

June 25, 2019

Mr. Christopher Williams
President
Balfour Beatty Communities, LLC
1 Country View Road
Malvern, PA 19355

Dear Mr. Williams:

I am writing today to express deep concern and request additional information regarding recent reports that Balfour Beatty Communities, LLC (Balfour) failed to meet contractual standards for the provision of safe and sanitary housing to military families – but submitted falsified maintenance records to the Department of the Air Force (Air Force) in order to “boost income” by falsely claiming to qualify for bonuses paid for meeting those standards.¹ My initial investigation of problems with the Military Housing Privatization Initiative (MHPI) revealed significant failures with the privatized program that are resulting in members of our military and their families living in unsafe and unsanitary homes that failed to meet basic quality standards.² It is especially frustrating to discover now that your company “systematically falsified” maintenance logs, leaving families in unsafe conditions, instead of providing the “quality homes” that you guaranteed Congress and the public you were providing³ – and to learn that your company appears to have earned millions of dollars in bonuses as a result of these falsehoods.

After media reports late last year revealed that private military housing companies were failing to provide quality housing to our military personnel and their families, I wrote to your company on February 6, 2019 requesting specific information about your military housing lease agreements with the military services and about how your company develops and manages base housing for military families.⁴ You reassured me in a letter responding to that request, in meetings with my staff and in a Senate Armed Services Committee hearing on this issue, that “delivering an exceptional living experience for service members and their families ... is Balfour

¹ Reuters, “Air Force landlord falsified records to boost income, documents show,” M.B. Pell, June 18, 2019, <https://www.reuters.com/investigates/special-report/usa-military-maintenance/>.

² Office of Senator Elizabeth Warren, “Senator Warren Releases Her Investigation of the Pentagon's Substandard Military Base Housing Program,” May 01, 2019, <https://www.warren.senate.gov/oversight/letters/senator-warren-releases-her-investigation-of-the-pentagons-substandard-military-base-housing-program>.

³ Balfour Beatty Communities, “Written Statement,” February 13, 2019, https://www.armed-services.senate.gov/imo/media/doc/Williams_02-13-19.pdf.

⁴ Letter from Senator Elizabeth Warren to military housing developers and military services, February 6, 2019, <https://www.warren.senate.gov/oversight/letters/senator-warren-questions-military-housing-developers-on-defense-dept-partnership-agreements>; Reuters, “Ambushed at home: the hazardous, squalid housing of American military families,” <https://www.reuters.com/investigates/section/usa-military/>.

Beatty Communities' top priority."⁵ But these new allegations, if true, indicate that you have systematically broken that promise.

Balfour – one of several major private military developers that “operate 99 percent of domestic military family housing”⁶ – currently runs 21 Military Housing Privatization Initiative (MHPI) projects at 55 military installations in thirty states, and is responsible for the maintenance and management of 43,000 military homes with 150,000 residents.⁷ Your company entered into an agreement with the Air Force in July 2008 to develop and manage military housing facilities at three installations – Fairchild Air Force Base in Washington, Tinker Air Force Base in Oklahoma, and Travis Air Force Base in California, – collectively known as the AMC West project.⁸ According to recent reports, all three of these installations are now subject to “ongoing investigations” by the Federal Bureau of Investigations and the Air Force Office of Special Investigations for their “record keeping practices”⁹

Balfour allegedly employed these misleading practices to deceive the Air Force into awarding the company performance incentive fees – which depend on how quickly the company responds to emergency, urgent and routine work orders, and on how the company scores on maintenance surveys completed by residents. Balfour, like other military housing developers that signed agreements with the military services uses a complicated web of subsidiaries and affiliates to serve as property managers and developers that receive these incentive fees.¹⁰ Over the last ten years, Balfour and its affiliate created to manage the AMC West Project, have been receiving a 2.5% monthly base management fee calculated from the Effective Gross Revenue of the project, and up to 2% of the Effective Gross Revenue of the project as incentive management fees.¹¹ Since 2009 – Balfour and its affiliates have received almost \$10 million in total performance incentive fees for asset and property management of the AMC West project.¹² But if the new allegations are true, it appears that Balfour received these rewards – funded mostly with the rent Air Force servicemembers and their families pay to live in the houses Balfour was failing to maintain – based on years of falsified records.

