

THE CHARTER BOARD OF THE CITY OF READING

IN RE: Investigation of : Complaint Filed: November 8, 2007  
Jatinder S. Khokhar : Complaint Filed: December 7, 2007  
: :  
: Investigation Nos. 18 & 21

**FINAL OPINION AND ORDER**

**I. FINDINGS OF FACT**

1. On November 8, 2007, Mary Ann Ciarlone filed a Charter Board Complaint (“Complaint”) against Jatinder S. Khokhar (“Khokhar”). (R. at 81; Ex. “7”)
2. Ms. Ciarlone is a resident of the City of Reading (“City”) and as a resident, she is a taxpayer. (R. at 81; Ex. “7”)
3. On December 7, 2007, Guillermo D. Jalil filed a Complaint against Khokhar.<sup>1</sup> (R. at 81; Ex. “6”)
4. Mr. Jalil owns real property within the City and is a taxpayer. (R. at 81; Ex. “6”)
5. The Complaints filed by Ms. Ciarlone and Mr. Jalil both allege a violation of Section 706 of the City’s Charter by Khokhar.
6. Currently, Khokhar serves as the Codes Manager, and in that capacity serves as the head of the Property Improvement Division of the Office of the Managing Director. (R. at 44-46, 48, 54)<sup>2</sup>

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<sup>1</sup> Mr. Jalil’s Complaint is comprised of the standard Charter Board Complaint with twelve single spaced attached pages. Much of Mr. Jalil’s Complaint is beyond the jurisdiction and patience of the Charter Board. The Charter Board has heard and considered, and will only address, those portions of Mr. Jalil’s Complaint that allege violations of the Charter pertaining to residency. (R. at Ex. “6”)

<sup>2</sup> According to Exhibit “3,” Mr. Khokhar’s initial title was Manager of Codes Enforcement and Inspections. The City undertook various permutations and reorganizations of this department, resulting in Mr. Khokhar’s current title and the department’s current name and organizational position. (R. at 25-34; Exs. 1-4, 11)

7. The Complaints filed by Ms. Ciarlone and Mr. Jalil specifically allege that Khokhar's residence is outside of the City, located in Exeter Township, Berks County, at 68 Christine Drive. (R. at Ex. "6" and "7").

8. Following investigation by the Board's Investigative Officer, Khokhar requested that the Board conduct a full evidentiary hearing by letter of May 16, 2008.<sup>3</sup>

9. The Investigative Officer and Khokhar agreed to have the two Complaints consolidated for the purpose of the evidentiary hearing so that the two matters could be heard together. (R. at 5)

10. On June 25, 2008, the Board conducted the requested evidentiary hearing ("Hearing") in accordance with the Charter Board Ordinance.

11. Neither Khokhar or his family resides in the City.

12. Khokhar lists in his statement of financial interest that he resides at 68 Christine Drive. (R. at Ex. "9")

13. Khokhar and his wife took title to 68 Christine Drive on December 1, 2005. (R. at Ex. "7" and "10")

14. Mr. Khokhar's wife and children reside in Leesburg, Virginia, and have so resided since December 2005. (R. at 59, 70)

15. Mr. Khokhar spends time at 68 Christine Drive during the weekdays, Monday through Friday, and usually, but not always, travels to Leesburg, Virginia, for Friday night through Monday morning. (R. at 70)

16. As stipulated, Khokhar began his employment with the City on May 2, 2005. (R. at 43).

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<sup>3</sup> Investigation No. 18 concerns the Ciarlone Complaint and Investigation No. 21 concerns the Jalil Complaint.

17. At no time since being hired by the City has Khokhar complied with the residency requirements of the Charter.

18. As Codes Manager, Khokhar reports directly to the Managing Director of the City without any intervening level of supervision or accountability and no other person delegates responsibilities to him other than the Managing Director. (R at 51, 53 and Ex. "1" and "11")

19. All other "department" heads throughout the City report directly to the Managing Director, just as Khokhar does. (R. at 30; Exs. 1, 2, 3)

20. Khokhar oversees a department with three supervisors, who in turn manage approximately 37 employees. (R. at 53-54; Ex. "4").

