From:	Aileen Anderson
Sent:	Wednesday, August 7, 2024 12:41 PM
To:	Michele Richards
Cc:	nkovacevich@ocfairboard.com; bbagneris@ocfairboard.com; tbilezikjian@ocfairboard.com; djackson@ocfairboard.com; dlabelle@ocfairboard.com; npham@ocfairboard.com; nrubalcava-garcia@ocfairboard.com; rruiz@ocfairboard.com; OCF Executive; Brian Cummings
Subject:	June, July and August Board payments OCF Equestrian Center
Attachments:	OCF contract summary letter updated 080324.pdf

Good morning,

I wanted to reaffirm for you that our (Cummings/Anderson) payments for June, July and August (which have remained uncharged on my account) are available in an escrow account in good faith. I remain hopeful that we can sit down and negotiate an equitable board agreement for the health and safety of all concerned.

The 50+ horses in this situation have now been denied a normal level of exercise since August 1st. With all access to all turnouts and exercise arenas blocked, and only paved areas that are unsafe for trot or canter work accessible, **this is an increasingly hazardous situation for the horses and users of the equestrian center. Indeed, CEO Richards and the board received notice that one rider was injured yesterday, and a second incident report for a separate rider will be filed today.**

For horses in training and lesson programs, this sudden change in activity can lead to serious health problems, as these large animals are accustomed to a minimum of 1 hour of trot/canter work 6 days per week. This change in activity level risks colic and injury to themselves or others as they become increasingly anxious with this level of confinement and restriction of activity. **Prudence would dictate that the contract issues highlighted below not be a basis for placing the welfare of animals and those trying to take care of them at risk.**

For reference on normal exercise and activity needs of horses, I append the following links. Additionally, California code for animal welfare references the UC Davis standards https://vetext.vetmed.ucdavis.edu/sites/g/files/dgvnsk5616/files/inline-files/California-Minimum-Standards-2023.pdf. **In this regard, I have spoken with two of the three authors of these guidelines, who noted that denying this access may be a criminal offense under California Penal Code section 597t, which requires adequate exercise access to be provided for animals in confinement.** Specifically: "§ 597t of the California Penal Code states: Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area." Ultimately, whether under criminal code or common sense, the rationale for choosing these aggressive and harmful steps over a peaceful discussion and resolution will be difficult to justify in the long run.

https://www.jecballou.com/trainingtips/how-long-should-i-train-my-horse-daily#:~:text=This%2025%2D%20to%2030%2Dminute,brisk%20walk%20or%20easy%20jog

https://www.advancedequinehv.com/how-much-exercise-do-horses-need/

https://www.equiculture.net/blog/what-is-essential-exercise-for-a-horse

As I have summarized previously (letter appended below), this is at the heart of the contract dispute that should not be used to place animals or people at risk. In brief:

The rental agreement used the F-31 rental form which is provided to all DAAs by the California Department of Food and Agriculture (CDFA; "Fairtime and Interim Event Rental Agreement") as a template "legally sufficient for 2-3 day events". **Critically, the contract provided to the boarders does not define a clear scope of work for services and responsibilities to renters regarding support for maintenance and upkeep of facilities, amount of access, contains numerous clauses that are irrelevant, and numerous clauses that are inappropriate because of the amount of deferred maintenance on the facility since the fairgrounds contracted with LWI.** When boarders proposed contract edits to address these issues and requested clarification of the services to be provided under the new boarding contract, OCF staff rejected their payments and 30 day notice to quit evictions were issued.

CEO Richards has stated that "There's nothing to meet about at this point. They have been informed that we can't accept any edits to that standard agreement..", However, the ability to modify contracts including the F-31 rental form is defined in the DAA contract manual, page 60: "3 – F-31 "Rental Agreement Forms" Any changes made to documentation initialed by both parties". **It is clearly normal practice to adapt these agreements to meet the unique demands of different renters and situations.** Given that this is an agreement that is necessarily being adapted from a 2-3 day temporary rental template to an arrangement that is to last for the next 6 months, it is reasonable to expect both discussion and an effort to reach common ground.

