

Written Testimony
of
Balfour Beatty Communities, LLC
Before
Permanent Subcommittee on Investigations
Committee on Homeland Security & Governmental Affairs

Represented by

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and

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Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee.

Thank you for the opportunity to provide an update on the ongoing efforts and commitment of Balfour Beatty Communities, LLC (“BBC”) to support the safety, health and wellbeing of the service members and their families through the Military Housing Privatization Initiative (MHPI), as well as to supplement the record of your staff’s review of our efforts to serve these individuals at Fort Gordon, Fort Stewart, and Sheppard Air Force Base. We at BBC consider it an honor and privilege to serve those who serve our country.

In your letter inviting Mr. Taylor to testify, you asked him to be prepared to discuss the facilities management function of our housing operations at U.S. military bases, particularly at Fort Gordon, including quality assurance, preventative maintenance, health and safety, and the accuracy and completeness of work order data. Additionally, you asked that Mr. Taylor describe the efforts we have taken to address resident complaints about these issues and to improve our military housing operations. We very much appreciate the opportunity to do so with this statement and during the hearing.

By way of background, Mr. Taylor is a Navy veteran, a civil engineer, and a champion of public-private partnership ventures such as the MHPI. Mr. Taylor held the position of Civil Engineer Corps Officer in the U.S. Navy for over twelve years. In his last Active Duty assignment, he served as the Officer in Charge of Construction for the U.S. Navy field office at the Naval Air Station in Willow Grove, Pennsylvania. He

was responsible for construction management at U.S. Navy and Marine Corp facilities throughout Pennsylvania, New York and New Jersey.

In your letter inviting Ms. Cook to testify, you asked her to be prepared to discuss the community management aspect of BBC's military housing operations. Like Mr. Taylor, Ms. Cook is a veteran. She joined the U.S. Navy in 1976. During her tenure, she had the privilege of maintaining personnel records and counseling enlisted Navy personnel regarding training, education and job opportunities. She ended her tour of service with an honorable discharge in 1980.

Until recently, as Vice President, Military Community Management, Ms. Cook's portfolio encompassed seventeen Army bases, including our housing operations at Fort Gordon and Fort Stewart. Ms. Cook's background also includes a successful tenure as Vice President for BBC's Navy portfolio for 12 years, as well as more than 25 years of senior management experience in the multifamily and student housing industry. In the newly created role of Vice President, Transformation, she will be responsible for working closely with the BBC Operations team in the further development of both risk management and assurance programs for the community management side of our military housing operations.

You indicated that Ms. Cook should be prepared to address in particular communications with military families and the Army concerning housing conditions, health and safety, and the accuracy of the work order data in the Yardi database. Given the focus of these questions, we look forward to discussing any communications from residents at Fort Gordon and the extensive efforts we have undertaken, especially over the past three years, to improve our military housing operations at this base and others within our portfolio.

At BBC, we work hard to maintain vibrant, diverse and active communities for our men and women in uniform and their families. We recognize that these communities are central to the quality of life for our service members, and we do not take that lightly. We value the common goal with Congress and the Department of Defense (DOD) toward the provision of suitable family housing for service members and their families and continue to remain focused on further enhancing the housing experience for service members and their families.

SERVING THOSE WHO SERVE. Today, jointly with our military partners, we are responsible for housing operations at 55 Army, Navy and Air Force installations in 26 states, encompassing more than 43,000 military homes and approximately 150,000 residents. Through these projects, we have partnered with the DOD to oversee the construction of more than 15,000 new military homes and the renovation of more than 14,000 legacy military homes. Since the start of the MHPI, BBC and its Service Branch partners have developed project investments totaling approximately \$5.6 billion to improve the options available for service personnel and their families living on base. This portfolio also includes nearly 1,000 homes that qualify as historic properties.

As a diversified real estate services company, beyond the acquisition, management and renovation of residential assets in the military housing sector, we also have substantial experience in serving the multifamily and student sectors. From the delivery of new and renovated housing to the provision of responsive property management and maintenance support, we strive to create thriving communities that fully support the unique and evolving housing needs of our service members and their families. We also pride ourselves on delivering dynamic resident events, community gathering spaces, playgrounds, parks and other amenities for our residents. The BBC management team has been a leader in the U.S. residential real estate market for more than 20 years.

MHPI STRUCTURE. The privatized family housing operations for Fort Gordon, Fort Stewart, and Sheppard AFB are administered under three separate projects: the Fort Gordon project (commenced in May 2006), the Fort Stewart/Hunter Army Airfield project (commenced in November 2003) and the AETC Group I project, which includes Sheppard AFB, Tyndall AFB, Altus AFB and Luke AFB (commenced in February 2007). Each of these projects was authorized pursuant to the MHPI as part of the FY 1996 National Defense Authorization Act. Congress established the MHPI as a means of helping the military improve the quality of life for its service members by improving the condition of their housing. According to the Office of the Assistant Secretary of Defense for Sustainment:

- the MHPI was designed and developed to attract private sector financing, expertise and innovation to provide necessary housing faster and more efficiently than traditional Military Construction processes would allow. The Office of the Secretary of Defense delegated to each of the Military Services (Army, Navy and Air Force) the authority to enter into agreements with private developers selected in a competitive process to own, maintain and operate family housing via a fifty-year lease;
- MHPI addressed two significant problems concerning housing for military Service members and their families: (1) the poor condition of DOD owned housing, and (2) a shortage of quality affordable private housing; and
- Under the MHPI authorities, DOD works with the private sector to revitalize military family housing through a variety of financial tools, including direct loans, loan guarantees, equity investments, conveyance or leasing of land and/or housing/and other facilities. Military Service members receive a Basic Allowance and can choose to live in private sector housing, or privatized housing.¹

Under our MHPI agreements, we act in joint partnership with each of the Military Services (at both the Pentagon and local command levels) to administer the housing operations at each installation. These contracts require us to coordinate all aspects of the leasing, facilities maintenance and renovation and development of the housing and community amenities within privatized family housing areas with the Military Services. Each project is generally financed through a combination of an equity contribution from BBC, an equity contribution from the Military Services for Army and Navy projects, a government direct loan for Air Force projects, and private sector debt. All income from these housing operations is held through project-specific accounts that are administered by an independent third party trustee or servicing/lockbox agent and are only permitted to be expended in alignment with the project's financing agreements and an annual budget approved by the Military Services and lenders. MHPI projects are designed to be self-sustaining throughout their 50-year term. In other words, private-sector partners such as BBC do fund additional capital for project operations and must work within the confines of available cash flow generated by each project. The primary funding source for these projects is the rents received from residents, which for service members equates to their basic allowance for housing received as compensation for their service obligations with the DOD. Due to fluctuating levels of project net income, which changes when the available basic allowance for housing is set annually by the DOD, occupancy rates and uncontrollable expenses (such as utilities and insurance), the ability to make improvements to older or aging housing conveyed into the project by the Military Services (referred to as "legacy housing units") is limited and the amount of project funds spent on capital repairs and replacements must be approved

¹ See https://www.acq.osd.mil/eie/fim/Housing/Housing_index.html.

by both the Military Services and project lenders annually. This is important to understand given that it may financially restrict the operations and services available as administered by the privatized housing property manager and is a very different model than found in the conventional residential housing market.

FOCUS ON THE RESIDENT EXPERIENCE. Our primary focus is providing our service members and their families with safe, quality homes supported by prompt and effective customer service and maintenance support. Our employees take this mission very seriously. We work diligently every day to achieve resident satisfaction. We have made it easy for residents to raise needs or issues in the home that need work and engage our teams for support. Enhancements to our work order process allow residents to submit and track work orders through an app, online Resident Portal or a phone call to our maintenance call center which is staffed with live work order agents available 24/7 to initiate the ticket in our system, schedule maintenance visits, provide status updates on open work orders and answer any related questions in real time.

Maintaining robust, open communications with residents is a priority for our teams. Our approach to resident communications not only focuses on ensuring residents have all the information they need when they need it, but also that easy two-way communication channels are in place and residents can connect with our team and build camaraderie with the larger community. Enhanced “Resident Portals” put a wide variety of resources and information right at every resident’s fingertips, allowing them to access lease documents, view work order history, review community messages and event calendars, as well as access community policies and forms, household maintenance and safety tips, trash and landscaping schedules, information on community amenities and the local area and more. Residents have the flexibility to access their resident portal account on their computer or any smart device through a mobile app. Another important communication vehicle is the community newsletter which is sent to residents on a monthly basis and contains a message from the community manager, updates on community projects, reminders about community policies, details on community events, introductions of new employees and much more.

We understand the importance of feedback and we seek it from multiple sources to help us get the clearest picture of our performance as residents see it. We have multiple check points with new residents before, during and after move-in to ensure the process has been smooth, that there are no issues or questions regarding the home, and that the family is settling into their new community as smoothly as possible. Another critical touch point is our response to work order requests. When our maintenance technicians complete a work order, our process includes contacting the resident via text message (if the resident agrees) in order to confirm that the work was completed to their satisfaction before closing out a work order. We supplement this personal outreach with surveys, conducted by an independent third-party provider, sent to residents after move-in and work order completion asking them to rate and provide feedback on the courtesy and professionalism of our employees, the quality of our work, and the overall ease of the process.

Administered by residential survey leader SatisFacts, residents are asked to rate the service they received on a scale of 1 to 5, with 5 being a superior service score. In 2020, BBC received close to 45,000 survey responses from residents and our average service rating was 4.51. In 2021, we received just over 40,000 survey responses from residents, resulting in an average service score of 4.53. For the period January 1, 2021 through yesterday, the average work order scores were: Fort Gordon—4.62, Fort Stewart—4.20, and Sheppard AFB—4.69.

While the numbers give us a solid baseline, we look to the survey results to provide us insights into how to identify any potential negative trends and improve our processes wherever possible. It's a significant part of our commitment to continuous improvement. With a diverse portfolio of more than 43,000 homes—over a third of which are aging units constructed by the military—and on average more than 280,000 resident-generated work orders processed annually, we acknowledge we will never have zero defects. Like with any residential housing property, there always will be challenges to face—things in homes will break, plumbing problems will arise, systems will fail, natural disasters will hit, and customer service complaints will surface. However, we remain determined to always be as responsive as possible to the service member, to continuously improve, and to deliver on our commitments for the long-term.

