



# CIVIL SERVICE COMMISSION

City of Tucson

Minutes

**Phillip Bencomo  
Termination  
Housing & Community Development Department  
June 14, 2022**

**DRAFT**

A quorum of the Civil Service Commission of the City of Tucson met at 9:10 AM on Tuesday, June 14, 2022 at Information Technology, 481 W. Paseo Redondo in Tucson, Arizona, for an Appeal of Termination filed by Phillip Bencomo from the Housing & Community Development Department (HCD). Due to the impacts of the COVID-19 pandemic, which have prompted declarations of a public health emergency at the local, state, and federal levels, in-person attendance by members of the public was prohibited. However, the hearing was made accessible remotely through technological means as permitted under Arizona law.

Present were Chairperson Becky Montañó, Commission Members Carol West and Eduardo Rios. Staff present: Donna Aversa, Legal Counsel; Sandra Zurbrick, HR Manager, Secretary; and Roseanne Bent, Executive Assistant of Human Resources, Recording Secretary.

Appellant Phillip Bencomo; Merle Turchik, Attorney for Appellant; Jennifer Stash, Principal Assistant City Attorney represented the Housing & Community Development Department. Director Liz Morales was also present.

This appeal was held in Open Session; however, the rule was invoked.

Witnesses sworn during hearing:

1. Selene Tibbits
2. Denise Kendle
3. Liz Morales
4. Janet Navarro
5. Miranda Bencomo
6. Phillip Bencomo

Per Exhibit A, the actions and behaviors of Phillip Bencomo #43301 are incorporated herein providing just cause for termination and are synopsisized as follows:

**I. Behavior Phillip Bencomo knew or should have known would result in disciplinary action:**

Mr. Bencomo, you have been an employee of the Housing & Community Development Department in the position of Management Assistant (Assistant Property Manager) since 2016, and an employee of the City of Tucson since 2000. During your employment with the City of Tucson (COT) you have received training on City of Tucson Administrative Directive 2.02-4 Rules of Conduct, and Administrative Directive 2.02-14 Ethics and Conflict of Interest. As an employee of the Housing & Community Development Department (HCD) you have received training regarding the Admissions and Continued Occupancy Policy (ACOP) as well as HUD Regulations and you are aware of the HCD Department Directives, including HCD DD-118- Limitation of Participation if Housing & Community Development Employees from



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Involvement in HCD Cases Concerning Family Members of Domestic Partners Effective 1/2/2018.

Work expectations of your Assistant Manager position include oversight of day-to-day operations including the following: Processing Eligibility, Lease Renewals, Interims, and Move-Ins and Move-Outs processed by the Housing Specialist II's. Additional duties include the following:

Proficient knowledge of the ACOP and Lease

Knowledge of correct forms to be used

Work Order Process for Tenants, Vendors and Payable Work Orders

Ability to open and close work orders

Familiarity with creating and pulling various reports such as vacancy reports, tenant reports and work order reports.

Working knowledge of the Administrative Directives (AD's) that apply to employees and the public

Meeting weekly (at a minimum) with office staff to avoid any potential lease delays, staff issues, vacation coverage, supply issues or discuss any topic that arises in the office - update staff on the information provided

Professionalism with staff, tenants, and the public in person, on the phone or by email.

Mr. Bencomo, on 9/14/2021 Selene Tibbits, Community Services Manager for Public Housing, presented you with a Letter of Counseling (LOC) to address ongoing issues involving your micromanaging of staff and disrespectful behavior leading to an inharmonious work environment. In conjunction with the LOC, you were issued a Work Improvement Plan (WIP) to address a number of job deficiencies that had been identified upon your return to working at a Public Housing site. The goal of the WIP was to provide you with tools and directions to help you be successful in your position as Assistant Property Manager. The WIP outlined the following work expectations: Improving employee and customer communication and the workplace environment, goals to process five eligibilities and five move-ins per month, outside employment limitations, respectful communication in the workplace, entering KRONOS leave requests timely and completing and submitting the required telecommuting work log.



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On 9/27/2021 you met with Ms. Tibbits and were to start meeting biweekly to track your progress as indicated in the WIP. You were provided another copy of your WIP for you to reference and expectations were reviewed and discussed.

On 10/11/2021 you met with Ms. Tibbits and again discussed your work expectations and the need to make progress in each of the defined areas. You indicated that the Wings of Freedom playground signs had been ordered and that an inspection was to be completed and you would report project status on 10/25/21.

On 10/21/2021 you left on approved vacation leave to return on 11/1/2021; you failed to inform your staff that you were leaving on vacation and did not provide them with directions regarding pending work assignments, or status of follow up items for residents. No p-cards receipts had been given to the Residential Property Manager for the month of October, and there were over 95 transactions to be reconciled which was not in compliance with P-card reconciling requirements. Your employee timesheets in Kronos had not been completed and your personal leave time for Tuesday, Oct 19, 2021, had not been submitted. HCD Finance indicated that invoices and bills for the El Portal program had not been picked up for 2 - 3 weeks and you are aware of the importance of that role and the need to process accounts payable multiple times per week to ensure bills are being paid promptly.

