Cooperation Law, a city may do "any and all things necessary or convenient, to aid and cooperate in the planning, undertaking, construction, or operation of housing projects" (Calif. Health & Safety Code Sections 34509 and 34516).

Basis for Report

The 2011 findings by the City Controller's performance audit of HACLA's travel policy violations prompted the need for transparent and effective management of HACLA. This led to the various Council requests to examine the alternatives available for oversight of HACLA. Throughout the 1980's and 1990's, the City Council and Mayor have attempted to resolve similar issues of mismanagement and fraud. Attempts to resolve previous situations at HACLA include a management audit conducted by the City Administrative Officer (CAO), and a Resolution initiated by Mayor Tom Bradley and adopted by the Council assuming full oversight of HACLA (See attached Timeline).

In response to the issues identified above, HACLA has recently made changes to the Board of Commissioners and appointed Mr. Doug Guthrie, former General Manager of the Housing Department, as permanent Chief Executive Officer of HACLA. To date, HACLA reports that the Board of Commissioners has adopted changes to the Travel Policy, Vehicle Policy and the Purchasing Card Policy.

Proposed Cooperation Agreement

In light of the recent changes to the Board of HACLA Commissioners, revised policies, and a commitment to dialogue and communicate more with the Council, we recommend that the Council and HACLA enter into a Cooperation Agreement which would provide the Council with the ability to review all items, including, the proposed annual budget, contracts, and new and/or amended policies, regulations and guidelines, and other items of interest. While this option would provide the Council with authority to review matters it deems appropriate and provide input, Council would not have the ability or authority to approve or disapprove HACLA items.

The primary advantages with this option include providing the City Council with much more information than previously provided with respect to the operation of HACLA and allowing the Council the opportunity to provide input to HACLA. The major disadvantages in these procedures include the added effort required of HACLA and City personnel to facilitate Council review of the operations of HACLA as well as the processing delays associated with the review.

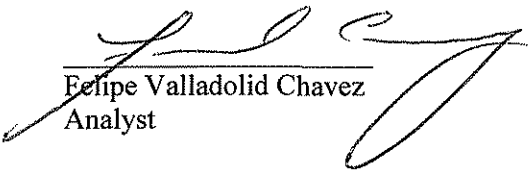
We recommend that a Council review process and protocol be established to facilitate the chain of delivery to the appropriate City agencies such as the CAO, CLA and City Clerk for proper posting for Council Committee and Council consideration. HACLA representatives have indicated from the time that HACLA agendas are posted, the Council would have approximately seven days to review items on a HACLA agenda and request that any items of interest be removed from the agenda for Council review and input.

In the Discussion section of this report, we have provided additional oversight options available for Council consideration. These options would entail additional staff reports related to fiscal, legal, policy and operational implications. The City Attorney for HACLA has indicated that any option that would provide the Council with the ability to approve HACLA items would subject the City to liability concerns. The City Attorney should be requested to report on liability concerns including how the City currently addresses similar liability issues with the proprietary departments.

RECOMMENDATIONS

That the City Council:

1. Instruct the Office of the Chief Legislative Analyst (CLA) to work with the City Attorney to prepare and present an amendment to the HACLA Cooperation Agreement (Los Angeles City Charter Article 5 Section 8.110) with the following protocols and submit it to the Council for final approval within 30 days:
 - 1) forward to each Councilmember all Board of Commissioner posted agendas; 2) remove from HACLA agendas, any items requested by Council for review; 2) upon a Councilmember request, submit for Council review any items scheduled on any HACLA agendas; and, 3) be available to present to Council and its Committees.
2. Instruct the CLA, with the assistance of HACLA, to monitor the effectiveness of the proposed HACLA reporting procedures and report in one year to Council with recommendations.


