



City Auditor's Office

Carlos Lee Holt

Date: June 21, 2018
To: City Manager
From: City Auditor, Carlos L. Holt
Subject: Hotline Complaint Message #102 and 108, CASE 2018-001

Source of Allegations

The City Auditor's Office received a hotline complaint on May 30, 2018, and another on June 13, 2018, concerning the Human Resources Director, Eugenia Allen-Mercado, through the *InTouch* Hotline.

Investigator Assigned

Carlos L. Holt, CPA, CFF, CIA, CFE, CGAP
Eileen Marzak, CPA, CFE (Quality Assurance)

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 the investigator and the Quality Assurance Reviewer are Certified Fraud Examiners (CFE).

Background

Both complainants stated that they were aware that HR Director Eugenia Allen is required to live within the City of Gainesville, was paid relocation funds and temporary rent to do so, but were

aware she no longer resides in the City as required. One complainant stated that she failed to update her address in the HR system and parks in front of the condominiums on NE 3rd Street in order to give the appearance that she still lives in the same complex with an address on NE 4th St. Further, one complainant stated that she commutes back and forth to Jacksonville on a daily basis during work hours.

Summary and Outcome of Investigation

After performing a thorough investigation of the above allegation, the allegation was **substantiated** that Ms. Allen-Mercado was paid \$18,023.60 for relocation and temporary living expenses but never became a permanent resident of the City of Gainesville, FL as required in her contract. Although she rented a condominium near City Hall for 11 months beginning December 26, 2016, she simultaneously claimed homestead exemption in Duval County by default on January 1, 2017 for the 2017 tax year. When questioned about the matter, she stated she was living and maintaining local residency at her brother's house along with her brother, sister-in-law, and their child (later found to be a two-bedroom/920 square foot home in unincorporated Alachua County). She failed to mention to the City Auditor that she and her husband signed a one-year lease for a large home in Clay County during late 2017. A second allegation was also **substantiated** that she failed to follow annual reminder directives of January 2017 and January 2018 and Code of Conduct Rule 33, for employees to ensure their address and telephone numbers are kept up to date for emergency contact or face disciplinary actions, up to and including termination.

Allegations, Facts, Analysis and Conclusions

Allegation A

That Eugenia Allen-Mercado accepted a position in December 2016 with relocation payments and temporary living expenses from the City of Gainesville that required her to become a *permanent resident* of the City within six months of accepting the position and to maintain residency throughout her employment, but failed to fulfill any of the requirements.

Allegation B

That Eugenia Allen-Mercado violated "2018 Annual Reminder" requirements and HR-Policy Rule 33 of keeping her address and contact information accurate by failing to change her address after vacating the residence in the City of Gainesville in December 2017 (despite being the person responsible for sending the requirement to all City employees in 2017 and 2018 and administering HR Policy E-3, Code of Conduct Rule 33).

Facts

- 1) On December 21, 2016 Eugenia C. Allen placed her signature on a conditional offer of employment from the City of Gainesville, Florida for the position of Human Resources Director at a salary of \$120,000. Gainesville Code of Ordinances Section 2-196 classifies this position as "at-will" and reporting to the City Manager and General Manager of Utilities. The job offer included the statement "requires residency within the city limits within six (6) months of appointment". Eugenia C. Allen began her employment on January 2, 2017 at a salary of \$120,000. At the time of the complaints, her salary was \$121,590.

