May 2013

Special Report on Chilled Water Sub-Billing by the Austin Convention Condominium Association

Mayor and Council,

I am pleased to present this special report on chilled water sub-billing by the Austin Convention Condominium Association, Inc. (ACCA).

BACKGROUND

The building holding the Hilton Austin Downtown Hotel is built on land owned by the Austin Convention Enterprises, Inc. (ACE), a non-profit public facility corporation formed by the City Council. The building was built as a condominium building comprised of three main units:

- the Hotel Unit, owned by ACE;
- the Retail Unit, owned by the Austin Chamber of Commerce; and
- the Apartment and Penthouse Unit, which are individually owned, but represented by the 5 Fifty Five.

ACCA is a non-profit entity formed to manage the building.

On May 8, 2012, Council Members received a letter from the president of the 5 Fifty Five board, alleging that the board of the ACCA had "historically failed to meter and allocate chilled water expenses in a manner that is fair, equitable, and in compliance with its contractual obligations, all to the significant financial detriment of 5 Fifty Five residents."

RESULTS

Austin Energy (AE) provides chilled water to the building and bills the ACCA based on a main meter placed where the City's chilled water lines enter the building. Based on the contract between AE and ACCA, AE is not responsible for sub-metering. ACCA is responsible for calculating each unit's portion of the monthly bills and ensuring that each of the units pays for their portion.

Based on our preliminary inquiries, we have identified efforts underway between the boards of ACCA and 5 Fifty Five to resolve the issues surfaced by 5 Fifty Five. Both the president of the 5 Fifty Five board and the attorney representing the ACCA board indicated that the first step towards resolution is a signed agreement to purchase and install new metering equipment that should provide accurate usage data for allocation purposes.

Furthermore, we asked for an opinion from the Law Department regarding our ability to audit the ACCA. Their response was that "without a more direct connection to the City, it is difficult to conclude that ACCA is a function, program, service, or policy of the City", and therefore not covered under City Code Chapter 2-3-5 – Powers and Duties of the City Auditor.

As a result, we are not initiating this audit.

We appreciate the cooperation and assistance we received from Austin Energy staff.

Kenneth J. Mory, City Auditor

Why We Did This Report

A chilled water billing audit was included in our FY 2013 Strategic Audit Plan. Because we have identified efforts underway to resolve the concerns surfaced by the 5 Fifty Five Condominium Association, Inc. (5 Fifty Five) and due to our lack of authority to audit ACCA, we are not initiating this audit.

Results

Due to efforts currently underway between ACCA and 5 Fifty Five, we determined that it would not be an effective use of audit resources to conduct this audit work. Furthermore, according to the Law Department, our office does not appear to have the authority to audit ACCA, which is an entity separate from the City of Austin.

For more information on this or any of our reports, email oca_auditor@austintexas.gov