

THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL



AUDIT REPORT

**AUDIT OF LEASE MANAGEMENT
AT THE
VIRGIN ISLANDS PORT AUTHORITY**

**ILLEGAL OR WASTEFUL ACTIVITIES SHOULD BE REPORTED TO
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GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE V. I. INSPECTOR GENERAL
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EXECUTIVE SUMMARY

The following summarizes the major findings resulting from the Audit of Lease Management at the Virgin Islands Port Authority.

Finding 1: Accounts Receivables (pages 4 to 9)

- ✓ Collection procedures established to ensure timely payments of delinquent rent were not always effectively followed.
- ✓ Enforcement actions taken were not always effective in providing a long term solution for chronic delinquent tenants.
- ✓ As of October 10, 2003, of 355 accounts with outstanding balances of \$4.4 million, \$2.5 million was delinquent for more than 30 days.
- ✓ The provision to assess and collect 1.5% interest for delinquent rental payment was not being enforced
- ✓ At least \$99,495 in interest on late payments were not collected.

Finding 2: Subleasing (pages 10 to 13)

- ✓ Subleasing activities were not monitored.
- ✓ Some tenants violated subleasing agreements by not occupying any of the leased space; but rather became landlords, and collected yearly income from the Port Authority's properties.



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March 11, 2005

Robert O'Connor, Jr.
Chairman
Virgin Islands Port Authority Board
P. O. Box 301707
St. Thomas, Virgin Islands 00803-1707

Dear Mr. O'Connor, Jr.:

Attached is the final report of our audit of lease management as it relates to the collection of rents and fees at the Virgin Islands Port Authority (Port Authority).

The objective of the audit was to determine if existing enforcement procedures were being followed to ensure the timely and accurate payment of rents and other fees.

Our audit disclosed that although the Port Authority maintains an accounting of leased properties, improvements are needed in its management of its leases and leased property, especially as it relates to accounts receivables, delinquent accounts, and controls over subleasing.

Specifically, we found that: (i) the collection procedures established to ensure the timely payment of delinquent rents were not always effectively followed; (ii) enforcement actions taken were not always effective in providing a long-term solution for chronic delinquent tenants; (iii) the provision to assess and collect 1.5% interest for delinquent rental payment was not being enforced; and, (iv) subleasing activities were not monitored.

As a result of these conditions, we concluded that: (i) as of October 10, 2003, of 355 accounts with outstanding balances of \$4.4 million, \$2.5 million was delinquent for more than 30 days; (ii) tenants were regularly late in making rental payments; (iii) at least \$99,495 in interest on late payments were not collected; and, (iv) some tenants violated subleasing agreements by not occupying any of the leased space; but, rather became landlords, and collected yearly income from the Port Authority's properties.

Robert O'Connor, Jr.
Chairman - VIPA Board
March 11, 2005
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An exit conference was held with the Executive Director of the Port Authority on November 19, 2004. A response, dated January 18, 2005, was received indicating general agreement with the recommendations made. It is included as an appendix to this report beginning on page 14.

If you or your staff require additional information, please call me at 774-6426.

Sincerely,

A handwritten signature in blue ink that reads "Steven van Beverhoudt". The signature is written in a cursive style with a large initial 'S'.

Steven van Beverhoudt, CFE, CGFM
V. I. Inspector General

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INTRODUCTION

BACKGROUND

The Virgin Islands Port Authority (Port Authority) is an autonomous agency of the Government of the Virgin Islands (Government) that manages the territory's municipal, aviation, and marine facilities, and certain other properties that were transferred to it by the Federal Government. The Port Authority was established in 1968 by Act No. 2375 and is governed by a nine-member Board of Directors (Board). Four of these members are from the Governor's Cabinet and serve "ex-officio". The remaining five members are appointed by the Governor, with the consent of the Legislature and represent the private sector. The day-to-day operations are supervised by an Executive Director, who is appointed by the Board.

The Port Authority's operations are subject to laws contained in the Virgin Islands Code, and in the regulations of the Federal Aviation Administration. Among other provisions, these laws and regulations require the Virgin Islands Port Authority to levy a variety of fees for access and use of its aviation, marine, and other facilities. It also has a statutory responsibility to encourage the widest possible use of its facilities consistent with sound fiscal management. The Port Authority has the power to acquire property and to construct, develop, improve, operate, and manage properties under its control.