Critically, the contract is silent with regard to establishing either a baseline for the current state of Association property, or defining what falls into this category of property. This would place renters under this contract in an untenable position. The hot walkers, referenced in the contract on Page 10 Item 16, provide a tangible basis for understanding this concern. The hot walkers have not been maintained and do not work safely, yet there is a specific clause dedicated to their use. If one signs this contract, and there is no pre-inspection of the facility to agree on existing repair state/damages, would the deposit paid by a renter be subject to use to repair them? If functioning hot walkers are a part of the rent paid, what obligation is the OCF under to repair and maintain them? Similarly, since these contracts were issued at least two of the cross-tie poles at the facility have failed because of a lack of welding maintenance; one of these while a horse was in the cross ties creating a clear hazard. Again, if one signs this contract, and there is no agreement regarding existing repair state/damages, would the deposit paid by a renter be subject to use to repair them? Would a renter be charged for damages?

For all of these reasons, I request that CEO Richards and the Board reconsider their position, before an animal or person is seriously injured.

Aileen Anderson
Brian Cummings

June 26, 2004, updated August 3, 2024

OC Fairgrounds Board of Directors

We appreciate the offer to meet with CEO Richards regarding the new equestrian center contracts. Unfortunately, while two meeting days were offered, each of these offers was made with short notice. An offer received by email Friday May 24 was made to provide individual meeting times Saturday May 25 between 10-11:30 a.m, and an offer received by email Thursday May 30 to meet 3:30-5pm on Thursday May 30. As a result, many boarders with jobs and kids, certainly myself, were unable to take advantage of these opportunities.

It is unfortunate that, given these limited opportunities, OCF staff have declined to discuss proposed modifications to the contract, and declined to accept payment - even when made in full for the newly established rates - for contracts that were signed with markups.

The subsequent issuance of eviction notices during the first scheduled equestrian show at the OCF is also unfortunate, as is the state of communication with the public on the details of the revised contract and evictions.

Accordingly, we respectfully submit the following points and comments regarding both communication with the public in the June 24 edition of the OC Register and the details of the new boarder (renter) contracts below:

1) OCF staff are quoted as stating the following in the June 24 edition of the OC Register: *"No one expressed concern to me about any of the terms in those contracts".*

This is not accurate. Many boarders approached staff about the terms of the contract in the months leading up to the eviction notices, including being told to submit contract markups in writing in emails going as far back as March of 2024. Other boarders have documented and provided records of those communications.

In addition, at least one trainer communicated in a one-on-one meeting with CEO Richards that it would not be possible to sign on to some of the clauses, specifically the requirement for a deposit and liability for damages to stalls and other areas going forward, because of the large about of deferred maintenance that has accumulated since the OCF took over management of the facility.

2) OCF staff are also quoted as follows: "*Richards said the rental agreements have standard terms, including the ones cited by Graves, that are part of a state-mandated template and that these rental agreements have been signed without edits in the past."*

The rental agreement was modeled on the F-31 rental form template. This template is provided to all DAAs by the California Department of Food and Agriculture. The F-31 form is called the "Fairtime and Interim Event Rental Agreement".

Appended is a copy of that agreement as distributed by the CDFA, with cover letter, which states:

> *"Per Assembly Bill 2490, District Agricultural Associations (DAAs) may contract in accordance with Board developed and approved written policies; it is* ***recommended***

that *DAAs adopt the F-31 template as a* ***fair-time or short-term interm event rental template****, excluding carnival agreements.* ***The revised F-31 template is legally sufficient for 2-3 day events****."*

A contract template intended for 2-3 day events is not appropriate for long-term rental or maintenance of an equestrian facility. Also appended is a document comparison of the F-31 form and equestrian rental agreement for reference. As boarders and trainers have communicated, review of these documents makes it clear that this is a one-sided contract that is not in line with industry standard contracts, and minimally addresses what the OCF is providing in terms of services. For example, there are 11 pages of defined requirements for renters and only ½ page of what is provided by the OCF to renters, with no clear description of services, responsibilities to renters regarding support for maintenance and upkeep of facilities.