⁵ Balfour Beatty Communities, Response to Senator Elizabeth Warren Regarding Private Military Housing Investigation Document Request, February 20, 2019, [on file with the Office of Senator Warren].

⁶ Government Accountability Office, “Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Reporting, and Risk Assessment,” March 2018, <https://www.gao.gov/assets/700/690621.pdf>.

⁷ Balfour Beatty Communities, Response to Senator Elizabeth Warren Regarding Private Military Housing Investigation Document Request, February 20, 2019, [on file with the Office of Senator Warren].

⁸ Balfour Beatty Communities, “Written Statement,” February 13, 2019, https://www.armed-services.senate.gov/imo/media/doc/Williams_02-13-19.pdf; Balfour Beatty Communities, Response to Senator Elizabeth Warren Regarding Private Military Housing Investigation Document Request, February 20, 2019 [on file with the Office of Senator Warren].

⁹ CBS News, “Military housing contractor ignored dangerous filth and misled Air Force, investigation shows,” June 18, 2019, <https://www.cbsnews.com/news/balfour-beatty-mold-ant-infestations-and-leaks-inside-homes-managed-by-one-of-the-militarys-largest-housing/>; Reuters, “Air Force landlord falsified records to boost income, documents show,” M.B. Pell, June 18, 2019, <https://www.reuters.com/investigates/special-report/usa-military-maintenance/>.

¹⁰ Office of Senator Elizabeth Warren, “Senator Warren Releases Her Investigation of the Pentagon's Substandard Military Base Housing Program,” May 01, 2019, <https://www.warren.senate.gov/oversight/letters/senator-warren-releases-her-investigation-of-the-pentagons-substandard-military-base-housing-program>.

¹¹ Balfour Beatty Communities, Response to Senator Elizabeth Warren Regarding Private Military Housing Investigation Document Request, February 20, 2019, [on file with the Office of Senator Warren].

¹² Air Force, Response to Questions for the Record, May 28, 2019, [on file with the Office of Senator Warren].

According to the reports, at least one Balfour installation “kept two sets of maintenance books,” in order to mislead the Air Force about how quickly it was responding to maintenance requests and regularly “backdated repair requests, filed paperwork claiming false exemptions from response-time requirements, or closed out unfinished maintenance requests.”¹³ The company also reportedly “issued broad instructions to employees to alter the books” creating and sanctioning a culture of fraud in its local housing offices. Balfour claims, a “single employee acted inappropriately” and fired that individual in mid-2016. Yet, it appears the company continued to modify its response-time reports to the Air Force after the firing. In one instance – after the firing – it informed the Air Force that “it completed between 96% and 98% of maintenance calls on time” when in fact “the company completed 12% of its maintenance calls late” – a failure rate that was three to six times higher than Balfour initially reported.¹⁴

These falsified documents allegedly went uncorrected and unchallenged for years because the Air Force Civil Engineering Center (AFCEC) – the unit tasked with overseeing and evaluating the Air Force’s privatized housing – blocked attempts to hold Balfour accountable and “sided” with your company. In the last few years alone, AFCEC officials allegedly ignored at least 18 specific warnings from local installation level Air Force housing employees, instead “giving the company high service marks and advising [the local officials] to drop their complaints.” The Air Force reportedly, “stopped paying incentive fees to Balfour Beatty at [Travis and Fairchild Air Force Bases] late last year, pending a review ... [but] never clawed back incentive fees paid to Balfour Beatty ... nor has AFCEC audited the maintenance records of any other base managed by” Balfour.¹⁵ Moreover, “the Air Force has [never] completely withheld a performance fee from any privatized military housing provider,” including Balfour.¹⁶ This pattern of behavior raises concerns about whether the Air Force is effectively using its oversight authorities and its contractual authority to withhold incentive payments, and about whether Balfour’s profits – around \$33 million in annual net profits through its military housing projects,¹⁷ and “up to \$2 million in incentive fees” since 2008, at the Tinker Air Force Base¹⁸ – may have been earned in whole or in part through a pattern of fraudulent reporting.