21. Khokhar states that his responsibilities are those of a person at the top of an organization, who bears ultimate responsibility for outcomes and decision making, that within his field of operations the "buck stops" with him. (R. at 48)

22. The term "division" is nothing other than another classification for an organizational component of the City's administration, and, in the context of the Codes Division of the City, is synonymous for the terms "office," "department" or "agency" as used in Section 706 of the City's Charter.

23. The term "manager" is nothing other than another classification for the leadership of an organizational component of the City's administration, and is merely a synonym for the term "head" as used in Section 706 of the City's Charter.

24. Khokhar is an exempt employee under Charter Section 702.

25. During the Hearing, Khokhar was represented by counsel.

## II. DISCUSSION

### A. Preliminary Matters

Khokhar presented the Board with a barrage of motions at the time of the Hearing.

Khokhar and the Investigative Officer consented to the Board issuing some of its rulings after the Hearing in this Final Opinion and Order. All other motions, not addressed herein, were ruled upon by the Board at the time of the Hearing, and the Board expressly incorporates herein the reasoning for its rulings as stated at the time of the Hearing.<sup>4</sup> The Board addresses Khokhar's remaining motions as follows:

#### 1. Complainants Not Present.

Khokhar sought dismissal of both the Ciarlone and Jalil Complaints because neither complainant was present at the time of the Hearing. Neither the City's Charter or the Charter Board Ordinance requires that a complainant be present at the evidentiary hearing. Likewise, neither document requires that a complaint be dismissed if the complainant is not present or fails to appear.<sup>5</sup> Khokhar has offered no citation to any authority that would require dismissal of a complaint similar to that of a Charter Board complaint upon failure of the complainant to appear. The Charter enforcement process is to be "user friendly" and is not a process aimed at dismissing legitimate allegations of Charter violations for mere non-prejudicial technicalities. Mr. Jalil's and Ms. Ciarlone's Complaints do not hinge on their presence at the evidentiary hearing. Rather, a Charter Board Complaint acts as notice to the Investigative Officer of an alleged Charter Board violation, commencing the investigation process. Rarely, if at all, do Charter Board complainants have a personal right to relief. Further, if the appearance of Ms. Ciarlone or Mr.

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<sup>4</sup> A transcript was taken of the Hearing.

<sup>5</sup> The Charter Board Ordinance requires that Charter Board hearings be closed unless the subject requests that the hearing be open. Charter Board Ord. § V(A)(7)(c). Khokhar never made such a request, and the complainants, here Ms. Ciarlone and Mr. Jalil, were not permitted to be present at the closed evidentiary hearing.

Jalil was important to Khokhar's defense, Khokhar could have required their appearance by subpoena.

Absent authority requiring dismissal, demonstrated prejudice to Khokhar, or failure to comply with a directive to appear, Ms. Ciarlone's and Mr. Jalil's absence from the Hearing will not result in dismissal of their Complaints. Further, the Charter Board Ordinance requires that the Hearing be closed, thereby preventing the attendance of Ms. Ciarlone and Mr. Jalil, other than as witnesses.<sup>6</sup> Khokhar's motion to dismiss the Ms. Ciarlone's and Mr. Jalil's Complaints on this ground is denied.

2. Standing of Mr. Jalil.

Khokhar contends that Mr. Jalil lacks standing to file his Complaint because Mr. Jalil resides in Deltona, Florida, and not in the City (R. at Ex. "6") and on this basis seeks dismissal of Mr. Jalil's Complaint. Mr. Jalil's Complaint states that he owns property within the City at 815 Weiser Street, Reading, PA 19601, and that he pays property tax to the City. *Id.* Amendment I, Section 2, of the Charter specifically provides that "any tax payer, or any aggrieved person, may file a complaint with the Charter Board alleging a violation of the Charter or Administrative Code." *See also* Charter Board Ordinance, Section V(A)(1) (stating quoted Charter language).