On 11/3/2021 you informed your new manager, Edna Duran, that you would be off for the next week as you had submitted a prior leave request to the previous manager before she retired. A review of your leave request in Kronos, submitted on 9/30/21, showed the status was pending approval. Staff expressed the need to have you in the office due to workload and new manager needing your support. Your new manager approved your leave requested through the previous manager even though you had not followed up to communicate with her.

On 11/5/2021 you misrepresented using Family Medical Leave (FML). Ms. Tibbits asked you to come into her office to talk, but you responded by saying not right now. You stated you would be leaving early at noon that day and taking FML. Ms. Tibbits emailed you to submit your leave request for the week. You submitted your request and asked it to be changed to FML. When you made your request, you were wearing your personal Photography business shirt. Later that day you posted on Instagram that you were at a Photography event, and later the same day, you posted on Facebook that you were at an event at Westward Look Wyndham Grand Resort & Spa, Tucson High School Class of 1971 50-year reunion.

On 11/8/2021, a biweekly meeting with Ms. Tibbits was canceled due to you being out on vacation leave. The meeting was rescheduled to 11/19/2021, and then canceled due to you again requesting vacation leave from 11 /19- 11/23/2021. You have not made any progress on the following important work expectations set forth in the WIP; Wings of Freedom playground project and Section 8 contracts not completed timely. Satisfactory performance in



these areas is crucial to the Housing Program. To comply with tax credit guidelines, the Wings of Freedom playground project needed to be completed by the deadline.

On 11/19/2021 it was brought to the attention of Ms. Tibbitts that your daughter, Myranda and son, Phillip Bencomo reside in El Portal. The City of Tucson's El Portal Program rents to persons whose family income is equal to or below 80% of the median income limit. HCD is responsible for compiling the required information and retaining tenant files for this program that utilizes multiple sources of funds to provide affordable housing. Upon review of the file, it was found that you personally entered all their tenant information into the Elite software system, along with creating a work order, dated 08/28/2021; this is a conflict of interest due to your familial relationship with both residents. As a long-term employee of HCD, you knew or should have known this was a violation of HUD, HCD, and COT policies. Conflict of Interest is a violation of HUD 24CFR CH.IX 982.161 which reads as follows:

HUD 24CFR CH.IX 982.161 Conflict of Interest

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(2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;

On 12/9/2021 you were scheduled to attend a webinar training, you scheduled it and asked to view it from home to allow for less interruptions. You shared that upon starting the training class you fell asleep for 3 hours and woke up to find that you were dismissed and had to reschedule for some time in June 2022. You stated you will submit a request for leave and would like to claim it as FML.

## **II. Prior Training and Instruction:**

You received instruction that P-card transactions are to be completed monthly by the deadline. To ensure this deadline is met your WIP requires you to turn in reconciled receipts weekly to the Residential Property Manager for approval, instead of waiting until the last minute. As a result of not coordinating P-card reconciliation with your staff when you were out on vacation at the end of October, 95 transactions had to be reconciled and approved at the deadline.

The Section 8 contracts are to be completed and returned in a timely manner to ensure the lease is in effect and payments made. This was brought to our attention by Section 8 staff who were looking for Resident Tenancy Agreements (RT A's) to be submitted to you as the point of contact. On November 3, 2021, an email was sent to you indicating Section 8 had been waiting for a revised lease for a client since September 3, 2021, which delayed \$2,052 getting paid to the program.

Kronos instructions and deadlines were provided by HCD HR Satellite Sr. Account Clerk, Debbie Gonzales to ensure all Kronos timesheet reviews and approvals were completed



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weekly for your staff, along with submitting your personal leave requests in a timely manner and indicating if any of your absences needed to be coded as FML. When you left for vacation at the end of October you did not complete your employee timesheets nor coordinate with someone else to complete and approve them. Your personal leave time for October 19, 2021, had not been submitted which is out of compliance with the WIP expectations associated with KRONOS timekeeping.

You received instruction that the Finance process for invoices and payments is to pick up, sign and date invoices 1-2 times weekly to ensure timely payments are being made by the City of Tucson. During your October vacation, HCD Finance indicated that you had not picked up invoices and bills for 2-3 weeks which compromises the department's ability to make timely payments.

You have received training and instruction regarding the  
ACOP Chapter 15 Program Integrity  
Section 15-11.C. PHA-Caused Errors or Program Abuse  
Prohibited Activities-PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:  
*Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident.*

**III. Prior Discipline/Counseling:**

Letter of Counseling issued on 9/14/2021.  
Work Improvement Plan issued on 9/14/2021.