In your response to my February letter you reassured me that Balfour “requires that all maintenance requests be entered and tracked in a work-order database,” and that “the relevant armed service branch (Army/Air Force/Navy) has access to these systems to monitor performance.” Moreover, Balfour’s management company is contractually obligated to “keep and maintain accurate, true, and complete books and records” including “maintenance reports for each [installation] showing the number of maintenance request from Tenants and the disposition of such requests, [and] maintenance records” that it has to provide to the project company co-

¹³ Reuters, “Air Force landlord falsified records to boost income, documents show,” M.B. Pell, June 18, 2019, <https://www.reuters.com/investigates/special-report/usa-military-maintenance/>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Air Force, Response to Questions for the Record, May 28, 2019, [on file with the Office of Senator Warren].

¹⁷ Senate Committee on Armed Services, “Current Condition of the Military Housing Privatization Initiative,” February 13, 2019, <https://www.armed-services.senate.gov/hearings/19-02-13-current-condition-of-the-military-housing-privatization-initiative>.

¹⁸ Reuters, “Air Force landlord falsified records to boost income, documents show,” M.B. Pell, June 18, 2019, <https://www.reuters.com/investigates/special-report/usa-military-maintenance/>.

owned by the Air Force.¹⁹ Based on the recent allegations that at least one Balfour installation “systematically falsified” maintenance logs and “kept two sets of maintenance books” you and/or your affiliate appear to be in violation of your agreement with the project company. Yet, according to you, “BBC has never been penalized or fined for a violation of agreements with the military departments.”²⁰

In order to help me better understand the misleading practices alleged in the June 18, 2019 *Reuters* report, and the extent to which you and other high-ranking company executives may have known about this pattern of behavior, I ask that you provide answers to the following questions no later than July 9, 2019.

1. Were you or any other Balfour Beatty Communities, LLC executives aware of the misleading maintenance log recordkeeping and reporting practices at Tinker Air Force Base or any other installations or projects managed and operated by Balfour Beatty Communities, LLC and/or its affiliates? If so, when did you and/or other Balfour executives first become aware?
 - a. Did Balfour inform local Air Force housing officials, AFCEC officials, or any other Air Force units if and when the company first became aware of these practices?
 - b. Did Balfour conduct investigations into these allegations? If so, please provide complete copies of your findings. If not, what actions did Balfour take in response to these allegations?
2. Did Balfour have any communication with local Air Force housing officials, AFCEC officials, or any other Air Force units about the misleading practices outlined in the June 18, 2019 *Reuters* article, before the publication of the report? If so, please provide any emails, notes, or other written communications between your company and Air Force officials regarding these practices.
3. Were you or any other Balfour Beatty Communities, LLC executives aware of any internal memos circulated to Balfour employees “instructing them on how to engage in” falsifying maintenance logs – through backdating repair requests, “claiming false exemptions from response-time requirements,” closing out unfinished maintenance requests, or any other misleading recordkeeping and reporting practices? If so, when did you and/or other Balfour executives first become aware of these memos?
 - a. Did Balfour conduct investigations into these allegations? If so, please provide complete copies of your findings. If not, what actions did Balfour take in response to these allegations?
4. Does Balfour make available uniform standard operating procedure manuals – outlining processes for maintenance work, inspections, recordkeeping and reporting – to property management staff? If so, please provide complete copies of these

¹⁹ Balfour Beatty Communities, Response to Senator Elizabeth Warren Regarding Private Military Housing Investigation Document Request, February 20, 2019, [on file with the Office of Senator Warren].

²⁰ Balfour Beatty Communities, Response to Senator Elizabeth Warren Regarding Private Military Housing Investigation Document Request, February 20, 2019, [on file with the Office of Senator Warren].

manuals. If not, what processes and guidelines does Balfour have in place to guarantee that residents are living in "quality homes"?

5. Does Balfour plan to conduct a review of its current maintenance work, maintenance log recordkeeping and reporting practices and guidelines?
6. Has Balfour conducted any internal audit or review to determine what incentive fees earned by the company were based on fraudulent reporting? If so, what were the findings of these audits or reviews?
7. Does your company intend to return any incentive fees that were obtained as a result of false or inaccurate reporting to Air Force officials?
8. Your company provided information to my office and to the Senate Armed Services Committee in response to a series of information requests and questions for the record. Was any of this information based on false or fraudulent maintenance logs or other records? If so, please clarify which information was false or misleading, and please provide my staff and the Committee with accurate information.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator