



Miami-Dade County Public Schools

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MEMORANDUM

TO: The Honorable Chair and Members of the School Board of Miami-Dade County, Florida

CC: Members of the Audit and Budget Advisory Committee
Alberto M. Carvalho, Superintendent of Schools

FROM: Walter J. Harvey, School Board Attorney 

DATE: October 8, 2015

SUBJECT: **Audit of Selected Financial, Real Estate and Operational Transactions and Contractual Arrangements: Keys Gate Charter High School**

This memorandum addresses concerns raised at the Audit and Budget Advisory Committee (ABAC) meeting on September 29, 2015, regarding the Office of Management and Compliance Audits (OMCA) findings regarding real estate and financial transactions involving Keys Gate Charter High School.

In 2010, Red Apple Development, LLC, (Red Apple) entered into an agreement for a 35-year lease from the City of Homestead to develop and construct Keys Gate Charter High School (Keys Gate). In 2011, the Florida Development Finance Corporation, a state authorized issuer of industrial revenue bonds, issued \$86,055,000 in tax-exempt revenue bonds and \$3,180,000 in taxable revenue bonds to make a loan to Renaissance Charter School, Inc., (Renaissance), a Florida non-profit that operates charter schools, and Red Apple to construct several educational facilities for six Renaissance charter schools. Included in the transaction was \$23,545,000 loaned to Renaissance and Red Apple as co-borrowers for the construction of Keys Gate. The School Board initially entered into a charter contract with Renaissance to operate the school in 2010 and it was renewed on June 18, 2015.

In accordance with its 2014-15 Annual Audit Plan, as recommended by the ABAC and approved by the School Board, the OMCA conducted an audit to examine the financing, real estate and operational transactions involving the Keys Gate Charter High School and related entities. The Audit found that the bond proceeds for this project appeared to be appropriately expended for the purposes intended except for a \$500,000 payment that was paid to an undisclosed third party. Red Apple representatives indicated that the amount was paid to another "developer" as part of a settlement agreement. Red Apple offered to provide the identity of the payee and documentation evidencing the use of the proceeds but only if the OMCA would sign a non-disclosure agreement. Public entities cannot sign such an agreement and the document has not been produced by Red Apple or Renaissance.

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As a result, the OMCA reported that it was unable to determine that the proceeds were properly used for construction and construction services. The central questions raised by the OMCA and the School Board Attorney at the ABAC meeting was (1) whether the document is subject to Florida's public records law and must be disclosed, and (2) the extent of the School Board's responsibility to seek the document to determine whether bond proceeds were properly spent. At the ABAC Committee's request, the School Board Attorney agreed to meet with the auditors to attempt to determine the propriety of the \$500,000 payment and to provide a follow-up report to the School Board and the ABAC.

As requested, we met with the auditors to discuss the follow-up steps that should be taken. Since the school is co-borrower of the loan and subject to the Public Records Act, a request has been made to the school's attorney to provide the documents. We will continue to work with OMCA to explore whether legal action or referral of the issue to other investigative agencies is warranted or appropriate.

We will inform you of any developments as they occur. If you have any questions, please do not hesitate to contact me.

WJH: MLM/ba