Felipe Valladolid Chavez
Analyst

Attachments: 1. Discussion
3. HACLA Timeline

GFM:fvc

DISCUSSION

Housing Authority of the City of Los Angeles (HACLA)

The City Council created the HACLA in 1938 pursuant to federal and state legislation and subsequently enacted Section 81.05 of the Los Angeles Administrative Code, which also includes a Cooperation Agreement describing the respective responsibilities of the City and HACLA. The power of HACLA is vested in its Board of Commissioners (Board). Historically, the Mayor has appointed seven persons to serve as Commissioners of HACLA. However, on June 15, 1983, the Mayor transmitted a letter to the City Council citing difficulty in exercising appropriate supervision over the affairs of the Authority through the existing Board and requested that the City Council assist in providing oversight of HACLA. In July 1983, the City Council adopted a Resolution declaring itself to be the HACLA Commissioners to assist the Mayor in addressing the immediate problems and to restore supervisory control over the agency.

The newly established Board of Commissioners (City Council) took actions to address the problems specifically cited by the Mayor; to conduct an Employee Attitude Survey and the selection of a bank through the competitive bid process. Additionally, the Board addressed other areas of concern. In June 1984, the City Council requested the CLA with the cooperation of the CAO, Personnel Department and Data Services Bureau (Management Review Team), to conduct a review of HACLA's management practices and make recommendations for improvement.

The Management Review Team focused on HACLA's organizational structure, general management practices, personnel management, budget and finance processes, and management information system. Attachment 2 consists of a timeline from the time HACLA was established highlighting major incidents.

HACLA is a state-chartered public agency that provides affordable housing to Los Angeles residents. HACLA receives funds from the United States Housing and Urban Development (HUD) in the form of an operating subsidy, HUD's annual Capital Fund, Section 8 administrative fees, rent from public housing residents and capital grants from various sources to manage a portfolio of approximately 6,514 units throughout 16 housing projects (See Table 1). HACLA also administers monthly housing assistance payments for more than 100,000 residents and administers the Section 8 Program, the Shelter Plus Care Program, Moderate Rehabilitation Program, New Construction, Veteran Affairs Supportive Housing (VASH), Section 8 Homeless Program, and a Project Based Voucher Program. Data provided on HACLA's website indicates that families in the conventional and Section 8 programs pay no more than 30% of their family income and HUD subsidizes the difference. The average monthly income is approximately \$1,603 and average rent is under \$400.

Table 1 Public Housing Developments

Housing Authority of the City of Los Angeles				
Housing Site	Address	Zip Code	# of Units	Council District
William Mead Homes	1300 North Cardinal	90012	415	1
San Fernando Gardens	10995 Lehigh Ave	91331	448	7
Pueblo del Rio and Extension	1801 E. 53 rd St	90058	660	9
Avalon Gardens	701 E. 88 th Pl.	90002	164	9
Pueblo del Sol	1801 E 53 rd St	90058	242	9
Mar Vista Gardens	11965 Allin St	90230	601	11
Estrada Courts and Extension	3232 Estrada St	90032	414	14
Rose Hills Courts	4466 Florizel St	90032	100	14
Ramona Gardens	2830 Lancaster	90033	498	14
Pico Gardens & Las Casitas	1526 E. 4 th St	90033	296	14
Nickerson Gardens	1590 114 th St	90059	1066	15
Jordan Downs	9800 Grape St	90002	700	15
Imperial Courts	11541 Croesus	90059	490	15
Rancho San Pedro and Extension	275 West First Street	90731	478	15
Gonzague Village	1515 East 105 th St	90002	184	15
		TOTAL	6756	

City Controller's Findings

The Los Angeles City Controller contracted with Nuñez & Associates, Inc., Consultants and Accountants, to provide an independent assessment of the travel policy and related travel expenses of HACLA. The main objective of the performance audit was to evaluate the effectiveness of HACLA's travel policy and related practices to minimize the risk of inappropriate or unauthorized payments. The Controller's performance audit, released on December 13, 2011, "revealed that HACLA officials were reckless with taxpayer dollars and spent lavishly during the worst economic recession since the Great Depression." The performance audit further found that "the agency had lax travel policies that allowed for double and triple dipping." The Controller's report was referred to Council's Audits and Governmental Efficiency Committee where it is currently pending (C.F. 11-2019-S1).