- 2) City of Gainesville Administrative Procedure 3-B, City Residency Requirement, states that eleven positions (including the HR Director) that report to the City Manager are designated managerial positions and “shall be required to be a permanent resident of the City of Gainesville” and if not a current permanent resident “must relocate to the City within six months.”
- 3) Gainesville Code of Ordinances Section 2-141 provides similar requirements for four of the Charter Officers and most board positions requiring that the person that fails to remain a permanent resident “shall be automatically disqualified” and immediately removed from office.
- 4) Other items included in the offer of employment were:
 - A one-time relocation amount of \$8,500
 - Living expenses of \$1,000 per month, not to exceed five months
- 5) Records show that Eugenia C. Allen was subsequently paid out \$18,023.60 (rather than the \$13,500 total described above) due to the Finance Department’s method of “grossing up” the relocation amounts so that employees actually receive the promised amount after taxes. Additionally, according to Finance staff, no receipts or invoices are required to show either that actual moving expenses were incurred or that rent payments were made. The only item needed for payment was the employment offer document, showing the offer was made.
- 6) Jacksonville/Duval County records show that Eugenia C. Allen owned a home in Duval County at 10530 Autumn Trace Road and claimed a Homestead Exemption for 2016.
- 7) Lease records show that Eugenia C. Allen leased a condominium at 104 NE 4th St., Gainesville, FL (directly across 3rd street from City Hall) on December 26, 2016.
- 8) On or about January 1, 2017, Eugenia C. Allen stated that she received the annual Homestead Exemption “Renewal Card” about her Duval County residence and took no action to state that she would be living elsewhere, thereby claiming homestead exemption for the 2017 calendar year.
- 9) City of Jacksonville’s website (COJ.net) states that for a homestead exemption “you must own and occupy your home as your permanent residence on January 1.”
- 10) City of Jacksonville’s website (COJ.net) states to be a resident of Duval County you must be domiciled in Duval County. Your domicile is your permanent home; it is the place to which you intend to return after any temporary absence. You can have only one domicile.
- 11) Alachua County records show Eugenia C. Allen married Carlos R. Mercado of Duval County in Jacksonville, Florida on August 5, 2017. Eugenia C. Allen’s address was listed as being in the county of “Duval”.

- 12) Duval County records show that on “November 28, 2017, Eugenia Allen and Carlos Mercado, Husband and Wife, whose address is: REDACTED Middleburg, FL 32068” (Clay County) granted a Warranty Deed for the REDACTED Residence being sold in Jacksonville, FL.
- 13) Eugenia C. Allen’s lease for 104 NE 4th Street, Gainesville, FL expired on December 31, 2017 and the GRU utilities were disconnected the next day.
- 14) A check of the Clay County property records shows that the property at REDACTED, Middleburg, FL is owned by Jack REDACTED of REDACTED, FL 32714 and no homestead exemption is claimed (usually an indication of a rented property).
- 15) During a phone call made to Mr. Jack REDACTED on June 18, 2018, at 12:50 p.m., he stated that he leased the Clay County property to Eugenia and Carlos Mercado about eight months or so ago, and he did not have the lease in front of him but knew it wasn’t a year yet since he had not yet had to renew the annual lease. Asked if both Eugenia and Carlos were named on the lease he replied yes. He stated that the Mercado’s were wonderful tenants and both were very active keeping up the property inside and out with repairs and improvements even beyond requirements.
- 16) When interviewed by the City Auditor on June 14, 2018, concerning her City residency requirement, Eugenia Allen-Mercado stated that she moved in with her brother in January 2018 at REDACTED address.
- 17) The City Auditor noted that was the same address noted on her application materials under “Emergency Notifications” as “sister-in-law.” Eugenia Allen-Mercado’s response was yes that she moved out to economize and also help with their child since her sister-in-law has gone back to work. Asked if she paid rent, she responded that, “yes, \$500 a month.” When asked if she had a lease, any cancelled checks, utilities in her name or money orders showing the payments she stated that she paid in cash and had nothing to show that she lived there as she had no lease and had not moved any utilities into her name.
- 18) The City Auditor inquired why she always parked at the first street parking space in front of the condominiums, pay-to-park space, when she had a gold parking pass for the free City lot, and was it to make others think that she still lived there as one of the complaints had stated?
- 19) Eugenia Allen-Mercado responded no, that it was a matter of convenience and she heard that the previous HR Director parked there. She stated that she sometimes paid with the parking app on her phone but also admitted to not paying at all many times. However, she had never received a ticket for not paying for the parking spot.
- 20) When asked if she had changed her driver’s license address and why the HR system still showed her living at the 104 NE 4th St. condominium, Eugenia Allen-Mercado responded that she had not yet changed her driver’s license address and needed to update the HR system.