On St. Thomas, the Port Authority manages and operates the Cyril E. King Airport, Charlotte Amalie Harbor, Crown Bay Port, the Red Hook Dock, some commercial properties in Subbase and the Bournefield Housing Development. On St. John, the Port Authority manages the Boynes Dock, as well as properties at Enighed Pond and Coral Bay. The St. Croix properties include the Alexander Hamilton Airport, marine facilities at Gallows Bay and Kings Wharf in Chrstiansted, the Frederiksted Dock, and the Third Container Port Terminal.

Based on information received from the Port Authority, there are 286 active leases listed on their rent roll with anticipated revenues¹ of \$ 6,981,835.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our audit was to determine if existing enforcement procedures were being followed to ensure the timely and accurate payment of rents and other fees.

The scope of our audit covered outstanding accounts receivables in existence through October 10, 2003.

1

Revenues from airline accounts include counter space, landing fees and passenger fees. Revenues from the cruise lines include docking fees and passenger fees. Property Management does not differentiate between the various fees in their accounts receivable listing. Collections and follow-up of accounts receivables is the responsibility of Property Management.

To accomplish our audit objective, we interviewed Port Authority officials, examined selected lease files and other documents at the Property Management Division (Property Management) and Accounting Division (Accounting) at the Port Authority.

Except for the standard requiring that a peer review be conducted every three years, our audit was conducted in accordance with the “Government Auditing Standards” issued by the Comptroller General of the United States. We included such tests and procedures that were considered necessary under the circumstances.

As part of our review, we evaluated the internal controls of the Port Authority’s operations to the extent necessary to accomplish the audit objective. Weaknesses identified during the review are discussed in the Audit Results section of the report.

PRIOR AUDIT COVERAGE

In 2001, the Office of Inspector General, Department of the Interior performed a review of Property Management at the Port Authority. The report entitled “Billing and Collection Functions, Virgin Islands Port Authority” stated that the Port Authority needed to: (i) improve controls over lease management; (ii) collection of delinquent accounts; and, (3) collection and deposit of parking lot fees. As a result, 11 recommendations were made to the Port Authority addressing the internal control weaknesses disclosed by the audit. Additional information was requested on eight of the recommendations, two were considered resolved but not implemented, and one was considered fully implemented.

AUDIT RESULTS

CONCLUSIONS

The results of our audit showed that, although the Port Authority maintains an accounting for leased properties, improvements are needed in its management of its leases and leased properties, especially, as it relates to accounts receivables, delinquent accounts, and controls over subleasing.

Specifically, we found that: (i) the collection procedures established to ensure timely payments of delinquent rent were not always effectively followed; (ii) enforcement actions taken were not always effective in providing a long term solution for chronic delinquent tenants; (iii) the provision to assess and collect 1.5% interest for delinquent rental payment was not being enforced; and, (iv) subleasing activities were not monitored.

As a result of these conditions, we concluded that: (i) as of October 10, 2003, of 355 accounts with outstanding balances of \$4.4 million, \$2.5 million was delinquent for more than 30 days; (ii) tenants were regularly late in making rental payments; (iii) at least \$99,495 in interest on late payments were not collected; and, (iv) some tenants violated subleasing agreements by not occupying any of the leased space; but rather became landlords, and collected yearly income from the Port Authority's properties.

These results are discussed in more detail in the findings sections of this report.

FINDING 1: ACCOUNTS RECEIVABLES

Although Property Management has made positive improvements in managing leases and leased properties, they have not consistently followed the collection procedures established to ensure the timely payment of delinquent rents. In addition, actions taken did not provide a long term solution for chronic delinquent tenants. As a result, as of October 10, 2003, there were 355 accounts, with an outstanding balance of \$4.4 million. Of these accounts receivables, 286 accounts valued at \$3.4 million were listed as active, and the remaining 69 accounts representing \$960,379, were considered inactive. Also, at least \$99,495 in interest may have been lost because of the Port Authority's failure to enforce the interest provision of the various leases.

Criteria

In 2000, the Port Authority updated their collection procedures, established in 1986, to aid in the management of leases. These procedures were incorporated in the "V.I.P.A. Property Manual" (Manual).

Section 12.0 of the Manual states that all rent is due and payable, in advance, on the first business day of each month. However, the Manual allows a grace period of four days before the month's rent becomes overdue. Section 12.0 of the Manual lists 5 steps to be followed for the collection of outstanding receivables. These steps are:

- 1 - Invoices remaining unpaid 10 days after the beginning of the month require a telephone call to the tenant's accounts payable section.
- 2 - Invoices unpaid after 30 days requires a telephone call to the tenant's financial officer.
- 3 - Invoices unpaid after 45 days requires a certified demand letter to be sent to the tenant.
- 4 - Outstanding invoices after 60 days are referred to the Port Authority's legal office where an attorney sends a registered demand letter (Notice to Quit).
- 5 - Outstanding invoices after 90 days require legal action to begin and the use of the facility to be denied.

The Manual also addresses interest charges, in Section 11.4, as follows: "Any invoice remaining unpaid the last day of the month billed is subject to a late payment charge of 1.5% for each month or portion thereof that the invoice remains outstanding . . . tenants shall not be granted lease extensions unless their accounts are current".

Section 7 of the Manual further addresses conditions that can result in the termination of a lease. These conditions are: (i) substantial non-performance of the terms of the contract; (ii) failure to conform to the contract within a specific period after receiving notice to do so; (iii) failure of the tenant to pay the rent when due, following a period for the tenant to remedy the fault; (iv) tenant

bankruptcy; (v) a general assignment of the lease by the tenant for the benefit of creditors; (vi) abandonment of the premises by the tenant; (vii) destruction of the premises by the tenant; (viii) abandonment of and discontinuance of business for which concession was granted at the airport; and, (ix) cancellation of insurance or surety bond.

Accounts Receivables List

As previously stated, the Manual details five steps that must be taken when an account is outstanding. An account is considered outstanding if not paid within the four days after the first business day of the month. Legal action is required if an account is delinquent over 90 days.

Our review of the accounts receivables list for October 10, 2003 showed 355 leases listed as outstanding with unpaid rents of \$4,416,223. Of these accounts receivable, 135 were delinquent over 90 days and owed \$2,125,302 in overdue rents. We also identified 69 dormant (in-active) delinquent accounts totaling \$960,379. The following schedule shows the total accounts receivables, by category, as of October 10, 2003.

Category	Current	Delinquent 1 to 30 Days	Delinquent 31 to 60 Days	Delinquent 61 to 90 Days	Delinquent Over 90 Days	Total
Aviation - St. Thomas - Active	\$719,836	\$189,202	\$136,117	\$62,479	\$384,689	\$1,492,323
Aviation - St. Croix - Active	\$266,805	\$59,554	\$47,349	\$21,722	\$167,479	\$562,909
Aviation - St. Thomas - Inactive	-\$3,548	-----	-----	-----	\$274,814	\$271,266
Aviation - St. Croix - Inactive	-\$14,934	-----	-----	-----	\$110,012	\$95,078
Sub-Total	\$968,159	\$248,756	\$183,466	\$84,201	\$936,994	\$2,421,576
Marine - St. Thomas - Active	\$441,641	\$202,729	\$78,820	\$42,983	\$352,162	\$1,118,335
Marine - St. Croix - Active	-\$2,934	\$13,766	\$12,153	\$4,376	\$211,300	\$238,661
Marine - Total - Inactive	-\$13,000	-----	-----	-----	\$569,947	\$556,947
Sub-Total	\$425,707	\$216,495	\$90,973	\$47,359	\$1,133,409	\$1,913,943
Bourne Field - Active	-\$1,541	\$17,741	\$7,281	\$2,915	\$17,220	\$43,616
Bourne Field - Inactive	-\$591	-----	-----	-----	\$37,679	\$37,088
Sub-Total	-\$2,132	\$17,741	\$7,281	\$2,915	\$54,899	\$80,704
Total Accounts Receivable	\$1,391,734	\$482,992	\$281,720	\$134,475	\$2,125,302	\$4,416,223

Collection of Accounts Receivable

The Port Authority did not always follow the collection procedures established by the Manual. Guidelines for the collection of accounts receivable, include among other things: (i) follow-up telephone calls; (ii) certified demand letter; (iii) notices to quit; (iv) legal action; and, (v) denial of the use of the property. Despite these specific guidelines, collection activities were neither

consistent, nor always effective. As previously stated, as of October 10, 2003, there were 355 delinquent accounts totaling \$4.4 million, with 135 accounts delinquent for over 90 days.

We sampled 19 delinquent accounts to determine if accounts were being monitored for collections. These 19 accounts showed delinquencies over 90 days in the amount of \$374,867, and a total accounts receivables of \$1,034,985.

When compared to prior years, some improvements have been noted in the Port Authority's collection activities; however, delinquencies were allowed to accrue because of the lack of consistent enforcement of collection procedures. Additionally, some tenants were allowed to occupy Port Authority properties for as long as 40 months without making rental payment.

The following schedule summarizes the 19 accounts sampled.

Account	Current to 30 Days Delinquent	Delinquent 31 to 60 Days	Delinquent 61 to 90 Days	Delinquent Over 90 Days	Total
3166	-----	\$10,200	-----	\$8,840	\$19,040
3158	-----	-----	-----	\$6,368	\$6,368
3131	\$10,316	\$13,795	\$4,271	\$5,903	\$34,286
3139	\$439	\$439	\$439	\$6,650	\$7,966
4020	-----	\$427	\$427	\$4,933	\$6,214
4029	\$585	\$1,023	\$1,096	\$7,769	\$10,473
3062	-----	-----	-----	\$5,235	\$5,235
3023	-----	-----	-----	\$150,347	\$150,347
1057	\$129,324	\$3,495	\$81,494	\$10,395	\$224,709
1182	\$352,849	\$7,308	-----	\$47,804	\$407,960
1075	-\$2,939	\$22,573	-----	-----	\$19,633
1090	-\$100	\$9,446	-----	-----	\$9,346
2039	\$2,593	-----	\$2,593	\$5,049	\$10,235
2088	\$6,888	\$401	\$401	-----	\$7,690
1006	-----	-----	-----	\$72,515	\$72,515
6080	\$500	\$500	\$500	\$12,500	\$13,000
6069	-----	-----	-----	\$15,298	\$15,298
6072	-----	-----	-----	\$716	\$716
6065	-\$591	-----	-----	\$14,545	\$13,954
Total	\$498,864	\$69,607	\$91,221	\$374,867	\$1,034,985

As shown in the following examples, the Port Authority has consistently allowed tenants to occupy property without requiring regular monthly rental payments resulting in the accumulation of large delinquencies.

- A, now inactive, tenant entered into a lease from July 1979 to July 1984 with an option to extend the lease three times in five-year increments. This gave the tenant an additional 15 years, expanding the lease expiration to June of 1999. The monthly rent was \$3,381. The tenant was allowed to occupy and operate for 44 months, from December 1995 to June 1999, without making any rental payment. The tenant vacated the premises owing Port Authority \$150,347. At present the tenant is in litigation with the Port Authority over repair, maintenance and insurance issues.
- Another tenant was allowed to occupy Port Authority property for 26 months, from July 2001 through March 2003, without making monthly payments of \$438.75. One Notice to Quit was seen in the Port Authority's lease file. This notice was dated March 26, 2003, in the amount of \$7,088.75 representing rents due from July 2001 through March 2003. The tenant vacated the premises on May 31, 2003, and was subsequently placed on the inactive list, owing \$7,088.75.
- Another tenant was allowed to operate a tour business from Port Authority property at Kings Warf from October 2000 through April 2003 without making monthly rental payments of \$680. The tenant made two payments in August 2003, one for \$2,720 and the other for \$2,400; however, the tenant has again failed to make regular monthly payments, and the delinquency has increased again to \$13,920.

Interest

Although required by the Manual, the Port Authority has failed to assess and collect interest on delinquent accounts. We estimated that at least \$99,495 in potential interest assessments has not been collected. After reviewing the files, there was no evidence to indicate that the interest of 1.5% for late fee charges was assessed or collected. In our opinion, the Port Authority should assess and collect interest on delinquent accounts as required by the lease provisions. Assessment of the interest may defer tenants from becoming delinquent.

Recommendations

We recommend that the Executive Director of Port Authority directs Property Management to:

1. Ensure that procedures as established in the Manual for collection of outstanding accounts are adhered to. Document all steps in the collection process as required.
2. Assess and collect interest for late payments in accordance with the Manual and lease provisions.

V. I. Port Authority's Response

The Executive Director, in his January 18, 2005 response indicated general agreement with the recommendations made, although he did not address them independently.

It was indicated that three steps were to be taken to deal with outstanding accounts receivables and delinquent accounts. The first was the appointment of a Collections Specialist and assistant who will deal exclusively with outstanding and delinquent accounts. The second was to direct the Internal Audit unit to do weekly reviews to ensure compliance with the Port Authority's Property Manual and lease agreements. Finally, bi-weekly reports will be required of the Collections Specialist and the Internal Auditor relative to the collection of accounts receivables and the enforcement of lease provisions. Monthly progress reports will also be submitted to the Board.

After the official response was submitted by the Executive Director, written comments were submitted, through the Executive Director, by the Director of Property Management.

The Director of Property Management pointed out that there were only two property management officers and one assistant. Regarding the 19 accounts sampled, it was stated that 16 were in the over 90 Days column and 3 were in the 31 to 90 Days column. Ten of the accounts were inactive, one was "non-existent", two were adjudicated and three were in litigation.

It was stated that although the leases and the Aviation Rate Schedule provides for the application of the 1 ½% monthly interest rate, the Port Authority discontinued the assessment of interest in the early 1990's because tenants were disputing the application of the finance charges. It was further stated that the recommencement of finance charges is dependant on the Port Authority being able to properly and timely generate invoices and apply payments.

V. I. Inspector General's Comments

Regarding the official response submitted by the Executive Director, although each recommendation was not responded to independently, there was general concurrence. The assignment of additional personnel to deal with delinquent accounts receivables, the bi-weekly reporting requirements and the oversight reviews by the Internal Auditor should help in reducing the delinquencies or at least show that they are being closely monitored and actively pursued. Accordingly, we will consider the recommendations resolved.

Concerning the comments made by the Director of Property Management, as pointed out in the report, we did observe some positive steps in lease management when compared to prior audited periods; however, there are still areas that need improvements. One area is the large delinquent accounts receivables, which, at the time of our review, totaled \$2.13 million in delinquencies of over 90 days. We purposely commented in our report on delinquent accounts of over 90 days, because based on prior audits, we know that many of the major airlines are consistently delinquent in their payments.

The 19 accounts sampled for review by us were selected from an aged accounts receivable list provided by the Port Authority. Based on the list provided, we selected 13 active accounts and 6 inactive accounts. In addition, total delinquencies over 90 days for active accounts amounted to over \$1.13 million, while inactive accounts totaled almost \$1 million.

Regarding the failure to assess and collect interest, the Port Authority's 2000 Property Manual, in Section 11.4, and the various lease documents contain interest provisions. If it has been decided not to assess nor collect interest, all of these authorities must be amended to reflect this decision.

FINDING 2: SUBLEASING

The Port Authority did not adequately monitor the subleasing provisions contained in the various lease agreements. We found no evidence that records were maintained regarding approved subleases. Therefore, when considering a sublease with regards to the rental provision, the Port Authority did not assure that the proper rental assessments were being made and collected. In addition, the Port Authority did not ensure that the provisions of the approved subleases were being adhered to.

Criteria

The Manual, in Section 7.6 states that all lease and sublease assumptions must be approved by the Board, and will be granted or withheld at their sole discretion. The Port Authority recognizes two types of subleases.

The first type of sublease is where the tenant temporarily needs to reduce their cost of operation, but does not wish to give up their leasehold. In this situation, the tenant locates a third party to sublet the space. This does not relieve the original tenant of any of their obligations under the original lease. The third party must meet all of the Port Authority qualifications for tenancy. In addition, the Port Authority will receive all monies in excess of the current contract rent paid by the tenant.

The second form of sublease is when the tenant holds a master lease on a property that can be subdivided and sublet. In this situation the master lease holder intends to profit by subletting space within the property. The Port Authority will receive, at a minimum, ten percent (10%) of the rent, in excess of the base rent paid by the master lease holder from each subtenant.

The ten percent (10%) minimum was established by the Legislator of the Virgin Islands for all and is a requirement for all subleases of government property. A higher participation percentage can be negotiated.

Title 29 Section 543(b) of the Virgin Islands Code also requires the Port Authority to obtain approval from the Governor and Legislature when property is to be leased, mortgaged or disposed of in any way.

Monitoring

The Port Authority has not adequately followed the procedures to regularly monitor the occupancy of their leased properties. As previously mentioned, we found no evidence that the Port Authority maintained records regarding subleases. We noted that the Port Authority does not always obtain copies of the sublease documents. As a result, we found some tenants in violation of their approved subleasing agreements.

We reviewed and made site visits to two (2) properties where subleasing was occurring. We found conditions that were questionable. The following is a summary of our review.

Sublease 1: Port Authority files showed that this tenant leased a building in Subbase from at least 1970. The building was to be used as a warehouse facility. The lease, approved by the Governor and Legislature in 1989, was for 10 years with an option to renew for an additional 5 years. Beginning in the fourth year (1993) and every three (3) years thereafter during the term of the lease, rent was to be adjusted based on the Consumer Price Index. The lease was to expire in July 2004. The tenant's rental terms were \$916 per month for rental space consisting of 3,332 square feet.

In June 1994, the tenant requested permission to sublease a portion of the warehouse to an adjacent business. The Board approved the request in July 1994, requiring the tenant to pay the Port Authority the present rent plus 10% of rental collections on the sublease. A registered letter in July 2000 from the Port Authority advised the tenant that the subleasing rights granted with two stipulations. First, the tenant was to remit to the Port Authority 10% of the rent from the sublease; and, secondly, the tenant was to provide a copy of the sublease, indicating the rental amount that the sub-lessee was paying. Although this information was required and requested, there was no copy of a signed sublease in the files reviewed.

We found, from our on-site visit of the property, that the tenant does not occupy any space in the building. The tenant has two subleases each paying \$1,000 monthly to occupy 1,666 sq. ft of space each. None of the sub-lessees could provide us with a sublease document. The tenant is collecting \$2,000 per month for subleasing the entire property, and is paying the Port Authority \$1,116 per month (\$916 monthly rent plus \$200 for the subleases).

This tenant is clearly in violation of the terms under which the Port Authority authorized subleasing. The Port Authority gave the authorization for subleasing with the provision that the tenant sublease only a portion of the premises. The tenant was required to occupy the remaining space. However, this tenant is renting 100% of the space. This was not the basis under which the Port Authority authorized the subleasing. This tenant now has become a "landlord" with Port Authority property. It is our opinion that the Port Authority should terminate the lease and initiate new leases with present sub-lessees. In addition, during the duration of the lease the tenant rental payment was never adjusted by the Consumer Price Index.

Sublease 2: In 1984 a tenant entered into a 15 year lease, with a five-year option to renew, for 16,160 sq. ft. of space to be used for boat building, maintenance, repair and dry docking. Rent was established at \$8,888 annually plus 30% of gross revenue that exceeds \$300,000, to be adjusted every second year based on the Consumer Price Index. The lease indicated that assigning or subleasing of the property was forbidden. However, the Port Authority later approved a provision that allowed this tenant subleasing rights.

In 1990, the Board amended the lease agreement and granted the tenant permission to sublease all or a portion of the premises at an annual amount equal to the greater of \$6,000 or ten percent of the gross rents due the lessee from the subtenants. The Board also amended the portion

of the lease provision relating to the 30% of gross revenue to read in lieu of a percentage of gross revenues the annual sum of \$3,000 until 1992, and from 1992 and continuing every year thereafter the annual sum of \$5,000.

Our review of the file showed that tenant had three subleases totaling \$92,400 per year. Of the \$92,400, the Port Authority portion is \$6,000. At our on-site visit, we were not provided with copies of the subleases, nor did the Port Authority files contain copies of the subleases. However, the files did document that the tenant was in arrears \$7,070.

Recommendations

We recommend that the Executive Director of the Port Authority directs Property Management to:

1. Perform regular inspections of rental properties, to among other things, ensure that tenants are adhering to lease agreements especially as they relate to subleasing. Ensure that only approved sub-lessees are occupying leased property.

2. Ensure that all files, for tenants who sublease, contain copies of the subleases including the sublease amount.

V. I. Port Authority's Response

As noted in Finding 1 of this report, the response did not directly address each of the recommendations made, but indicated general agreement.

The Director of Property Management, in his comments, stated that, of the in excess of 350 accounts, only two were subleasing, and repeated the basic facts for the examples given in the report. It was further stated that there are deviations from procedures as circumstances arise. Finally, it was reiterated that with additional staff Property Management would have been able to address the weaknesses noted in the Department of the Interior report of 2001 and in this report.

V. I. Inspector General's Comments

With the increased staff, reporting requirements and oversight, as indicated by the Executive Director, we will consider the recommendations resolved.

Regarding the two subleases cited in the report, the tenant, in the first example was authorized to sublease; however, the tenant was also required to occupy a portion of the property. Our on-site visit revealed that the tenant was not occupying any portion of the property. The tenant did not make any improvements to the property to say that an investment was being recouped; but rather, was acting as a landlord collecting rent from two subtenants. In addition, the Port Authority did not have the required copies of the subleases.

In the second example, we did indicate that the tenant was authorized to sublease; however, our review of the files disclosed that: (i) the Port Authority did not have copies of the subleases; and, (ii) the tenant's annual rental income was at least \$92,400, while the Port Authority's annual portion was \$6,000. In addition, the tenant was delinquent in the amount of \$7,070.

In 2000, the Port Authority revised its collection procedures from a 7-step process to a 5-step process in order to improve the management of leases. Our review of the files showed continuous inconsistent applications of the 5-step process and a lack of documentation for the steps taken. If there were needs to "deviate" from the approved procedures, the "deviations" should have been thoroughly justified and documented.

V. I. PORT AUTHORITY'S RESPONSE



VIRGIN ISLANDS PORT AUTHORITY
OFFICE OF THE EXECUTIVE DIRECTOR
P.O. Box 301707
ST. THOMAS, USVI 00803-1707

January 18, 2005

Mr. Steven Van Beverhoudt
V.I. Inspector General
Office of the V.I. Inspector General
2315 Kronprindsens Gade #75
St. Thomas, VI 00802

Re: 2004 Audit of Property Management of the V.I. Port Authority

Dear Mr. Van Beverhoudt:

I have reviewed the Audit Report on Property Management and Account Receivables as prepared by your office. Based on your findings and recommendations, I have begun to institute the following:

1. Appointed a Collections Specialist who will be provided with an assistant to deal exclusively with outstanding account receivables and delinquent accounts.
2. Directed the Internal Audit unit of this agency to weekly review the performance of the Property Management to ensure strict compliance with V.I. Port Authority's Property Manual and recommendations contained in your audit report. This will include monitoring the administration and enforcement of all leases and use permits provisions.
3. Require a bi-weekly report on performance from the Collection Specialist and Chief Internal Auditor relative to collection of outstanding account receivables and administration and enforcement of lease and use permit terms and conditions. A progress report will be submitted monthly to the Governing Board of the V.I. Port Authority.

I thank you for the assistance in identifying problems related to the administration of this agency's property and account receivables. Your recommendations will be strictly followed with an effort to fully implement such to the extent feasible.

Sincerely,


Darlan Brin
Executive Director

PHONE: (340) 774-1629
FAX: (340) 774-0025



VIRGIN ISLANDS PORT AUTHORITY
OFFICE OF THE EXECUTIVE DIRECTOR
P.O. Box 301707
ST. THOMAS, USVI 00803-1707

MEMORANDUM

TO : Governing Board of the Virgin Islands Port Authority

FROM : *Darlan Brin*
Darlan Brin
Executive Director

RE : V.I. Inspector General Audit Report of 2004 of VIPA's Property Management Administration

DATE : January 19, 2005

The audit performed by the V.I. Inspector General of the administration of leases and rental properties by the V.I. Port Authority in 2004 found the following:

1. The collection procedures established to ensure timely payments of delinquent rent were not always effectively followed;
2. Enforcement actions taken were not always effective in providing a long term solution for chronic delinquent tenants;
3. The provision to assess and collect 1.5% interests for delinquent rental payment was not being enforced; and
4. Subleasing activities were not monitored.

It further stated that improvements are needed in the management of leases and leased properties, especially as it relates to account receivables, delinquent accounts, and controls over subleasing.

Based on the results of the deficiencies and inadequacies of the management and administration of leases and use permits by the Property Management Division of the V.I. Port Authority as cited in the audit report, the following measures will be instituted by my office:

- 1) Appointment of a Collections Specialist and an assistant to deal exclusively with the outstanding account receivables and delinquent accounts.
- 2) Direct the Internal Audit unit of this agency to weekly review the performance of the Property Management Division to ensure strict compliance with V.I. Port Authority's Property Manual and recommendations contained in the V.I. Inspector General's Audit Report.

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APPENDIX I

MEMORANDUM re 2004 Audit Report
VIPA GOVERNING BOARD
January 19, 2005

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- 3) This includes monitoring the administration and enforcement of all leases and use permits provisions.