The 2011 findings by the City Controller's performance audit of HACLA's travel policy violations prompted the need for transparent and effective management of HACLA. While researching the recent circumstances surrounding HACLA, our Office found that the current allegations raised in the Controller's report regarding potential conflicts of interest and abuse of authority are not new. Some of these problems were previously identified by this Office and the CAO in previous reports, including a management audit conducted in the 1980's. While over time, attempts have been made to correct some of the HACLA deficiencies previously identified, systematic problems persisted and measures that improve communication between HACLA and the City Council with respect to HACLA's organizational structure, administrative management, and daily operations, are needed to restore transparency in the provision of public housing services to the residents of the City.

HACLA Recent Accomplishments

Among several other changes, one recent change to the management of HACLA is the recent appointment of Mr. Doug Guthrie, former General Manager of the Housing Department, as permanent Chief Executive Officer of HACLA. To date, HACLA reports that the Board of Commissioners has adopted changes to the Travel Policy, Vehicle Policy and the Purchasing Card Policy.

Council Motions

1. **Motion (Perry-Garcetti)**
On October 23, 2009, Council adopted Motion (Perry-Garcetti, C.F. 09-1731) instructing this Office to negotiate an amendment to the Cooperation Agreement between the City and the Housing Authority of the City of Los Angeles (HACLA) to create a mechanism by which the City may exercise influence over and provide input into actions of the HACLA Board of Commissioners that impact City residents.
2. **Motion (Alarcon-Huizar)**
On December 13, 2011, Councilmember Richard Alarcon introduced Motion (Alarcon-Huizar, C.F. 11-2105) instructing this Office, with the assistance of the City Attorney and the CAO, to provide the Council with a report relative to the inclusion of HACLA under the purview of Section 245 of the City Charter and the process needed to effectuate the change, including, legislative amendments to the City Charter and/or state and federal law.
3. **Motion (Perry-Garcetti-Zine)**
On December 13, 2011, Councilwoman Jan Perry introduced Motion (Perry-Garcetti-Zine) recommending that the Council request the Governor of California, the State Senate President Pro Tempore, the Speaker of the Assembly, and the U.S. Secretary of the Housing and Urban Development Department to draft legislation on behalf of the residents of Los Angeles to provide for direct City oversight of HACLA. On February 7, 2011, the Council Received and Filed this Motion (C.F. 09-1731-S1).
4. **Motion (Perry-Garcetti-Zine)**
On February 7, 2012, the Council instructed the CLA to develop recommendations that allow the City to implement selective oversight over HACLA actions, excluding day-to-day operations (C.F. 09-1731-S1).

Options for Council Oversight of HACLA

Given the various requests for options regarding oversight of HACLA and given the limitations found within our research below, are options available for the Council's consideration.

1. Negotiate Council's Ability to Review HACLA Matters

The City Council may request the HACLA to enter into a Cooperation Agreement which would provide the Council with authority to review the proposed annual budget, certain contracts, and new and/or amended policies, regulations and guidelines. While this option would provide the Council with authority to review matters it deems appropriate, HACLA attorneys have indicated that the Council would not have the ability or authority to take approval action.

The primary advantages with this option include providing the City Council with much more information with respect to the operation of HACLA and allowing the council the opportunity to provide input to HACLA. The major disadvantages in these procedures include the added effort required of HACLA personnel and City personnel of facilitate Council review of the operations of HACLA as well as the processing delays associated with such additional review.

Should the Council choose to adopt this option, we recommend that a Council review process and protocol be established, similar to the 10-day rule established under the former CRA Oversight Ordinance, to facilitate the chain of delivery to the appropriate City agencies such as the CAO, CLA and City Clerk for proper posting for Council Committee and Council consideration. In addition, we recommend that the Council instruct all affected departments, to report on the impact, if any, to daily operations as well as budgetary, contractual, legal, personnel and policy matters of HACLA.