- 21) The City Auditor asked Eugenia Allen-Mercado if she had informed the City Manager Anthony Lyons about the move, and she replied, “No, I don’t tell him my business.” Asked if she told anyone else she replied that she had told Assistant City Manager Dan Hoffman about moving.
- 22) In a phone interview on June 15, 2018, Assistant City Manager Dan Hoffman stated that “a few months back, not sure of exactly when it was” that Eugenia Allen-Mercado told him that she was moving in with her brother. Asked if she told him where she lived or about another house elsewhere he said “no, not that I remember.”
- 23) The City Auditor requested Eugenia Allen-Mercado to get back in touch next week with anything that could prove that she lived at her new address. She stated that she would do so and speculated that she might only be able to get a statement from her brother saying that she lived there or get a copy of their driver’s licenses. The City Auditor then agreed to check back the week of June 18 through June 23.
- 24) A later check by the City Auditor of the new address provided by Eugenia Allen-Mercado indicated the residence was in unincorporated Alachua County and not in the City of Gainesville city limits.
- 25) On June 20, 2018, Eugenia-Allen Mercado met with the City Auditor and Assistant City Auditor and produced a FL Driver’s license that she had just changed earlier that day showing that she resides at REDACTED unincorporated Alachua County. She also produced some mail to her at that address and a copy of the lease that she had for the 104 NE 4th Street address that had expired as of December 31, 2017.
- 26) When asked by the City Auditor if she drove to her home in Clay County everyday Eugenia-Allen-Mercado replied, “I go home on the weekends.”
- 27) A check of the property records for the REDACTED unincorporated Alachua County residence indicates that it is a two-bedroom, 920 square foot residence. Further, the property owners are “REDACTED” of Winter Park, FL and no homestead exemption is claimed (meaning it is likely a rented property and it is unknown if subletting is allowed).
- 28) City HR Policy E-3, Code of Conduct, Rule 33 provides Disciplinary Action for “failure to keep the department and/or Human Resources notified of proper address or telephone number”.

Analysis

As Human Resources Director, Eugenia Allen-Mercado was intimately familiar with hiring requirements. However, at no point did she make any real effort to become a permanent resident as she promised with her signature as required by her contract. Merely residing in a nearby condominium, while claiming homestead exemption elsewhere, would not have met the requirement; neither would staying during the week at her brother’s house in unincorporated Alachua County. Continuing to park directly in front of the same condominiums for six months

after she had moved out is debatable as to her intentions. But, not updating her address for six months is inexcusable. This is especially true since she herself sends out the annual reminders to do so (she sent out these notices to all City employees in January of 2017 and January of 2018).

Conclusion – Allegation A

The allegation that Human Resources Director Eugenia Allen-Mercado accepted a position, relocation payments, and temporary living expenses from the City of Gainesville that required her to become a *permanent resident* within six months of accepting the position and to maintain residency throughout her employment, but failed to fulfill any of the requirements, is **substantiated**.

Conclusion – Allegation B

The allegation that Eugenia Allen-Mercado violated “2018 Annual Reminder” requirements and HR-Policy Rule 33 for keeping her address and contact information accurate by failing to change her address after vacating the residence in the City of Gainesville (despite being the person responsible for sending the requirement to all City employees in 2017 and 2018 and administering HR Policy E-3, Code of Conduct Rule 33) is **substantiated**.

Recommendations

- 1) The City Manager should hold Eugenia Allen-Mercado accountable for her actions described in the allegations above.
- 2) The City Manager should direct the Finance Department to create a new financial policy requiring all reimbursements to be made only after proof of actual expenditures are submitted.
- 3) The City Manager should direct the Human Resources Department to verify compliance with residency, for all employees required to maintain City residency, at the six month and one-year mark of employment.

End of Report