**IV. Violations of the Tucson City Code, Administrative Directives, and HUD Regulations:**

**City Administrative Directive 2.02-5, Rules of Conduct**

9. Carry out specific orders or instructions from assigned supervisory personnel.
10. Perform a full day's work in an efficient manner in accordance with the methods and standards required by the City.
11. Conduct themselves in a manner that does not cause the City or department the question the employee's reliability, judgement or trustworthiness in carrying out assigned responsibilities.

**Administrative Directive 2.02-14 Ethics and Conflict of Interest**



II. Definitions

- A. Arizona conflict of interest laws are set forth in ARS §38-501 through §38-511. Under these laws, any City officer or employee who has, or whose relative has, a substantial interest in any contract, sale, purchase, service or decision of the city shall make known such interest in the official records of the city and shall refrain from participating in any manner as an officer or employee in the contract, sale, purchase, service or decision. A substantial interest does not include interests defined by the statute as remote interests ARS §38-502(10) <http://www.azleg.state.az.us/ars/>.
1. The term relative means the officer/employees' spouse; spouse's parents, siblings and children; children and grandchildren; parents and grandparents; siblings; and spouses of siblings.
  2. The term substantial interest means a pecuniary (money) or proprietary (ownership) interest by which a person will gain or lose something as contrasted to general sympathy, feeling or bias

**Housing and Community Development Department Departmental Directive DD-118: Limitation of Participation of Housing & Community Development (HCD) Employees in HCD Administered Community Programs, and Prohibition of HCD Employees from Involvement in HCD Cases Concerning Family Members or Domestic Partners**

Effective Date: 1/2/18

- I. Policy Statement In general, HCD department employees and their immediate family members or domestic partners are not eligible to participate in or apply for programs directly administered by the department. An exception is that an income eligible department employee, immediate family member, or domestic partner may be Public Housing or Housing Choice Voucher tenants. Staff is prohibited from being directly involved in administering program cases that benefit their own family members. Also, staff is prohibited from influencing or attempting to influence community program cases concerning their own family members.
- III. Definitions (Continued) Family members such as uncles, aunts, and cousins living in separate households from the HCD employee are eligible to participate in HCD community administered programs if they qualify by income. Such family members are to be treated in the same manner and on the same terms as provided to the general population. However, HCD employees are required to inform their supervisor if any such family member receives program benefits in a program in which the staff member is involved. HCD staff is to avoid working on, or influencing, any case concerning their family. Supervisors will assign such family cases to other HCD staff for service.
- IV. Implementation Responsibilities It is the responsibility of each division



administrator to inform new employees of these policies. It is the responsibility of each HCD employee to report any possible personal conflict of interest to his or her division administrator. The key to avoiding problems with the conflict of interest rules is to maintain sensitivity to the issue. This conflict of interest related policy supplements City of Tucson Ethics and Conflicts of Interest Administrative Directive 2.02-14.

### **Admissions and Continued Occupancy Policy (ACOP) Chapter 15 Program Integrity**

#### Section 15-II.C. PHA-Caused Errors or Program Abuse

##### Prohibited Activities-PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff: *Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident.*

#### **HUD 24CFR CH.IX 982.161 Conflict of Interest**

(2) Any employee of the PHA; or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;

### **V. Disciplinary Action:**

Mr. Bencomo, as a City of Tucson employee, you have the responsibility to meet job performance standards by meeting defined work objectives and following directions and corrective measures from supervisory personnel. Your substandard work performance is not consistent with and falls below City policy and practices and has a direct impact on both your fellow employees and the division's ability to perform its mission. As a tenured employee of the Housing & Community Development Department, you are aware of HUD regulations governing the public housing programs including the ACOP and HUD 24 CFR. Additionally, as a tenured employee your level of job performance seriously undermines the trust and confidence required of your position.

Based on your actions and in accordance with Section 10-3 of the Tucson City Code and Administrative Directives, the Housing & Community Development Department intends to terminate your employment with the City of Tucson.

According to the City of Tucson Administrative Directives, the listed offenses are a violation of policy. The listed violations constitute just cause for Termination. You knew or reasonably should have known your conduct would result in disciplinary action. Your failure to comply with Administrative Directives 2.02-5, 2.02-14, HUD ACOP and HUD 24 CFR, constitutes just cause for Termination.