HOUSING IMPROVEMENTS. Our MHPI projects continue to implement upgrades for aging homes and improvements to community infrastructure on an ongoing basis. Over the last three years, our housing projects have continued to invest in wide-ranging improvements to more than 40,000 homes including roof replacements, exterior renovations, HVAC system replacements, interior upgrades, community infrastructure improvements and demolition of aging home inventory. We are constantly evaluating the project financial resources available to fund housing improvements. We continue to focus our project development efforts on those assets that are most in need; and we currently have more than \$1 billion in housing and infrastructure improvements projected through 2031. These efforts will include significant whole-home renovation work and new home construction, as well as continued demolition of outdated inventory to make way for new construction or return to green space or other community amenities. BBC is also working through the final stages with the Army to refinance one of our military housing projects to raise additional funds for the continued demolition and replacement of aging housing, as well as significant renovations to certain outdated units across a number of Army bases. We are continuously evaluating opportunities to raise additional financing for our projects—whether through project refinancing or through securitization structures. We have also developed several innovative ways to financially support our projects, including developing relationships with cell tower and solar operators to license for fees certain unused land within our project footprints to construct cell towers and ground mounted solar arrays. We are also strongly committed to advancing the DOD's energy security goals by making homes more energy efficient, by investing in renewable energy solutions and following sustainable construction practices. We believe these endeavors help to strengthen our communities and better position them to be part of our military installations of the future.

COMMITMENT TO SUPPORTING TENANT BILL OF RIGHTS AND OTHER NDAA REGULATIONS. Since the significant Congressional scrutiny over MHPI projects began in early 2019, BBC has cooperated in testifying before various House and Senate committees in an effort to provide meaningful insights into the challenges faced by the military housing privatization program and to offer recommendations for legislative changes that Congress might support to improve the program. In addition, BBC has supported the implementation of the Tenant Bill of Rights and other MHPI regulatory requirements established in the FY 2020 National Defense Authorization Act.

Since 2021, BBC has put into effect all applicable requirements, including a Universal Lease negotiated with the Office of the Secretary of Defense; the institution of a formal dispute resolution process available to all service members in regard to claims under their lease agreement and rent segregation pending a dispute; access to an electronic work order system through which residents may request maintenance or repairs of a housing unit and track the progress of the work; participation in government housing inspections that require a finding of no life/health/safety deficiencies before a home may be offered to a housing applicant; and the provision of seven-year maintenance histories to all housing applicants and existing service member tenants. As these are all new features within the MHPI

program, we are continuing to work with the DOD to ensure that communication to residents and administration of these available rights and remedies is properly conducted. As with any new program, the processes and procedures around these areas are still in the process of being fully embedded, trained and adjusted as necessary. We continue to work with the Military Services to ensure we are in alignment on messaging to residents and fulfillment of all new MHPI regulatory requirements.

IMPLEMENTING THE FY 2020 NDAA. Before concluding, we think it is important for the Subcommittee to understand the changes we have begun to implement since enactment of the FY 2020 National Defense Authorization Act beyond implementing the Tenant Bill of Rights, as noted above. As a result of concerns regarding the operation of privatized military housing throughout the DOD's entire MHPI portfolio, Congress enacted this legislation to enhance the program to ensure service members and their families are assigned safe housing. As part of these additional requirements, each installation is responsible for "(A) reviewing, on an annual basis, the mold mitigation plan and pest control plan of each landlord managing housing units for the installation; and (B) notifying the landlord and the major subordinate command of any deficiencies found in either plan." BBC affirms that it has not received any notice from the installation command at its sites identifying any deficiencies found in its mold management and pest control plans.

In addition, the NDAA required that the head of the housing management office of an installation be responsible for "conducting a physical inspection of, and approving the habitability of, a vacant housing unit for the installation before the landlord managing the housing unit is authorized to offer the housing unit available for occupancy." We believe this is especially important to acknowledge because it provides an independent verification process outside of BBC's operational staff to affirm that there are no life, health or safety hazards in a housing unit before it is offered to a service member and their family. Through this process, the installation's housing management office has begun to ensure that the maintenance performed by BBC and other MHPI providers meets standards our government sets out for the provision of safe military housing and is deemed compliant with applicable law.

BBC has embraced the new NDAA requirements as another check and balance in place to assess the habitability of on-base housing and prevent service members and their families from being placed in an unsafe home. We look forward to continuing to work with the DOD and installation command toward further implementation of NDAA legislative enhancements.

CONCLUSION. Over the last three years, BBC has demonstrated an unwavering commitment to listening to our residents at Fort Gordon, Fort Stewart, and Sheppard AFB, as well as to residents at all the other installations where we serve those who serve our country. We have worked extremely hard to make real improvements across all aspects of our business. Our performance metrics confirm we have made significant progress and the overwhelming majority of our residents are happy with their home and the service we provide. We remain committed to sustaining these efforts and continuing to work with residents, military housing advocates and our partners in the Congress and the DOD to address challenges and seek effective ways to support the long-term viability of the MHPI program. In addition, we look forward to learning from you and your colleagues through the outcome of this investigation for how we can further improve. Again, we appreciate the opportunity to testify today and to continue serving our men and women in uniform and their families.

SUPPLEMENTARY MATERIALS. We appreciate the Subcommittee affording BBC with this opportunity to supplement the record and to answer in greater detail the issues you raised in your letter

inviting the company to testify. To date, the Subcommittee's staff have conducted 13 interviews with BBC employees, totaling nearly 40 hours of testimony, and we have produced 14,217 pages of records.