Mr. Jalil alleges he is a tax payer, and also alleges that he is aggrieved by Khokhar's alleged Charter violation. Khokhar has presented no evidence to the contrary, and particularly, no evidence to dispute Mr. Jalil's allegation that he is a taxpayer. This is a bare legal argument by Khokhar, which has no merit. Khokhar's motion to dismiss Mr. Jalil's Complaint on this basis is denied.

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<sup>6</sup> Khokhar did not subpoena either complainant in this matter and neither were called as witnesses.

3. Res Judicata as Barring Ms. Ciarlone's and Mr. Jalil's Complaints.

Khokhar contends that *res judicata* bars both Ms. Ciarlone's and Mr. Jalil's Complaints. Khokhar makes this contention because of a prior dismissal by the Charter Board's Investigative Officer of a 2007 Charter Board complaint ("2007 Complaint") alleging a violation by Khokhar of the Charter's residency requirement.<sup>7</sup> The Investigative Officer in that matter dismissed the complaint after a preliminary investigation and, due to the dismissal on preliminary grounds, an evidentiary hearing was never held. Khokhar's counsel admits that only an investigation occurred and that no further proceedings took place. (R. at 6)

*Res judicata* does not apply to bar Ms. Ciarlone's and Mr. Jalil's Complaints as a result of a prior investigation by the Investigative Officer where no evidentiary hearing occurred, no facts were found, no legal conclusions rendered, and the matter was not litigated on the merits. *Res judicata* holds that a final judgment by a court of competent jurisdiction will bar any future action on the same cause of action between the parties and their privies. *Mintz v. Carlton House Partners, Ltd.*, 407 Pa. Super. 464, 473, 595 A.2d 1240, 1245 (1991). A matter is *res judicata* when there is concurrence of the following four elements: (1) identity of the thing sued upon or for; (2) identity of the cause of action; (3) identity of persons or parties to the actions; and (4) identity of the quality or capacity of the parties suing or sued. *Id.*, 407 Pa. Super. at 474, 595 A.2d at 1246. Further, the claims must be litigated for *res judicata* to apply.

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<sup>7</sup> The 2007 Complaint referenced herein was filed by Mr. Jalil on April 30, 2007. After a preliminary investigation the Investigative Officer dismissed the 2007 Complaint on June 22, 2007, stating only that it was his "opinion that the City of Reading Charter does not require Mr. Khokhar to reside within the City of Reading within one year of being hired." and "[t]herefore, [he was] dismissing [the] Complaint and this matter will be closed." Mr. Jalil then filed a local agency appeal appealing the Investigative Officer's dismissal. See *Guillermo D Jalil, pro se, v. City of Reading Charter Review Board, et al.*, Berks Co. CCP No. 07-7380. The Charter Board filed a motion to quash the local agency appeal on August 3, 2007 and Mr. Jalil then filed a Praecepto to Withdraw and Discontinue Local Agency Appeal on December 4, 2007. Khokhar entered no evidence at the Hearing regarding his *res judicata* argument.

Here, *res judicata* cannot bar Ms. Ciarlone's and Mr. Jalil's Complaints because the claims contained in the prior Charter Board complaint were never litigated and never proceeded to any form of a final "judgment" or final determination.<sup>8</sup> 2 Pa.C.S. § 101 specifically sets forth the requirements of an "adjudication" for purposes of a local agency proceeding. 2 Pa.C.S. § 101 provides that an "adjudication" is:

[a]ny final order, decree, decision, determination or ruling by an agency affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made.

No adjudication occurred respecting the 2007 Complaint. The matter stopped at the preliminary investigation stage; there were no findings, there was no hearing, and there was no adjudication. *See* Charter Board Ordinance, Section V(A)(4) through (8). Further, *res judicata* cannot apply to Ms. Ciarlone's Complaint because the identity of the persons or parties to the action are not the same in this action as in the prior action.

