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"I cannot think of more violence to the law than has been done by this agency. Nothing could be more harmful to public housing than to have a renegade rogue agency flaunting the laws of the state," San Francisco County Superior Court Judge Ernest H. Goldsmith said.

In S.F., Legal Fee Foot-Dragging

Housing Authority Called Into Court for Seven Years of Nonpayment

By Rebecca Beyer
Daily Journal Staff Writer

SAN FRANCISCO — Commissioners of the San Francisco Housing Authority testified in Superior Court Friday that they had not taken any steps to obtain or secure money to pay \$15 million in three unpaid legal judgments that date back seven years.

But after the hearing, Gary T. Lafayette, an attorney for the Housing Authority said the commissioners are not the right source for that kind of information because they aren't responsible for the management of the agency. Instead, Lafayette said, the executive director or other staff members would be able to answer such questions.

Plaintiffs' attorney Thomas J. Brandi said the commission was charged with administering the agency and had an obligation to know what money went where.

The Housing Authority and former director Gregg Fortner were held in contempt of court in October 2006 for failure to pay the judgments, which have been upheld on appeal. The authority has spent \$1.5 million fighting the judgments and is appealing the 2007 appointment of a receiver.

In 2001, a jury awarded \$12 million to relatives of five people killed in an apartment fire in the city's Hunter's Point neighborhood. *Joseph v. Giovanni's Furniture*, 999791 (S.F. Super. Ct., filed Dec. 10, 1998). In the same year, two sexual harassment judg-

ments, of \$75,000 and \$1.6 million, were awarded against the agency.

Five of seven commissioners appeared on court order at the hearing. Notably absent were the authority's interim executive director, Miriam Saez, and the board's most senior commissioner. They were reordered to appear April 7.

Called to the stand one by one, the commissioners each said they had not contacted anyone — the U.S. Department of Housing and Urban Development, the state of California, or the city and county of San Francisco — about how to pay the judgments.

But Lafayette, from Lafayette & Kumagai in San Francisco, said that's not their job.

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S.F. Housing Commissioners Admit Inaction

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"It's an age-old litigation tactic," he said. "Embarrass somebody, and maybe you'll get some movement."

Lafayette argued that some of the commissioners' knowledge was subject to privilege. He asked San Francisco County Superior Court Judge Ernest H. Goldsmith to delay the proceeding until an appellate court could review the issue.

Not doing so, Lafayette said, would be to "trample the law of California, ... inappropriate no matter how you color it, no matter how you slice it."

But Goldsmith had no patience for the objections and said Lafayette was misinterpreting the law.

"I cannot think of more violence to the law than has been done by this agency," the judge said. "Nothing could be more harmful to the law; nothing could be more harmful to public housing than to have a renegade rogue agency flaunting the laws of the state."

Brandi, of The Brandi Law Firm in San Francisco, was lead counsel on the fire case. He represents the plaintiffs in the coordinated litigation.

After the commissioners testified, Brandi requested that they be ordered back every two weeks to report on their progress.

Goldsmith wouldn't take that step, but he did say one "would hope the commissioners would know a great deal more."

In the audience, Commissioner Millard Larkin leaned back to Com-

missioner the Rev. Amos Brown and said, "It sounds like we're being insulted right in front of us."

"I don't appreciate it, either," Brown said.

After the hearing, Brown blamed President Bush's administration for funding cuts.

"Where's the money going to come from?" he asked, angrily. "That's like trying to play golf with no golf balls."

Lafayette said the authority had asked the U.S. Department of Housing and Urban Development for permission to use its assets to pay the judgments and had been denied. He said the authority could not use federal money to pay the judgments.

But an official with the department's San Francisco office said that was an "oversimplification" of the department's stance.

"That doesn't reveal our actual position," said Larry Bush, a public affairs officer. "HUD only prohibits [the authority] from using federal dollars [for the judgments] without approval from HUD."

The 2006 contempt order from a previous judge said the authority had "willfully failed to take the proper steps to get the appropriate amount required to satisfy the judgment."

Brandi said the hearing showed a "shocking lack of leadership in the Housing Authority."

"The board demonstrates that it knows nothing and has done nothing," he said. "Today's hearing reflects that the Housing Authority continues to thumb its nose at the

orders of this court."

Stephen M. Murphy, the plaintiffs' attorney on one of the sexual harassment cases, said the authority's behavior was "bizarre."

"Most public entities, even most private defendants accept the rule of law," he said. "They're found liable and exhaust their appeals; they pay the judgment or file for bankruptcy or take some other responsible action. This is just a blatant disregard for the rule of law."

Federal department spokesman Bush said that other housing authorities partner with local governments to pay legal judgments but that, "so far, that has not happened in San Francisco."

He said the San Francisco Housing Authority received \$157 million from the federal housing department for 2007.

Lafayette said that the authority's operating budget was \$45 million and that the authority has begun the process of asking permission to issue bonds to pay the judgments.

Roger Crawford, assistant general counsel at the Housing Authority, said the agency has made "a renewed effort to chip away at the judgments" under its new interim director, Saez.

But Lafayette said finding someone to buy the authority's bonds is easier said than done.

"In the end, I think the resolution to these cases is legislative at the state level," he said. "Somewhere, someone is going to have to grapple with how to deal with an agency that can't pay these judgments."