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**City's Exhibits Admitted**

**Exhibit A Tabs 1 – 6**

- Tab 1 – Personnel Action Request Form
- Tab 2 – Notice of Decision (Appealable Action)
- Tab 3– Employee’s Right to Civil Service Appeal
- Tab 4 – Notice of Intent to Discharge
- Tab 5 – Exhibit A
- Tab 6 – Phillip Bencomo Appeal Letter

**Exhibit B Tabs 1 – 7**

- Tab 1 – Personnel File
- Tab 2 – Department File and Progress Notes
- Tab 3 – Administrative Directive 2.02-5 Rules of Conduct
- Tab 4 – Administrative Directive 2.02-14 Ethics and Conflict of Interest
- Tab 5 – Housing and Community Development Department Departmental Directive DD-118
- Tab 6 – Definition of *Just Cause*, Tucson City Code §10-3
- Tab 7 – Documents presented by Phillip Bencomo at the Opportunity to Respond Meeting:

9:26 – 9:33 City's Opening Statement

9:33 – 9:49 Appellant's Opening Statement

City called first witness, Selene Tibbits, Community Services Manager

9:50 – 11:45 Ms. Tibbits gave testimony

10:51 – 11:00 Break

11:45 – 12:28 Ms. Tibbits gave testimony on cross examination

12:29 – 12:53 Ms. Tibbits gave testimony on redirect; the Commission asked clarifying questions and witness was excused

12:54 – 1:39 Lunch Break

City called second witness, Denise Kendle, HR Manager

1:39 – 2:35 Ms. Kendle gave testimony

2:35 – 2:48 Ms. Kendle gave testimony on cross examination

2:49 – 3:00 Ms. Kendle gave testimony on redirect; the Commission asked clarifying questions and witness was excused

City called third witness, Liz Morales, Housing & Community Development Director





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3:10 – 4:07	Ms. Morales gave testimony
4:08 – 4:15	Ms. Morales gave testimony on cross examination;
4:15 – 4:00	Ms. Morales gave testimony on redirect

4:19 pm Hearing adjourned for the day to reconvene at 9:00 a.m., Wednesday, June 15, 2022 for day two.

**June 15 – Day Two**

A quorum of the Civil Service Commission of the City of Tucson met at 9:04AM on Wednesday, June 15, 2022 at Information Technology, 481 W. Paseo Redondo in Tucson, Arizona, for day two of the Appeal of Termination filed by Phillip Bencomo from the Housing & Community Development Department. Due to the impacts of the COVID-19 pandemic, which have prompted declarations of a public health emergency at the local, state and federal levels, in-person attendance by members of the public was prohibited. However, the hearing was made accessible remotely through technological means as permitted under Arizona law.

Present were Chairperson Becky Montaña, Commission Members Carol West and Eduardo Rios. Staff present: Donna Aversa, Legal Counsel; Sandra Zurbrick, HR Manager, Secretary; and Roseanne Bent, Executive Assistant of Human Resources, Recording Secretary.

Appellant Phillip Bencomo; Merle Turchik, Attorney for Appellant; Jennifer Stash, Principal Assistant City Attorney represented the Housing & Community Development Department. Director Liz Morales was also present.

Appellant called first witness, Janet Navarro, former HCD temp employee

9:06 – 9:39	Ms. Navarro gave testimony
9:40 – 9:55	Ms. Navarro gave testimony on cross examination
9:56 – 10:04	Ms. Navarro gave testimony on redirect; the Commission asked clarifying questions and witness was excused

At 10:04 AM a motion made by Commissioner Rios, duly seconded, to go into Executive Session for legal advice pursuant to A.R.S. §38-431.03 (A)(3) and was passed by a voice vote of 3 – 0. The Commission resumed the open meeting at 10:14 AM

Appellant called second witness, Miranda Bencomo, daughter of Appellant

10:15 – 10:28	Ms. Bencomo gave testimony and witness was excused
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10:29 – 10:31 Break

Appellant called third witness, Phillip Bencomo, Appellant

10:31 – 11:11 Mr. Bencomo gave testimony

11:11 – 11:18 Break

11:18 – 12:18 Mr. Bencomo continued his testimony

12:19 – 12:59 Lunch Break

1:00 – 1:39 Mr. Bencomo gave testimony on cross examination

1:39 – 2:01 Mr. Bencomo gave testimony on redirect; the Commission asked clarifying questions and witness was excused

2:02 – 2:04 Break

2:04 – 2:09 City Closing Statement

2:09 – 2:21 Appellant Closing Statement

2:22 – 2:31 Rebuttal Statement

At 2:32 PM a motion made by Commissioner West, duly seconded, to go into Executive Session for legal advice pursuant to A.R.S. §38-431.03 (A)(3) and was passed by a voice vote of 3 – 0. The Commission resumed the open meeting at 3:16 PM

3:17 Civil Service Commission Deliberations

In open session, based on the testimony presented and the exhibits admitted into evidence, a motion by Commissioner West, duly seconded, to deny the appeal of Phillip Bencomo, disciplinary action be upheld as just cause was proven and was passed by a unanimous vote. The vote was 3-0.

Hearing adjourned at 3:25 PM.

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Becky Montano, Chairperson	DRAFT
Civil Service Commission	Date