Finally, the Board notes that the City is a dynamic municipality that has undergone significant administrative reorganization and restructuring over the past several years. The Board further notes that with this administrative reorganization has come a change or modification of the responsibilities and reporting requirements of many departments, offices and agencies within the City. Technical application of *res judicata* should not prevent tax payers and those aggrieved from pursuing, and ultimately having heard, complaints regarding Charter or Administrative Code violations. Charter Board investigations hinge on many factors, including personnel in place at the time of the investigation, cooperation of witnesses and of the City's administration, the ordinances the City has in place at the time, and the current responsibilities

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<sup>8</sup> The Charter Board does not enter "judgments" however, by analogy, the Charter Board never entered any final order respecting the 2007 Complaint filed against Khokhar. The Investigative Officer dismissed that complaint after a preliminary investigation without the matter ever proceeding to an evidentiary hearing or any final determination.

and reporting requirements of personnel, or the perceived responsibilities and reporting requirements. The sole decision of an Investigative Officer to dismiss a Charter complaint at the preliminary investigation stage, without a hearing, final order or adjudication, does not stand to bar all future complaints against the same person regarding the same alleged Charter or Administrative Code violation. Khokhar's motion to dismiss Ms. Ciarlone's and Mr. Jalil's Complaint on the basis of *res judicata* is denied.

B. Questions Presented

1. Is Khokhar's official title, or the title given to his department, office, or agency determinative regarding the applicability of Section 706?

The Board answers in the negative

2. Is Khokhar the head of a department, office, or agency?

The Board answers in the affirmative

3. Did Khokhar violate Section 706 of the Charter?

The Board answers in the affirmative

C. Conclusions of Law

1. It is clear that the compensation and residency requirements of Charter Section 706 apply to the highest tier of the administrative service in the executive branch of City government.

2. The Board determined in *In re: Investigation of Director of Community and Economic Development Adam Mukerji, Investigation No. 6*, Final Opinion and Order of July 24, 2006 (affirmed by *Mukerji v. City of Reading Charter Review Board*, 941 A.2d 102 (Pa. Commw. 2008) (*reversing* trial court)) that the following factors are determinative regarding the applicability of Section 706:

- a. if the employee is the head of a department, office, or agency, regardless of that individuals official title;
  - b. if the employee oversees a department, office or agency, regardless of the title given to that department, office or agency, and
  - c. if the employee reports directly to either the Mayor or the Managing Director as the chief administrative officer of the City as noted in Charter Section 406(2).
3. Applying the above factors to Khokhar, it is apparent that since May 2, 2005, Khokhar's date of hire, he has been subject to the residency requirements of Section 706.
4. The residency requirement of Section 706 applies to Khokhar because:
- a. as Manger, Khokhar is head of the Codes Division, which encompasses codes enforcement, zoning administration, and property improvement; (R. at 54-55)
  - b. as Manager, Khokhar oversees approximately 37 employees, both directly and through delegation to mid level supervisors; (R. at 53-54; Ex. "4")
  - c. as Manager, Khokhar interacts with other department heads on an equivalent level; (R. at 52)
  - d. Khokhar readily acknowledges the extent and scope of his managerial accountability and responsibility, stating that "the buck stops" with him; (R. at 48)
  - e. the Codes Division overseen by Khokhar is a department, office or agency as stated within Charter Section 706;
  - f. Khokhar reports directly to the Managing Director, without any intervening level of supervision or accountability.
5. Khokhar never established residency in the City and has admitted such. (R. at 55-56)
6. From approximately May 2, 2006 through June 25, 2008, Khokhar violated Section 706 of the Charter by maintaining his residence outside of the City.<sup>9</sup>

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<sup>9</sup> Charter Section 706 requires residency within one year of the date of the appointment of employment.

7. 68 Christine Drive is not Khokhar's residence under the standards stated in the Charter Section 105(d), which states "[a]ll references to residency in this Charter shall mean legal residence or domicile."

8. Rather, Khokhar's marital home in Leesburg, Virginia, is his residence for purposes of the Charter as that term is defined therein.

9. The terms "department, office, or agency" as set forth in Charter Section 706 are not intended to be formal directive titles, rather they are descriptive terms intended to illustrate groupings of the City's administration, which can be identified or recognized as discrete, functioning administrative entities.

10. The Charter's residency requirement, Section 706, is not applicable only to administrative groupings formally titled as a "Department," "Office" or "Agency," rather the practical administrative function and hierarchy must be examined instead of merely the grouping's designated name.

