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**Date:** November 8, 2016  
**To:** City Manager  
**From:** City Auditor, Carlos L. Holt  
**Subject:** Hotline Complaint Message #32, CASE 2016-001

Source of Allegations

The City Auditor's Office received a hotline complaint on August 26, 2016 from Ms. Queneller Clark (complainant) via the *InTouch* City of Gainesville hotline. The complainant appeared in person on the same day to verbally relate the complaint, came to City Hall several days later to provide more information, and called in updates to the original complaint via the *InTouch* hotline.

Investigator Assigned

Carlos L. Holt, CPA, CFF, CIA, CFE, CGAP  
Eileen Marzak, CPA, CFE

Purpose of Investigation

The purpose of this or any investigation is to determine the facts concerning allegations made by a complainant. For findings indicating possible fraud or other crimes, the matter would then be referred to the Gainesville Police Department (through the City Manager and in consultation with the City Attorney) or the State Attorney's Office. Findings of employee misconduct warranting possible corrective or disciplinary action would be forwarded to management, who is responsible for administering such actions. Findings of waste or lack of efficient or effective operations would also be referred to management.

Standards

We conducted the investigation and created the report using the standards of the Association of Certified Fraud Examiners (ACFE) as a guide. Both investigators are Certified Fraud Examiners (CFE).

Background

Reichert House Inc. is a registered 501(c)(3) tax exempt organization that works closely with the Gainesville Police Department and the City of Gainesville. The property located at 1040 E. University Avenue is owned by J. Henderson II and F. Henderson who granted Reichert House the authority to possess, maintain, and sub-lease the property. The complaint entered into a lease with Reichert House Inc. in order to operate a restaurant (STM Seafood). She alleged that grant funds provided to Reichert House were misused because they were not utilized for their intended purpose: to train youths in a retail setting on the

property at 1040 E. University Avenue. The complainant further alleged that funds paid by her for rent of the property may not have been properly deposited in the Reichert House Inc. bank account, and that the building at 1040 E. University Avenue wasn't being used by Reichert House Inc. for the owner's (Henderson & Henderson) intended purpose of training youths.

### Summary and Outcome of Investigation

After performing a thorough investigation of the above allegations, enough information was obtained to resolve them using a preponderance standard (more likely than not). Neither the City of Gainesville, nor Reichert House Inc., received a grant specifically for training youths in the 1040 E. University Avenue location. All payments for monthly rent that the complainant could prove that she made were found to have been timely deposited in the bank account used by Reichert House Inc. Records examined show no specific requirements for the Reichert House to train youths in the 1040 E. University Avenue location if any business was operating there. Various reasons were found that would cause a reasonable person not to send youths to STM Seafood for training, including fire and health code violations and failure to comply with lease requirements. As a result of these findings, all of the allegations were **not substantiated**.

### Other Matters

The complainant also stated that she was unfairly evicted from the property during business hours with a show of force from the Gainesville Police Department; however, she admitted to not making monthly rental payments for some time. Ms. Queneller stated that she had an attorney who would be working with her regarding the lease, her rights at the property, and her claim that she had been unfairly or illegally evicted. The City Auditor's investigation did not address the method, manner, or legality of the eviction. A *Writ of Possession*, ordering that Queneller Clark be removed from the property, was issued by the Circuit Court of the Eighth Judicial Circuit on August 26, 2016, (the same day that the complaint was made).

### Allegations, Facts, Analysis and Conclusions

## **Allegation A**

That grant requirements were violated related to a grant accepted by Reichert House Inc. or the City of Gainesville to train youths in ice cream sales and food preparation or retail business requirements.

### *Facts*

- 1) On October 7, 2010, a presentation was made to the City Commission by Michael Manfred (owner of Sweet Dreams Ice Cream), John Alexander, and Ken Van Nortwick. The presentation's focus was the possibility of opening an ice cream shop in a building at 1040 E. University Avenue for the purpose of selling ice cream and utilizing Reichert House Inc. youths as part-time employees. The youths would also learn valuable job skills. The presenters made clear that no funds were being solicited from the City Commission; rather, the presenters would attempt to raise funds from private donors to rehab the building and open the business.

- 2) As reported by *The Guardian*, quoting Ken Van Nortwick<sup>1</sup>, the parties named above raised funding from “more than 70 donors” and opened “Sweet Dreams at Reichert House” the first week of September 2011.
- 3) No grants to Reichert House Inc. or the City of Gainesville could be found that had any relationship to the ice cream business.
- 4) Interviews with the Reichert House Inc. Finance Technician and Executive Director indicated there were no grants related to 1040 E. University Avenue location.
- 5) City of Gainesville Budget and Finance personnel indicated they could find no grants related to the ice cream shop or 1040 E. University Avenue.
- 6) A search of Legistar found no grants related to this matter.

### *Analysis*

The fact that no grants were found to have been received leads to a logical conclusion that grant requirements could not have been violated.

### *Conclusion*

The allegation that grant requirements were violated related to a grant accepted by the City of Gainesville or Reichert House Inc. to train youths in ice cream sales and food preparation or retail business requirements was **unsubstantiated**.

## **Allegation B**

That monthly rental payments made by the complainant for use of the property at 1040 E. University Avenue were not deposited in the Reichert House Inc. bank account.