2. Council as Commissioners of HACLA

If the Council wishes to exercise direct legal authority over HACLA, the City Council, by adoption of a resolution may dissolve HACLA (Calif. Health & Safety Code Section 34245) and declare itself to be the commissioners of the authority, in which case, all the rights, powers, duties, privileges and immunities shall be vested in the City Council (with some exceptions) (Calif. Health & Safety Code Section 34290). The County of Los Angeles assumed similar responsibilities.

Once the Council has declared itself the Housing Authority, it may, by ordinance, create a Housing Commission (Calif. Health & Safety Code Section 34291) which may be tasked with the function of providing review and making recommendations on all matters to come before the authority prior to the authority taking action. The City Council may provide procedures for review and recommendation and for further functions of the housing commission, by ordinance or resolution, and may delegate any of its functions as housing authority to the housing commission. (Calif. Health & Safety Code Section 34292).

Housing Cooperation Law

The California Housing Cooperation Law provides the City Council with the power to do all things "necessary or convenient, to aid and cooperate in the planning, undertaking, construction, or operations" of HACLA's housing projects. (Calif. Health & Safety Code Sections 34509 and 34516)

It is recommended that, should the Council adopt this option, the CAO, with the assistance of the City Attorney and other necessary agencies, be instructed to prepare a comprehensive report detailing the actions which would be required to effectuate the transfer including the following:

- a. Organization structure and staffing requirements of new department.
- b. Actions necessary to ensure that existing HACLA staff would not be harmed by the transfer.
- c. Draft ordinances, Resolutions to effectuate the transfer.

- d. Changes in financial management procedures.

The Council may, by resolution, determine that it shall not function as the commissioners of the Housing Authority at any time. (Calif. Health & Safety Code Section 34293)

3. Other options that are legally feasible include the establishment of an Area Housing Authority, consisting of two or more cities creating an area housing authority (Calif. Health & Safety Code Section 34246) and the establishment of a Joint Powers Agreement. We recommend that if the Council chooses to explore this option, that it direct the CLA, with the assistance of the CAO and the City Attorney, to report on the policy, procedural, legal and financial implications.
4. The Council may adopt a resolution which proposes changes to State law which would provide the Council with the ability to hold HACLA subject to City Charter Section 245 thereby creating for the City an oversight role which includes budget and project approval. We recommend that if the Council chooses to explore this option, that it direct the CLA, with the assistance of the CAO and the City Attorney, to report on the policy, procedural, legal and financial implications.

State Housing and Community Department and State Legislative Analyst Office Input

In a letter dated February 10, 2012, the State Department of Housing and Community Development states that neither the State of California nor HCD have authority over the issue of increased Council oversight of HACLA. HCD further states that the U.S. Department of Housing and Urban Development (HUD) approves the formation of housing authorities and programs of assistance employed to administer federally-funded programs in distinct, non-overlapping jurisdictions. HUD requires, approves and monitors housing authority administered leasing and occupancy and other program management policies. Our Office also contacted the State's Legislative Analyst's Office which indicated that increased authority over HACLA is a local matter for the City Attorney.

City Charter Sections 245 and 217

On December 13, 2011, Councilmember Richard Alarcon introduced Motion (Alarcon-Huizar, C.F. 11-2105) instructing this Office, with the assistance of the City Attorney and the CAO, to provide the Council with a report relative to the inclusion of HACLA under the purview of Section 245 of the City Charter and the process needed to effectuate the change, including, legislative amendments to the City Charter and/or state and federal law.

Section 245

HACLA is a state-chartered agency and therefore it is not subject to City Charter Section 245. Any Council effort to exercise influence over HACLA actions, beyond establishing or dissolving a housing authority, would require a state legislative amendment. The Council would have to support legislation or seek sponsorship for legislation that provides local governments with the authority to influence housing authority matters.

Section 217

A City Attorney report dated January 3, 1983, citing Section 34 of the old City Charter, stated that the Council or any of its committees may conduct investigations as needed in order to make recommendations to relating to the Housing Authority. That provision can be found under current City Charter Section 217 which provides the Council with authority to investigate and subpoena witnesses of any department, including HACLA.

HACLA TIMELINE

- June 1938 Housing Authority of the City of Los Angeles (HACLA) was established.
- June 1938 Payment in Lieu of Taxes (PILOT) Cooperation Agreement wherein HACLA agrees to reimburse the City for the value of municipal services provided.
- June 1980 City Council adopted a Motion requesting HACLA permit the City Administrative Officer to perform a Management Audit (C.F. 80-2601)
- Nov. 1982 City Council investigated the following issues:
- Executive Director of HACLA approved payments of more than \$200,000 to the company of an architect friend, without other architects getting a chance to compete. Executive Director bypassed the Commission and HUD for approval of paying his friend's bills and setting his fees.
 - Without seeking competitive bids, Executive Director ordered his staff to negotiate a \$1.5 million construction contract.
 - Competitive bidding procedures were not followed when Executive Director decided to change banks despite strong objections from the Finance Department.
 - A pilot home repair program was taken away from the Authority after federal investigators reported that competitive bidding requirements were circumvented and wasteful expenditures exceeded \$200,000. The contractor was a neighbor of the Executive Director and gave a phony contractor's license.
 - A top administrator was carried on the payroll for about four months after he left HACLA.
 - Federal auditors found wasteful spending and irregular contracting procedures.
 - Federal regulations calling for competitive bidding for purchases above a certain amount were ignored and \$61,000 worth of purchases were made from a single contractor by splitting purchase order into small amounts.
 - Production of additional low-cost housing is taking HACLA longer than is considerably acceptable.
 - Interference by management with inspection work resulting in HACLA accepting poor work.
 - Anonymous letters charging mismanagement.
- Dec. 1982 CLA Memorandum relative to developing alternative approaches to correcting the problems with the HACLA.
- June 1983 Housing Authority of the City of Los Angeles issued statements clearing Executive Director and top level staff of all charges brought to them by the LA Times, pursuant by an investigation conducted by the Board of HACLA's Special Fact-Finding Committee.
- July 1983 Mayor Tom Bradley transmitted letter to the City Council citing difficulty in exercising appropriate supervision over the affairs of the Authority and requested the City Council's assistance in providing oversight of HACLA.
- July 1983 City Council adopted a Resolution declaring itself to be the Commissioners of HACLA.
- June 1984 City Council established a Management Review Team for the purpose of evaluating the management practices of the Housing Authority of the City of Los Angeles (City Administrative Officer, Personnel Department and Data Service Bureau)
- April 1985 City Administrative Officer released the Management Review of the Housing Authority of the City of Los Angeles Report
- March 1989 The Council considered the Motion (Holden-Ferraro) requesting the City Attorney to undertake an investigation of the contracting practices of HACLA. The Motion specifically requested the City

HACLA TIMELINE

Attorney to investigate contracting decisions made by the Executive Director of HACLA, Commission established or departmental guidelines relative to these contracts, how these guidelines were avoided and recommendations on how these situations can be prevented in the future. The Council instructed the CLA, CAO and Controller to report on the matter.

Dec 2011

Los Angeles City Controller releases a report, "Performance Audit of Travel Policy and Related Travel Expenses of the Housing Authority of the City of Los Angeles (HACLA)".

"...audit revealed that the Agency was reckless with taxpayer dollars and spent lavishly"
"While HACLA officials spent more than \$300,000 in travel in 2009 and 2010, whistleblower complaints about questionable spending practices in other parts of HACLA make it clear that the Agency leadership create an environment for wasteful spending and fraudulent activity."