11. The "heads" of "departments, offices or agencies" must:
- a. have their salary established by ordinance;
  - b. establish residency within the City;
  - c. be an exempt employee.

*See* Charter §§ 702(a)(iii), 706.

12. Regardless of Khokhar's title as "Manager" and his "department, office or agency" being titled a "Division," Khokhar serves as the head of a department, office or agency, and therefore is subject to the provisions of Charter Section 706.

13. Mere alteration of supervisory or departmental titles does not vary the effect and applicability of the Charter to those administrative heads, or the departments, offices or agencies they oversee.

14. So long as Khokhar maintains his residence outside of the City and continues as the head of a department, agency or office, here the Codes Division, he continues to violate Section 706 of the Charter.

15. Whether the Codes Division is part of the office of the Managing Director, or is a separate, stand alone department reporting to the Managing Director, is immaterial to the application of Charter Section 706.

16. Khokhar's failure to adhere to the terms and conditions of employment denoted in Charter Section 706, specifically residency, constitutes a forfeiture of his employment.

17. By not adhering to the residency requirements of Section 706, Khokhar has violated the terms and conditions of his employment and has been ineligible for ongoing employment since May 2, 2006, and his violation is continuing.

18. The Board recognizes the City's and the current administration's desire, or need, to reorganize the City's departments, offices and agencies, however it must be accomplished within the confines of the Charter, or the Charter must be amended.

19. Having found that Khokhar is the "head" of a "department, office or agency" within the City, and therefore, subject to the Section 706 residency requirement of the Charter, the Board addresses what may be classified as the "defenses" raised by Mr. Khokhar.

20. Khokhar argues that his salary was not set by City Council through the enactment of an ordinance, as required by Charter Section 706, and therefore, he cannot be considered the “head” of a “department, office or agency” under that section.

21. Khokhar’s reading of Charter Section 706 is self-serving.

22. If, as Khokhar contends, his salary was not established by ordinance as required by Charter Section 706, that is a separate violation of the Charter.<sup>10</sup>

23. Failing to establish Khokhar’s salary by ordinance, as required by the Charter, does not prevent him from being considered the “head” of a “department, office or agency” under the Charter.

24. Rather, the failure to establish Khokhar’s salary by ordinance is only a further failing by the City to adhere to the Charter by not properly qualifying the heads of the City’s departments, offices or agencies.

25. Likewise, Khokhar’s failure to establish residency as required by Charter Section 706, does not prevent him from being found a “head” of a “department, office or agency,” rather, the failure of Khokhar to establish residency within the City is only a further failing by him to adhere to the Charter in meeting the requirements of all such administrative “heads.”

26. Khokhar must be, and is, an exempt employee. Charter § 702(a)(iii).

27. The Board reject’s Khokhar’s defense that he was unaware of the residency requirement of Charter Section 706.

28. Khokhar had constructive notice of the provisions of the Charter, a public document, from his date of hire on May 2, 2005, he signed an oath of office swearing to abide by

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<sup>10</sup> A complaint for a Charter violation on that basis is not before the Board.

the Charter, and he had actual notice of the residency requirement from at least June 2006 forward, having been aware of the issues involved in the *Mukerji* matter. (R. at 74-75; Ex. “7”).

29. The Board concludes that the City has an obligation to the citizens of Reading and to the tax payers of the City to advise its personnel of the Charter Board’s Advisory Opinions and Final Decisions and Orders and to require that its personnel act in conformity with the Charter and the law interpreting the Charter.

30. The Board rejects all of the defenses asserted by Khokhar.

31. This matter arises under the City’s Charter and is therefore within the jurisdiction of the Board.

### **III. DETERMINATION OF THE BOARD<sup>11</sup>**

The Board holds the following:

A. that from not later than May 2, 2006, twelve (12) months from his date of hire, Khokhar has been in violation of the residency requirement of Section 706 of the Charter.

B. that merely titling the Codes Division as a “division” instead of a “department, office or agency” does not make Khokhar, or any other administrative head, immune from the residency requirements of Charter Section 706.

C. that merely titling Khokhar as a “manager” does not make Khokhar, or any other administrative head, immune from the residency requirements of Charter Section 706.

D. that Khokhar’s residence for purposes of the Charter, Section 105(d), is in Leesburg, Virginia.

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<sup>11</sup> The Board’s determination addresses the Jalil Complaint and the Ciarlone Complaint. Although two complaints were filed against Khokhar, the pertinent alleged Charter violation, namely residency, is the same in both Complaints. The Board’s findings of fact, conclusions of law, determination and penalties are equally applicable to each Complaint individually as they are applicable to both Complaints collectively.

**IV. PENALTIES IMPOSED**

Having considered the applicable factors stated in the Charter Board Ordinance at Section V(B)(2)(a)(i), and as a consequence of Khokhar's violation of Section 706 of the Charter, the Board imposes the following penalties:

**A. Public Censure**

The Board will, not earlier than thirty-one days from the date of this Final Order, notify the news media of this decision and provide the news media with a copy of the original of this Final Opinion and Order, and provide such other notice and information as required by Section V of the Charter Board Ordinance.

**B. Administrative Fine**

The maximum administrative fine of \$1,000 is hereby imposed upon Khokhar and is payable within thirty (30) days. The purpose of the administrative fine is to defray a fraction of the actual cost and expense incurred by the City in investigating, hearing and deciding Khokhar's violation.

**C. Fine**

Fines are assessed upon Khokhar as follows:

1. A fine of \$1,000 payable within thirty (30) days;
2. A continuing fine of \$300 per pay period from the date of this Final

Decision and Order until Khokhar complies in full with this Final Decision and Order. Every pay period in which Khokhar remains employed by the City while maintaining residency in violation of Charter Section 706 shall constitute a separate and ongoing violation of the Charter as found herein. Said fines shall be paid on the date of the beginning of each applicable pay period.

D. Further Penalty

The following further penalties are imposed by the Board:

1. Suspension

Khokhar is hereby suspended from his employment with the City, without pay, for a period of thirty (30) days, commencing on the day following the date of this Final Opinion and Order. The Board orders and directs the City Auditor to withhold pay from Khokhar beginning on the day following the date of this Final Opinion and Order and continuing for a total of thirty (30) days.

2. Desist from Violating and Compliance

Khokhar shall cease and desist from violating the Charter, as found herein, and shall establish residency within the City, in compliance with Charter Section 706 and Charter Section 105(d), on the following terms:

a. Not later than thirty (30) days from the date of this Final Opinion and Order, Khokhar shall submit an affidavit to the Board's Solicitor, in a form acceptable to the Board, affirming Khokhar's intention to comply with the Final Opinion and Order of the Board and to establish residency as defined by the Charter within the City within 120 days of the date of the Final Opinion and Order.

b. Failure to submit the aforementioned affidavit to the Board's Solicitor within the time period specified shall cause immediate termination of Khokhar's employment with the City, effective the thirty-first (31<sup>st</sup>) day following the date of this Final Opinion and Order.

c. Should Khokhar submit the required affidavit, and continue to fail to establish residency within 120 days of the date of the Final Opinion and Order, Khokhar's

employment with the City shall be terminated effective the 121<sup>st</sup> day following the date of this Final Opinion and Order.

E. Considerations of the Board

In determining the penalties assessed against Khokhar, the Board considered each of the factors set forth in Section V(B)(2)(a)(i) of the Charter Board Ordinance. This matter concerns a continuing violation over a period of more than two years. Viewed on a daily basis, this matter concerns approximately 500 separate daily violations on a per work week basis. The violation of the Charter is clear and is admitted by Khokhar. The Board views Khokhar's choosing to ignore the residency requirement of the Charter as a convenient and intentional choice made by him. As in *Mukerji*, left unaddressed, this violation threatens to weaken the Charter and the City and would provide an untenable precedent for other heads of departments, offices and agencies, and an impermissible precedent for the City to merely rename departments, offices and agencies, and re-title personnel, so as to try to avoid application of Charter Section 706.

V. ORDER

The Charter Board enters the Order attached hereto.

CITY OF READING CHARTER BOARD

By: Susan T. Gibson  
Susan Gibson, Chair

Date: 7/21/08

THE CHARTER BOARD OF THE CITY OF READING

IN RE: Investigation of : Complaint Filed: November 8, 2007  
Jatinder S. Khokhar : Complaint Filed: December 7, 2007  
: :  
: Investigation Nos. 18 & 21

**ORDER**

AND NOW, this 21<sup>st</sup> day of July, 2008, upon consolidation for hearing of Charter Board Investigation Nos. 18 and 21, and after conducting an evidentiary hearing in accordance with the Charter Board Ordinance, the Charter Board of the City of Reading (“Board”) finds that:

1. since not later than May 2, 2006 Jatinder Khokhar (“Khokhar”) violated Section 706 of the Charter of the City of Reading (“Charter”), by not maintaining his residence within the City;

2. the mere title of Khokhar as “manager” does not make him immune from the residency requirements of Charter Section 706 where the “division” which he manages is in all respects on par with a “department, office or agency” and where his duties and responsibilities as a “manager” are on par with those of a “head” of a “department, office or agency” of the City;

3. the mere naming of the Codes Division of the City’s administration as a “division” instead of a “department, office or agency” does not insulate the head of the Codes Division from the residency requirements of Charter Section 706; and

4. Khokhar’s residence for purposes of the Charter, Section 105(d), is in Leesburg, Virginia.

In accordance with the Final Opinion and Order, the following is **ORDERED**:

A. Khokhar shall be publicly censored as provided by Section V of the Charter Board Ordinance;

B. An administrative fine of \$1,000 is hereby imposed upon Khokhar, payable within thirty (30) days;

C. A fine of \$1,000 is hereby imposed upon Khokhar, payable within thirty (30) days;

D. A continuing fine of \$300 per pay period from the date of this Final Decision and Order until Khokhar complies in full with this Final Decision and Order, payable on the date of the beginning of each pay period; and

E. The following further penalties are hereby imposed:

1. Suspension

Khokhar is hereby **SUSPENDED** from his employment with the City of Reading, without pay, for a period of thirty (30) days, commencing on the day following the date of this Final Opinion and Order. The Board **ORDERS** and **DIRECTS** the City Auditor to withhold pay from Khokhar beginning on the day following the date of this Final Opinion and Order and continuing for a total of thirty (30) days.

2. Desist from Violating and Compliance

Khokhar shall cease and desist from violating the Charter and shall establish residency within the City, as defined by the Charter and in compliance with Charter Sections 105(d) and 706, on the following terms:

a. Not later than thirty (30) days from the date of this Final Opinion and Order, Khokhar shall submit an affidavit to the Board's Solicitor, in a form acceptable to the Board, affirming Khokhar's intention to comply with the Final Opinion and Order of the Board and to establish residency within the City within 120 days of the date of the Final Opinion and Order.

b. Failure to submit the aforementioned affidavit to the Board's Solicitor within the time period specified shall cause immediate termination of Khokhar's employment with the City, effective the thirty-first (31<sup>st</sup>) day following the date of this Final Opinion and Order.

c. Having submitted the required affidavit, Khokhar's failure to establish residency within 120 days of the date of the Final Opinion and Order shall cause immediate termination of Khokhar's employment with the City, effective the 121<sup>st</sup> day following the date of this Final Opinion and Order.

F. Copies of this Final Opinion and Order shall be transmitted to the following:

1. Mr. Jatinder Khokhar (via certified, return receipt US Mail)
2. Charles Younger, Esquire, Solicitor, City of Reading
3. David K. Brennan, Esquire, Investigative Officer
4. Complainant, Guillermo D. Jalil (via certified, return receipt US Mail)
5. Complainant, Mary Ann Ciarlone (via certified, return receipt US Mail)
6. Thomas McMahon, Mayor of the City of Reading
7. Ryan P. Hottenstein, Acting Managing Director
8. Mr. David Cituk, City Auditor
9. Eric B. Smith, Solicitor, Charter Board

CITY OF READING CHARTER BOARD

By:   
Susan Gibson, Chair