### *Facts*

- 1) Records show the complainant signed a lease for the property located at 1040 E. University Avenue, Gainesville, FL on May 29, 2014. The period of the lease covered June 1, 2014 through May 31, 2017. The terms of the lease were payments of \$1,200 a month, in advance, or prior to the first of the month. On June 1, 2015, the rent would increase to \$1,400 per month.
- 2) Records show that the complainant did not make her first payment until Oct. 1, 2014, one month after her “grace period” (through August 2014) ran out.
- 3) Records show that the complainant opened STM Seafood on August 30, 2014.
- 4) When requested to provide cancelled checks to show that she paid rent, the complainant produced eight cancelled checks dated between October 1, 2014, and August 24, 2015.
- 5) The complainant stated that she had made two or three additional payments using money orders she purchased but had no receipt or tracking number to identify the money orders and no other means to prove the money orders existed.
- 6) Florida Citizens Bank records show that all of the eight checks presented by the complainant were promptly deposited into the back account belonging to Reichert House Inc. There were no records

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<sup>1</sup> Story by Cleveland Tinker on September 8, 2011

showing any other deposits from the complainant related to the money orders she stated that she purchased and provided to Reichert House Inc.

- 7) Mr. James Albright, the Finance Technician for Reichert House Inc., stated that he accepted the rent payments and that the complainant made absolutely no rent payments by money order.
- 8) The complainant and the Finance Technician both agree that the complainant made no rental payments after August 2015.

### *Analysis*

The complainant provided proof that she made eight monthly payments during the 26-month period before the eviction. She could provide no evidence, other than unsupported verbal statements, that she made additional payments by money order or other means. Although she claimed to have made two to three payments by money order, there was no evidence to support it. Bank records of Reichert House Inc. show all of the eight check payments from the complainant were promptly deposited, supporting the statements of the Finance Technician James Albright.

### *Conclusion*

The allegation that monthly rental payments made by the complainant for use of the property at 1040 E. University Avenue were not deposited in the Reichert House Inc. bank account was **unsubstantiated**.

## **Allegation C**

That Reichert House Inc. had obligations to the owners of the 1040 E. University Avenue property to train youths in the building if the building was leased to any business, including STM Seafood.

### *Facts*

- 1) Records show that the property located at 1040 E. University Avenue is owned by J. Henderson II and F. Henderson.
- 2) Records show that Henderson & Henderson granted Reichert House Inc. the authority to possess, maintain, and sub-lease the property at 1040 E. University Avenue.
- 3) Interviews indicate that money was raised from private donors to rehab the building and open an ice cream store called *Sweet Dreams at Reichert House* in early September 2011.
- 4) Records show that once opened, the ice cream business was open only a short while. It was re-opened months later and again for a short time in 2012.
- 5) Interviews from the Finance Technician and the Executive Director of Reichert House Inc. confirm that the original idea for using the property was to establish an ice cream business where youths could be trained. Both also state there were no written requirements for a mandatory subsequent use of training youths.
- 6) Records show that the complainant signed a lease for the building at 1040 E. University Avenue May 29, 2014 and opened STM Seafood on August 30, 2014.
- 7) The complainant stated that the possibility of having Reichert House youths work part-time at STM Seafood was discussed; but, Reichert House staff never followed through and sent any of the youths to train or work.

- 8) Interviews from the Finance Technician and the Executive Director of Reichert House indicate that both had concerns that sending youths to STM Seafood for training with the complainant might not be in the best interest of the youths since there were ongoing fire code violations during 2014, concerns about the order and cleanliness of the restaurant, and that rental payments were not being promptly made.
- 9) Records show that the Alachua County Health Department first Inspected STM Seafood on August 7, 2014, finding four different violations, three of one violation and one each of the others.
- 10) Records show that Alachua County Health Department again visited STM Seafood on September 8, 2014, finding three different violations.
- 11) Gainesville Fire Department records show that STM Seafood Manager Queneller Clark received a Fire Safety Inspection Report with four violations (no hood vents for frying, improper use and storage of LP gas bottles, extension cords, etc.) on September 16, 2014 (before making her first monthly rent payment but three months after she occupied the building).
- 12) Records show that Gainesville Fire Department again cited STM Seafood on October 14, 2016 issuing a citation for the uncorrected issues previously found.
- 13) Records show that the fire violations were not resolved until December 29, 2014, and that no frying would be allowed since the building did not have a required hood system. A fryer was to be removed or not used.
- 14) Records show that on February 25, 2015 the Alachua County Health Department issued an Emergency Order closing the facility temporarily while the seven violations, including 25-30 live roaches in kitchen, were addressed.
- 15) Records show that the Alachua County Health Department re-inspected the facility the next day and allowed it to reopen. A \$400 fine was later assessed for one of the violations.
- 16) Records show that Queneller Clark signed for a registered letter on March 31, 2016 from Reichert House Inc. The letter requested that she pay the unpaid rent balance within seven days or vacate the building.
- 17) Reichert House Inc. financial records show that the complainant owed \$23,240 in unpaid rent as of August 2016, yet remained on the premises.
- 18) Gainesville Regional Utilities records show that the complainant owed \$2,596 in past due charges as of the date of this report.

### *Analysis*

There was no known requirement from the property owners that Reichert House youth must be trained and work in the building if it was leased to a business. The numerous fire and health code violations that continued for some time were sufficient to derail any considered training venture at STM Seafood. The fire code violations existed through the 2014 calendar year. Shortly thereafter (February 1, 2015) the complainant again failed to pay rent as required, making her two months behind (also failed to pay rent for September, 2014).

### *Conclusion*

The allegation that Reichert House had obligations to the owners of the 1040 E. University Avenue property to train youths in the building if the building was leased to any business, including STM Seafood, was **unsubstantiated**.

End of Report