I will, on a bi-weekly basis, require reports on performance from both the Collections Specialist and the Chief Internal Auditor relative to collection of outstanding account receivables and administration of the lease and use permit terms and conditions. A progress report will be submitted to the Finance Committee of the Governing Board on a monthly basis.



VIRGIN ISLANDS PORT AUTHORITY
OFFICE OF THE EXECUTIVE DIRECTOR
P.O. Box 301707
ST. THOMAS, USVI 00803-1707

February 2, 2005

Mr. Steven Van Beverhoudt
V.I. Inspector General
Office of the V.I. Inspector General
2315 Kronprindsens Gade #75
St. Thomas, VI 00802

Re: 2004 Audit of Property Management of the V.I. Port Authority

Dear Mr. Van Beverhoudt:

Please accept the attached document as it relates to the 2004 Audit by your office of V.I. Port Authority's Property Management unit. This information is being submitted after the deadline for this agency to respond to the audit report. The Director of Property Management was on Annual Leave during the response period. Since he had prepared a Memorandum to me, I felt that it should be submitted as well.

Sincerely,

Darlan Brin
Executive Director

DB:bd

Encl.

PHONE: (340) 774-1629
FAX: (340) 774-0025

Virgin Islands Port Authority
Inter-Agency Memorandum

Property Management Division

TO: Darlan Brin
 Executive Director

FROM: Kenn Hobson 
 Director of Property Management

DATE: January 31, 2005

RE: **2004 Audit of Property Management**

On January 28, 2005, I read for the first time the Inspector General's 2004 audit of Property Management of the Virgin Islands Port Authority, as it relates to collections and subleasing.

I would be remised if I do not say that I am bewildered that Property Management was not afforded the opportunity to respond to the stated findings as I was able to do to the inaccurate findings in the Yellow Cedar audit.

Had I been afforded a review of the Collection and Subletting audit, I would have been able to point out not only inaccuracies in the report, but shed some light on some misconceptions of issues in the report.

Collection of Accounts Receivable

I will not dwell into the inaccuracies of the report, since the Internal Auditor has already done so, as the attached report will indicate. However, allow me to point out some misconceptions of the report. The report indicated on page 5, that there were more than 350 accounts, managed by only two (2) property management officers, with the assistance of a Property Management Assistant.

Of the 19 accounts sampled, 16 were in the over 90 Days column and 3 were in in the 31 to 90 Days column. In addition, of the 16 accounts noted, 10 had vacated the premises and were inactive accounts, one (1) is non-existent, two (2) were adjudicated and three (3) were in litigation.

Interest

While leases and the Aviation Rate Schedule provide for applying an interest rate of 1½ % monthly, the Virgin Islands Port Authority discontinued the application of interest in the early 1990's. I recall that tenants, especially major airlines and shipping companies, did not acknowledge such charges and other tenants also disputed the application of the finance charges. In the end, finance charges that had been generated were

Darlan Brin
Memorandum Re: 2004 Audit of Property Management
January 31, 2005

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reversed from tenants' accounts. The recommencement of charging interest charges depends significantly on the Authority's Accounting system for the property and timely generating of invoices and application of payments.

Subleasing

Of the in excess of 350 accounts, there were only two (2) that were subletting. As the auditor indicates, they were given this right by the Board and not from the action or inaction of Property Management. The record will show that the account in Finding No. 1 were consistently current with all charges.

In Finding No. 2, the tenant had no obligation to pay subleasing fees, since it was a land lease, and the tenant constructed the improvement. I will also like to point out the language used in the report.

On page 7 the auditor stated, "The Port Authority did not always follow the collection procedures established by the Manual". Again on page 12, the Auditor stated, "we noted that the Port Authority does not always obtain copies of the sublease documents."

I will like to note that Property Management activities is not a systematic procedural exercise. There are deviations based on circumstances. Therefore, one can not always do this or that.

Lastly, it is unfortunate that we tend to over look the positive statements made in the report.

On page 5 of the report, the Auditor prefaced his report by the statement, "Although Property Management has made positive improvements in managing leasing and leased properties..." Again on page 8, the Auditor states, "When compared to prior years, some improvements have been noted in the Port Authority's collection activities; ..."

The record shows that since the 2001 audit by the Federal Inspector General, I have requested the replenishment of the collector's position (formerly filled by Collections Officer Leopold Sprauve). Had my request been granted, there would have been no such finding by the Auditors.

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