We address here these five issues: (1) our commitment to the accuracy of work order data (2) our approach to mold management and other environmental issues, (3) our ongoing efforts to address the condition of the maintenance facility at Fort Gordon; (4) the resolution of matters with the Department of Justice; and (5) the ongoing civil litigation initiated by the Torres family against BBC.

In addition to these five areas, having not been afforded an opportunity to comment on the draft report in its entirety, we set forth at the end of this document highlights of the text with clarifications we filed with the Subcommittee staff on April 22.

Our commitment to the accuracy of work order data. The commitment to provide accurate information to the Military Services is a cornerstone of BBC's corporate policy and approach. BBC has established a variety of protocols and assurance processes for reviewing and confirming that work orders have been completed and documented correctly to ensure accurate reporting:

- Work orders are updated to "Work Completed" status in the property management software (Yardi) only after a thorough review for accuracy and completeness;
- Work orders are not to be updated to Work Completed in Yardi without completing a process that permits residents the opportunity to confirm the work was done to their satisfaction;
- Once the status of a work order has been updated to Work Completed, no further edits may be made in Yardi by the onsite team without approval by a Vice President level manager; and
- A Service Center Coordinator or other person designated by the Facility Manager/Facility Director is responsible for Reviewing Tech Completed work orders in Yardi for accuracy and completeness and updating the status of the work order from Tech Completed to Work Completed in Yardi.

Regarding the resident sign-off process, we note this protocol is not required under BBC's MHPI agreements with the government. Rather, it is an extra procedure that BBC has decided to voluntarily create to ensure both that residents find their housing concerns have been addressed properly and to ensure information in Yardi is recorded accurately. If a resident is dissatisfied with the work, BBC staff will contact the resident and seek to address any concerns in an attempt to ultimately achieve their complete satisfaction with our service. BBC only closes out a work order in Yardi once it is (1) able to obtain resident "sign-off" regarding satisfaction, or (2) where the resident does not respond to BBC after several attempts, the installation Military Housing Office is made aware of the action and does not object to the work order being closed out in Yardi.

Further reflecting BBC's commitment to provide accurate information to the Military Services, we have implemented an Operations Assurance Plan as a safeguard to ensure the accuracy of the data in Yardi and compliance with internal policies and procedures regarding work order management. Moreover, the Operations Assurance Plan promotes a corporate culture where the need to maintain accurate records is always the priority.

Beyond maintaining accurate records, we also value transparency. BBC residents have the ability to receive a summary of maintenance conducted on the housing unit they lease or are offered as a prospective tenant. These reports ("seven-year maintenance histories") provide a "summary" of maintenance conducted, including renovations, for the particular housing unit for the previous seven years (or, if less than seven years, the time period the housing unit has been in the inventory). Residents

also may request additional detailed information on any or all items listed in the attached seven-year maintenance history. Knowing that service personnel may seek to rely upon the seven-year histories of work performed at a residence to decide whether to accept a lease at a residence, we understand how important they are to the individuals we serve. Yet, because the information referenced in the seven-year maintenance histories is generated from multiple sources that may encompass hundreds of electronic data points collected over many years, MHPI project owners are unable to make specific representation or warranty about the accuracy or completeness of the information listed and typically include a disclaimer to that effect when communicating these reports to residents. Nevertheless, we do our best to ensure they are as accurate as possible and we have implemented a process to correct any identified errors.

To further improve the resident experience, we recently established a new call center, which is staffed with work order agents available 24/7 to initiate a work order in our system, schedule maintenance visits, provide status updates on open work orders and answer related questions in real time. We believe this new system will ensure that work orders are classified consistently as to level of urgency (“Emergency,” “Urgent” or “Routine”).

Our approach to mold management and other environmental issues. BBC’s mold management, asbestos, and other environmental policies were developed with the help of third-party experts, including external environmental lawyers and Exponent, Inc., which employs highly experienced certified industrial hygienists and other leading consultants in this field. We have developed training manuals and policies that guide our efforts to protect health and safety of residents. We regularly update them to ensure they reflect the best science available. During the interviews conducted by PSI staff, none of the BBC employees interviewed identified any instances in which the company failed to meet applicable policies and standards established by the company.

During the course of this investigation, we have provided the Subcommittee with the following BBC policies:

- Mold Management Policy (Policy 7001);
- Asbestos Management Policy (Policy 7003);
- Lead-Based Paint Management – Overview (Policy 7007);
- Lead-Based Paint Disclosure Requirements Policy (Policy 7008);
- Lead-Based Paint-Renovation, Repair & Painting Rule (Policy 7009);
- Lead-Based Paint-Interim Controls/Abatement Policy (Policy 7010);
- Lead-Based Paint – Occupant Protection Policy (Policy 7011);
- Lead-Based Paint-Visual Surveys Policy (7012);
- Lead-Based Paint-Lead Hazard Evaluation and Risk Assessment Policy (Policy 7013);
- Lead-based Paint-Lead Hazard Clearance Testing Policy (Policy 7014);
- Lead Based Paint – Response to Resident Report of Elevated Blood-lead Level Policy (Policy 7015);
- COVID-19 Move-In Policy (Policy 8308);
- COVID-19 Notice to Vacate/Move Out Process Update (Policy 8309); and
- COVID-19 Safety Protocols for Entering Occupied Homes (Policy 8307).

Additionally, we made available to PSI staff a variety of Balfour Beatty training materials, including the Mold Management Policy eLearning Course,

We have attached as part of this submission, five White Papers prepared by Exponent, Inc. and previously submitted with the Office of Secretary of Defense to assist the DOD's Office of the Inspector General in its "Audit of Medical Conditions of Residents in Privatized Military Housing" pursuant to section 748 of the National Defense Authorization Act of 2020:

- Existing National Standards or Guidelines—Dampness and Microbial Growth;
- Existing National Standards or Guidelines—Asbestos and Manmade Fibers;
- Existing National Standards or Guidelines—Lead-based Paint;
- Existing National Standards or Guidelines—Safety Hazards; and
- Existing National Standards or Guidelines—Causation.

Throughout many of the interviews conducted by the PSI staff, the environmental and safety-focused questions put to BBC employees frequently focused on the potential risk of mold and asbestos to the health of residents. The White Paper entitled "Existing National Standards or Guidelines—Dampness and Microbial Growth" highlights the fact that "[t]here are no national standards or guidelines that establish levels of dampness or microbial (fungal or bacterial) growth in residential or other settings . . . presenting an increased health risk to occupants. In fact, as Exponent, Inc. points out, "[n]either the U.S. Centers for Disease Control and Prevention (CDC) nor the U.S. Environmental Protection Agency (EPA) recommend *routine* sampling for mold, including sampling for mold in air. Because neither the CDC nor the EPA has developed air quality or any other mold standards, there is no basis against which to test for mold and thus there is no basis to criticize BBC for not performing regular mold or air quality testing.

Many are often concerned to learn that BBC does not routinely "test" for mold. BBC believes it is appropriate to follow the recommendations of the CDC and EPA, as well as the Military Services, which do not call for routine mold sampling or testing and instead dictate that mold assessment and remediation is best addressed through visual inspections.

In its white paper on asbestos and other manmade fibers, Exponent, Inc. said this of particular interest: "There are no existing or national standards or guidelines concerning the presence of in-place building materials containing asbestos or manmade fibers (MMF) in residential settings." Given the age of many of the residential homes in BBC's portfolio, many were built when asbestos and other manmade fibers were in use as insulation or part of the adhesive for tile floors. Exponent, Inc. points out in its white paper that "[a]sbestos may be present in different types of building materials and is not considered to be a potential hazard when the asbestos-containing material (ACM) is not damaged or when it is enclosed or encapsulated." As Exponent, Inc. also notes, "[t]he U.S. Environmental Protection Agency (EPA), the U.S. Occupational Safety and Health Administration (OSHA), and the U.S. Consumer Product Safety Commission (CPSC) state that the mere presence of ACM in a building does not imply that an asbestos exposure has or will occur, let alone such an exposure at a level in the air that increases human health risk. . . . Various federal agencies have issued general guidelines, none of which are enforceable regulations."

Consistent with general federal guidelines, BBC seeks to ensure that it addresses any potential risks to residents when ACM is damaged or no longer enclosed or encapsulated. Maintenance staff are empowered to seek guidance up through the chain of command and via regional environmental specialists to make sure they know how best to address potential environmental issues when they are engaged in addressing repair and maintenance matters for a home.

Our ongoing efforts to address the condition of the maintenance facility at Fort Gordon. During many of the interviews of BBC employees, PSI staff inquired about the safety and soundness of the maintenance facility at Fort Gordon as a result of openings in the ceiling that allowed rain water to enter the facility during severe weather. We believe it is important to stress that no BBC personnel were known to be at risk. We moved them to a separate trailer in late 2020 to provide a better working environment and regularly applied tarps to the maintenance building roofs to ensure that equipment and supplies were not damaged while awaiting approval to proceed with new building construction.

We have been working in partnership with the Army to get approval to commence construction of a new, replacement facility. We are in the process of negotiating final design/construction agreements to initiate commencement of construction of the new facility. Due to the unanticipated delays, BBC recommended that project operating funds be used to replace the roof of the maintenance shop with a more durable temporary roof, which is expected to be completed by the end the week or early next week.

The resolution of matters with the Department of Justice. In December 2021, BBC reached a resolution with the Department of Justice (DOJ) regarding criminal and civil investigations into specific performance incentive fees improperly claimed by the business between 2013 and 2019 related to maintenance work at certain military housing installations. Under the terms of the resolution, BBC pleaded guilty to one count of major fraud against the government and agreed to the appointment of an independent compliance monitor for up to a three-year period, as well as to pay fines and restitution. BBC is committed to the highest standards of ethical conduct.

The wrongdoing that took place is completely contrary to the way we expect our people to behave. It has been made clear to all employees that breaches of policies, procedures, or law will not be tolerated and we welcome the appointment of the independent compliance monitor and look forward to a constructive engagement. Since 2019, we have worked diligently to understand the root causes of employee misconduct that was uncovered and we undertook an in-depth review of our operations. As a result of our findings, we have taken significant steps to prevent this type of misconduct from reoccurring in the future. These include the restructuring of our management team, including the appointment of several additional senior executives and a Chief Compliance Officer.

In addition, we have enhanced our ethics and compliance training for all employees and made significant improvements to the maintenance work order processing system, underpinned by enhanced controls and protocols that are deliberately aimed at strengthening oversight. BBC cooperated fully with the DOJ throughout its investigation, and we have been transparent on the matter with all our stakeholders, including the DOD, our Military Service partners, this Subcommittee, and the others that have held hearings and made inquiries into privatized military housing over the past three years. As we made clear throughout the investigation, our objectives included full transparency and accountability for the improper payment of performance incentive fees, including the reimbursement of such amounts to affected projects, and the termination or disciplining of any employees found to have been non-compliant with our policies and procedures. The agreed upon resolution with the DOJ represents BBC taking responsibility for wrongdoing within our organization and brought the investigation to a close. We have apologized to all our stakeholders for the misconduct that occurred and we are focused on moving forward and continuing to improve the resident experience across our military housing portfolio.

The ongoing civil litigation initiated by the Torres family against BBC. As a matter of longstanding policy, BBC does its best to address disputes that inevitably arise and seeks to avoid litigation whenever possible. We were able, for example, to resolve the dispute with the Choe family without litigation.

Unfortunately, the Torres family chose a different approach. As a result, BBC and the Torres family are in active civil litigation, which involves several of the items in the limited, non-redacted portion of the draft PSI report shared with BBC (Torres, et al. v. Balfour Beatty Communities, LLC, et al, U.S. District for the Northern District of Texas, Wichita Falls Division, Case No. 7:22-CV-00021 (“the Litigation”). BBC always has acted, and continues to act, in a prompt and reasonable manner in its responses to the Torres family’s reported concerns and complaints. Unfortunately, on numerous occasions, BBC was impeded in responding to, inspecting, and/or taking the necessary action to repair or address the Torres family’s reported concerns due to their refusal to allow BBC’s employees to enter the residence, which is contrary to the terms of the lease agreement. BBC has and will continue to vigorously assert its position in the litigation that it has acted reasonably and in compliance with all applicable laws to address the family’s concerns.

With regard to the draft PSI report concerning a reference to a May 27, 2021 work order for the Torres family, BBC’s records identify the request for that work occurred on or about May 28th at 11:17 a.m. The entry for the work order was “plumbing” and “routine” based on what the Torres family initially reported to BBC as the concern, namely, a possible toilet leak. Accordingly, the initial entry for the work order was appropriate and entered consistent with BBC policy. On that same day, May 28, 2021, BBC inspected the home. Because the Maintenance Supervisor and Technician found a wet door jam in the master bath closet, a moisture reading inspection (“MRI”) was conducted – not a mold inspection – which is routine following a report of a leak. Based on the initial examination and thereafter, BBC, either by its employees or a third-party contractor, continued to perform the necessary repair work over a period of time, including performing asbestos and lead-based testing, and repairing and replacing the bathroom’s ceramic tile and flooring.

BBC personnel were in frequent communication with both the Torres family and the Military Housing Office (“MHO”) personnel at Sheppard AFB in June 2021 about the status of the work performed at the Torres family residence. On June 24th, BBC had a Texas licensed mold assessment company, EcoSystems Environmental Inc. (“ESEI”), conduct a visual mold assessment (“VMA”) of the residence, which is the recommended standard for inspection. Shortly after BBC received ESEI’s final report and recommendations, BBC shared that report and recommendations with both the Torres Family and MHO personnel. BBC followed the ESEI recommendations and had outside third-party contractors perform the repair and remediation work during which time BBC provided the Torres family with temporary housing.

The discrepancy between the category and subcategory of the May 2021 work order and the June 2021 work order is based on the information that BBC received at the time of the requested maintenance or reported concern was made. Consistent with BBC protocol, the May 2021 work order was categorized as “plumbing” and “routine” because the resident reported a toilet leak whereas the June 2021 work order was categorized as “mold” and “urgent” because there was a reported concern of mold.

These two work orders were submitted on the first day the Torres family resumed living in the residence following the repair and remediation work and following the remediation clearance assessment by ESEI. Upon receipt of these work orders, BBC’s counsel in the Litigation communicated with the Torres family’s counsel about these work orders, which include several different photographs provided by the Torres family’s counsel to BBC’s counsel about the residents’ complaints. Due to the unique circumstances of the submission of these work orders and the Litigation and based on the photographs provided, the work orders were entered as “routine” and “carpentry,” which was appropriate. Further, when BBC attempted to inspect the home in connection with these work orders, Sgt. Torres and/or his wife refused

to allow BBC's employees access to examine the specific complaints until on or about September 15, 2021, after repeated requests by BBC to do so. Once BBC was permitted by the Torres family to examine those reported concerns, BBC again acted in a prompt and reasonable manner to address those issues. Nonetheless, the Torres family commenced the Litigation, which BBC will continue to defend vigorously.

Key clarifications set forth in BBC's "errata" submission. As noted above, BBC was not afforded an opportunity to comment on the Subcommittee's draft report in its entirety. Instead, BBC was given the limited opportunity to make an "errata" submission to correct what we believed were factual misstatements or unsupported conclusions set forth in the limited portion of the draft that we could see. In most instances, entire pages were redacted in black with a sentence or two for us to review, with no context. We nonetheless asked that the mistakes we identified be fixed and that the clarifications we suggested be made, as appropriate, in the interest of the Subcommittee producing a more balanced report.

We provide here a high-level overview of the materials we filed with the Subcommittee staff on April 22nd.

As a general matter, we advised the Subcommittee that we strongly objected to the use of the word "admitted" as the verb used invariably to refer to a statement made by a BBC employee in an interview. We have not identified any instances in which any BBC employee used the word "admit" in responding to a single question in roughly 40 hours of interviews. In its most common meanings, the word is intended to convey the notion of conceding something as true or valid or as acknowledging or confessing, which might have general applicability in a prosecutorial setting but has no applicability in the manner in which it has been used throughout the draft report. We noted each time it was used inappropriately in the draft report, as in the case of an instance in which the draft report suggested that Rick Taylor, as President of Facility Operations, Renovations & Construction, had to be induced or encouraged to admit that "it is critically important to maintain accurate and complete work order data in Yardi . . ." In fact, Mr. Taylor responded "absolutely" when asked during his interview if it was important for accurate data to be entered into the company's property management software for payment purposes. He was not being asked to "admit" anything. In fact, he agreed without hesitation with the premise of the question posed.

Accuracy of work order data. Every employee interviewed by the Subcommittee staff, when asked about the significance of work order data accuracy, indicated it was important to have accurate and complete work order data entered in Yardi. For example, as noted above, Rick Taylor responded "absolutely" when asked if it was important for accurate data to be entered into Yardi for payment purposes. The unequivocal response by all of the BBC employees reflects BBC's commitment to promoting a corporate culture where the need to maintain accurate records has always been a priority. Moreover, it demonstrates the company's ongoing and successful initiation of its Operations Assurance Plan. BBC now has a dedicated compliance team in place to review the accuracy of the data in Yardi and confirm compliance with internal policies and procedures regarding work order management as a means of ensuring the data accuracy does not solely depend on one individual. Despite BBC sharing the details of the Operations Assurance Plan numerous times—including in three separate interviews with BBC's Vice President, Compliance – Facilities Management, who leads the Facilities Management operational compliance team—the Subcommittee's draft report made no reference to these interviews and to the best of our knowledge fails to acknowledge this critical program BBC designed and implemented under the guidance of the Department of Justice to identify, investigate and correct mistakes in the work order system.

Instead, the report emphasizes individual work order errors apparently in an effort to suggest the presence of a widespread work order accuracy issue affecting the calculation of performance incentive fees. With a diverse portfolio of more than 43,000 homes—over a third of which are aging units constructed by the military—and on average more than 280,000 resident-generated work orders processed annually, BBC (nor any other third-party operator) is never going to have zero defects. Naturally, there will always be challenges to face—things in homes will break, systems will fail, natural disasters will hit, and complaints will surface. However, we remain determined in our goals to always respond to service members, to continuously improve, and to deliver on our commitments for the long-term.

Nonetheless, the report focuses on the negative and ignores BBC's obligation to audit the work order data used to compile incentive fee calculations. BBC's property management agreements (PMAs) with the military services, which covers BBC's obligations as property manager, recognize that work order data entry involves some subjectivity and human error that inherently diminishes the likelihood the intake and tracking of work orders will be 100% accurate. This is evidenced by the fact the PMAs include specific terms that allow for the project owner to require the property manager to perform an audit of work order data used to compile incentive fee calculations and that the cost of such audit will be borne by the project owner (and not BBC as property manager) unless the audit identifies an overcharge of the incentive fee to the project owner in excess of five percent (5%) for any Fiscal Year. Additionally, even where there is an error rate of greater than 5% identified through such an audit, it is not deemed a breach of the PMA by BBC as property manager, but rather requires BBC to bear the cost of the audit and to refund the overpayment.

In some instances, the report plainly ignores fact in favor of conjecture. For example, Subcommittee staff members appear to believe there should be mold-related work orders in Yardi submitted by Captain Samuel Choe after March 2020. However, there is no record of Captain Choe making mold-related work orders after March 2020, which he acknowledged he was told he could submit via a web-based resident portal or that he could call in. Captain Choe's own detailed timeline of his engagement with BBC—submitted as part of his written testimony for the April 26, 2022 hearing—makes no mention of him submitting any work order requests, except for one in February 2020, which he confirms BBC responded to. Captain Choe's account also noted how he remained in constant communication with BBC, as well as the Fort Gordon Military Housing Office and local command, meeting with their representatives on several occasions. And yet the draft shared with us focused on the trivial issue of whether Ms. Cook met with him in person (as she mistakenly said in her interview), as opposed to speaking with him by telephone. In any event, we are pleased that BBC and the Choe family reached a definitive agreement to address all of their claims for relief with a monetary payment, without either party admitting any liability, which was approved by the Office of the Secretary of Defense.

In another instance, the draft report was inaccurate in stating that no mold inspection was performed by BBC staff at the home of Army Family #1. BBC provided copies of all work orders performed in response to the resident's maintenance requests, which support that the resident's concern was promptly and reasonably addressed. Work order no. 6776494 was in fact uploaded within Yardi and produced to the Subcommittee. This was the first work order during Army Family #1's occupancy of the home that related to a concern regarding mold. It was not until July 2021 that the resident provided BBC with any information to support the status of an occupant with a medical condition that made such occupant potentially sensitive to mold.

Approach to environmental remediation. In the draft report, the Subcommittee criticized BBC for notifying a military family about the water impact of some asbestos-containing materials in the ceiling. After BBC received test results in early October 2020, indicating that the ceiling in this home contained asbestos-containing material, BBC notified the military family about the procedure needed to be taken to repair the ceiling four weeks later, when they were able to provide the expert opinion of an industrial hygienist that could confirm to the resident that there was no health hazard produced by the leak in the ceiling alongside the asbestos survey.

BBC complied with all environmental procedures by testing the ceiling before it commenced repairs to confirm whether there were asbestos containing materials in the ceiling that would require more proscriptive repair protocols to be followed than if such materials were not present. BBC took these precautions to ensure that no hazards would be created when repairs to the ceiling were to be made. Rather than merely send the resident a report that identified there was asbestos in certain drywall compound, and which to a layperson could not be easily interpreted, BBC went out of its way to procure a report from a licensed industrial hygienist to ensure the resident could understand that the report detecting asbestos should not be interpreted to mean a health hazard was produced by the leak in the ceiling. This is consistent with the FY 2020 NDAA amendments to the Military Housing Privatization Initiative passed by Congress, which requires landlords to provide the resident along with any environmental hazard test results a simple guide explaining those results, preferably citing standards set forth by the Federal Government relating to environmental hazards. BBC provided these materials to the resident as soon as it received the final reports from its external consultants. The resident was not living in the home during the time it evaluated the appropriate protocols necessary to ensure repairs in the home were done in a manner to prevent life/health/safety issues from occurring; and BBC funded temporary housing to ensure no potential exposure to occupants while it was waiting on final test reports necessary to design these appropriate repair protocols.

In another instance, the text of the draft report appeared to suggest that it is inappropriate to rent homes that contain materials, such as asbestos or lead-based paint. If these types of materials are properly maintained in place and not disturbed improperly when the home is occupied, they do not expose a resident to any health or safety hazard. For the report to suggest that a home must be free of all potentially environmental hazardous materials, including free of mold spores in the air or on surfaces within a home, defies science. As stated by the EPA, for example, "it is impossible to get rid of all mold and mold spores indoors; some mold spores will be found floating through the air and in house dust."

A home should be delivered at move-in in a clean condition where no visible mold growth is present in occupiable spaces. In BBC's experience, incoming and current residents frequently express concern about the potential presence of mold in the air in a home and cross contamination of their personal property based on air quality tests even though no visible mold is present on their belongings. There are no national standards or guidelines that establish levels of dampness or mold growth in residential or other settings that present an increased health risk to occupants. In fact, neither the CDC nor the EPA recommend *routine* sampling for mold, including sampling for mold in the air inside a home or anywhere else. Because neither the CDC nor the EPA has developed air quality or any other mold standards, there is no basis against which to test for mold and thus any such test results would not be an effective indicator of the health risk or structural impact of a residential building. Even the Army Public Health Center's website affirms that it is their own policy to not perform air quality tests through a series of FAQs located on its website.

Fort Gordon maintenance facility repairs. Contrary to the evidence, the draft report suggested that individuals who worked in the facility were at risk when leaks occurred following extensive spring rains and that equipment was damaged as well. Once it was determined that the building should not be used for day-to-day office space but could continue to be used for storage of supplies/equipment, BBC moved its staff to an alternative office location. Those BBC staff members have been and will continue to work in this alternative location until a new maintenance facility can be constructed (which construction agreements are awaiting Army approval before they may be signed). Fort Gordon Housing, LLC has repeatedly re-tarped the facility as necessary to prevent leaking as a temporary measure.

The funds to be used to make repairs to the Fort Gordon maintenance facility and other improvements that are part of the Fort Gordon project are maintained in the accounts of the project owner (Fort Gordon Housing, LLC). The project owner is a joint venture owned by BBC (approximately 10%) and the Army (approximately 90%) and its project fund accounts are required to be held under and administered through a Trust Indenture with a Trustee/Bondholder Representative. As such, these funds may only be released from the trust accounts by the Trustee if the conditions of the Trust Indenture are met. BBC agreed with the Army that a new maintenance facility at Fort Gordon should be constructed in place of the current building that was leased by the Army to the project owner; and that the funds to be used for such construction would be from the project's Reinvestment Account, which is an account from which monies may only be released with the written consent of the Army. While BBC had hoped that the agreements necessary to commence construction of the new replacement building would have been approved much sooner, delays have occurred which unfortunately pushed out the anticipated timeline. Now that it appears the new building may not be completed for another 12 months or more, BBC has decided to move ahead with replacement of the roof with a more durable temporary roof versus continuing to temporarily re-tarp the roof. We advised the Subcommittee staff that work to replace the roof is expected to be completed by the end of this week or early next week.

Miscellaneous. We made a series of additional suggestions, as noted above, with the hope that the mistakes we identified would be fixed and that the clarifications we suggested would be made, as appropriate, in the interest of the Subcommittee producing a more balanced report.

SUPPLEMENTARY MATERIALS
SUBMITTED SEPARATELY FOR INCLUSION IN THE HEARING RECORD

- Existing National Standards or Guidelines—Dampness and Microbial Growth;
- Existing National Standards or Guidelines—Asbestos and Manmade Fibers;
- Existing National Standards or Guidelines—Lead-based Paint;
- Existing National Standards or Guidelines—Safety Hazards; and
- Existing National Standards or Guidelines—Causation.