Moreover, there are numerous clauses in the F-31 based short term rental contract that are irrelevant, or inappropriate because of the amount of deferred maintenance on the facility since the fairgrounds assumed operations with Lopez Works. For example, Page 1 Item 6, Page 10 Item 23, and Page 3 Item 7 - all of which focus on establishing a security deposit and the responsibility of the renter for damages. There is significant deferred maintenance of stalls, fences and other property that fall within these clauses, but the contract is silent with regard to establishing either a baseline for the current state of Association property, or defining what falls into this category of property. This would place renters under this contract in an untenable position. The hot walkers, referenced in the contract on Page 10 Item 16, provide a tangible basis for understanding this concern. The hot walkers have not been maintained and do not work safely, yet there is a specific clause dedicated to their use. If one signs this contract, and there is no pre-inspection of the facility to agree on existing repair state/damages, would the deposit paid by a renter be subject to use to repair them? If functioning hot walkers are a part of the rent paid, what obligation is the OCF under to repair and maintain them? Similarly, since these contracts were issued at least two of the cross-tie poles at the facility have failed because of a lack of welding maintenance; one of these while a horse was in the cross ties creating a clear hazard. Again, if one signs this contract, and there is no pre-inspection of the facility to agree on existing repair state/damages, would the deposit paid by a renter be subject to use to repair them? Would a renter be charged for damages?

3) OCF staff are also quoted stating: *"There's nothing to meet about at this point. They have been informed that we can't accept any edits to that standard agreement.."*

Critically, the ability to modify contracts including the F-31 rental form is defined in the DAA contract manual, page 60:

3 – F-31 "Rental Agreement Forms"

- *Submit 3 completed signed copies of the F-31 with all applicable items completed as required.*
- *Authorized signatures of contractor and DAA CEO on each copy of F-31.*
- *If changing termination clause, add new clause and line out pre-printed clause on reverse of F-31. Both parties initial.*
- ***Any changes made to documentation initialed by both parties.***

It is clearly normal practice to adapt these agreements to meet the unique demands of different renters and situations. Given that this is an agreement that is necessarily being adapted from a 2-3 day temporary rental template to an arrangement that is to last for the next 6 months, it is reasonable to expect both discussion and an effort to reach common ground.

Examples of additional contract comments which impact the ability of renters to move forward without further discussion/revisions.

Page 3 Item 5
"Association will furnish necessary janitor service for restrooms, but Renter must, at his/her own expense, keep the Premises and adjacent areas properly arranged and clean."
This statement is unclear. What activities are required by the renters?

Page 4 Item 14
"Contractor, by signing this contract…"
Specifies contractor and not renter, which is inappropriate to this agreement.

Page 5 Item 2
"This is a month to month agreement which may be terminated by either party on 30 days notice".
Month to month agreements are not at all in alignment with industry standard for equestrian facilities.

Page 8 Item 12f
"Availability of arenas will be based off OCFECs public program needs. Notification regarding arenas availability and/or closures will be communicated to Renters."
The period of advance notice should be defined. All of the existing programs on site have schedules that are established weeks, and sometimes months, in advance. Creating a structure with no predictability will severely impact the ability of the "Renters" to maintain existing public programming. Moreover, safety is a critical concern for both boarders and trainers. Rescheduling of lessons/programs, daily exercise programs to maintain equine health, and other training activities will certainly be necessary to accommodate at least some aspects of public programming, for which an agreed upon term of advance notice is essential.

Page 9 Item 15 Common Areas
"Fees will be assessed on size"
As previously communicated to staff and the board, this stipulation is well outside the industry standard, and seem to fall into a junk fee category.

Together, these issues result in a one-sided contract, which meets the procedural requirement for an unconscionable contract under California law. Similarly, the overly harsh imposition of a cost structure requirement to make up the deficit created by the OCF decision to sign and retain an exorbitantly expensive contract with Lopez Works on renters who have no alternatives meets the substantive requirement for an unconscionable contract under California law.

Thank you for your consideration of this summary,

Aileen Anderson
Brian Cummings