



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Board Members of the Texas Department of Housing and Community Affairs ("TDHCA")

RE: Follow up Review of the Migrant Labor Housing facilities

Dear Board Members:

This report presents the results of the Office of Internal Audit ("OIA") "*Follow up Review of Migrant Labor Housing facilities*". The purpose of this report is to provide information regarding the condition of Migrant Labor Housing facilities during harvesting seasons. For the purpose of this review we visited a number of licensed facilities in different parts of the state.

Background

In March of 2019, OIA issued an audit of the TDHCA's Licensing, Inspection, and Outreach for Migrant Labor Housing, for which the requirements are stated in TGC 2306. When the audit report was presented at the March Audit and Finance Committee meeting, members requested that follow-up site visits be conducted. The number of licensed facilities has increased from 144 in March to 220 in August 2019.

Migrant Labor Housing Facility Standards

Licensed migrant labor housing facilities must meet standards of construction, sanitation, equipment, and operation. In Texas, these standards address:

1. Facility construction;
2. Sanitary conditions;
3. Water supply;
4. Toilets;
5. Sewage disposal;
6. Storage, collection, and disposal of refuse;
7. Light and air;
8. Safety requirements;
9. Fire protection;
10. Equipment;
11. Maintenance and operation of the facility; and
12. Any other matter appropriate or necessary for the protection of the health and safety of the occupants.

Migrant Labor Farm Worker

A migrant labor farm/agricultural worker, as defined in the Act, is “an individual who is (a) working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry and (b) moves one or more times during a year from one place to another to perform seasonal or temporary employment, or to be available for seasonal or temporary employment.” Migrant laborers who move within the U.S. may go from picking onions in Texas, to picking tomatoes in Florida, to picking strawberries in Michigan. The harvests may last a month or two; then the workers must seek work in a different harvest as seen in the map of the agricultural regions of Texas (see Appendix 1).

Migrant laborers are defined as the following two categories:

- US citizens and permanent legal residents are individuals who travel to agricultural work sites, defined by distance as greater than 75 miles is “migrant” labor; traveling less than 75 miles to the worksite is a “seasonal” farm worker.
- H2A visa holders are persons born outside the U.S. who have temporary legal permits to work in the U.S. They follow Department of Labor (DOL) protocol, which requires the agricultural employer and the visa holder to be registered with DOL.

Employers must provide housing for H2A visa holders. For domestic farm workers, the employers are not required to provide housing; however, if the employer does provide housing it must be licensed by TDHCA. In the case of H2A visa holders both the employer and the farm worker are registered with DOL through a petition process, which is the application that the agricultural employer files with DOL when they want to hire H2A visa workers.

Summary of Site visits

Our initial report, dated March 21, 2019, included visits to five licensed migrant labor housing facilities. For this follow-up review, we visited another five licensed facilities and found them to be in good condition. Below is a brief description of the facilities we visited.

The first facility we visited is located in O'Donnell in Lynn County. This facility consists of 10 units and is licensed to house up to 40 individuals. Only 4 of the units were occupied this season and at the time the site visit. The vacant units were being pressure washed and cleaned to be used later on. The representative for the facility told us that all the units will be cleaned and prepared for the next inspection which should be in September. The facility seemed to meet the minimum standards and regulations currently in place. We were also told that the farm workers that use this facility work for various farms in the area. They're mainly from valley area and travel back home at the end of the season. He's only aware of two farm workers that have traveled to another state for work in the past.

The next facility, which is also located in Lynn County, is in the city of Wilson TX. This facility consists of two buildings, with one more appropriate for families and one for single individuals who would be sharing the bedrooms. Total capacity of both buildings is 56. The first building (family section of the facility) is 6 units for 6 families, and has private bathroom, shower, kitchen area with some appliances, and a bedroom. The second building is 8 rooms / units with common kitchen area and shared bathrooms (3 showers / 3 stalls / 2 sinks). Each bedroom also has a bed frame and mattress. The individuals staying at this facility mainly work at the plant and indoor (Cotton Gin).

Third facility is located in Mayfield in Hale County. This facility works as the "middle man" between farm owners and farm workers. They contract with the farmer to harvest and process their crops. They hire the farm workers and provide housing for them while they're working for them. The types of farms they contract with are cucumber, Pumpkins, and watermelons. The cucumbers are processed and sent to pickling plant.

The representative for this facility said that for harvesting cucumbers with the new machines and technologies they typically need only 8 to 10 people, where in the past they would've needed about 30 to 40 people. The huge tractors can do what used to be the manual work for a lot of workers. They mainly need a few drivers to harvest the entire farm. Some of the workers are working at the plant during cucumber harvesting season. However, for other crops, such as watermelon and Pumpkins, they still need about 30 to 40 workers because they need to be handpicked one by one. The machines would damage these crops. She also said that due to the type of crops in that area a lot of farm workers manage to stay in the area and work throughout the year by switching between fruit and vegetable, and cotton. These workers are mainly from the Valley area and go back home after the harvest season. She said that none of the workers come from other states, or travel to other states for work.

On the day of this visit all units were occupied and workers were at the units because it was their off day. Therefore no pictures were taken from inside of the units at this facility. However, one of the units that was occupied by 3 individuals let us walk in and look around. The unit seemed to meet the minimum standards that are set by the state. We were also told that a representative from Texas workforce commission visits the fields on regular bases, and that they've implemented OSHA's requirements by providing portable potties, hand sanitizers, and drinking water in each field for the workers.

Next we visited a facility in close proximity to Austin. This facility is a nursery for growing plants and shrubs. They grow and sell their product to residential and commercial builders, in addition to local nurseries. The farm workers at this facility are all H2A visa holders and work about 9 to 10 months a year. This is the first year this facility has been licensed by TDHCA. In the past they operated solely under TWC license.

The facility consists of 3 buildings that are located on the same property. These buildings are licensed to house up to 23 individuals. We toured each building and they seemed to be in good condition and met the minimum standards that are set by the state. In one of the buildings a female farm worker is staying and the facility operators have provided a separate bathroom for her. Male farm workers share other bathroom facilities in each building. The representative for the facility told us that because of extreme heat in the last few weeks they've been sending the workers home at about 3pm to avoid heat related problems.

The last facility we visited is located south of the San Antonio area. The company produces turf grass for landscaping, sports fields, golf courses, parks, and lawns. The housing facility is one building licensed to house up to 30 farm workers. This year they have 22 individuals staying there. The building consists of a large shared kitchen, an eating area with tables and chairs, and shared bathroom. The bathroom has 4 showers and 3 stalls. The sleeping area is also a large shared space with beds around the room. The farm workers have set up blankets around their beds for privacy. The representative for the facility told us that they provide water and ice to the workers during the day, and that they work on average for 9 hours a day.

Sincerely,



Mark Scott, CPA, CIA, CISA, CFE, MBA
Internal Audit Director

NS, MS