



STATEMENT FOR THE RECORD

**THE MILITARY OFFICERS ASSOCIATION OF AMERICA
(MOAA)**

before the

**Senate Armed Services Committee
Joint Subcommittee on Personnel & Readiness and Management
Support**

On

Current Condition of the Military Housing Privatization Initiative

February 13, 2019

CHAIRMAN TILLIS AND RANKING MEMBER GILLIBRAND and CHAIRMAN SULLIVAN AND RANKING MEMBER KAINÉ. On behalf of the Military Officers Association of America (MOAA), we are grateful for this opportunity to express our views and appreciate the subcommittee for hosting this hearing on health and safety hazards in military housing.

MOAA does not receive any grants or contracts from the federal government.

We are truly grateful for your unwavering commitment to not just the men and women who defend our fine nation, but to their families as well.

Executive Summary

Along with military families and other military service organizations, MOAA has concerns over proper communication and abatement of health and safety hazards in military housing, barracks, and facilities. Specific issues include:

- **Quality and Responsiveness of Maintenance:** Concerns of improper or temporary fixes to maintenance issues, incomplete work orders being closed out and marked complete, and responsiveness of maintenance workers to health and safety hazards in both older and new homes.
- **Limited Oversight Authority:** Military services purportedly not having control over public private partners (P3s) due to lease agreement restrictions.
- **Tenant Rights:** Restrictive military installation tenant rights including barriers to seeking legal action and to access for state and local health officials.
- **Out-of-Pocket Expenses:** Servicemembers and their families paying out of pocket for hazard remediation and additional health care, or for moving costs to escape unsafe or unhealthy housing.
- **Communication with Health Officials:** Unclear communication and data collection between housing officials and military treatment facilities to address health issues brought on by environmental factors.
- **Insufficient Staffing and Funds for Government Owned Housing/Barracks:** Reports of insufficient manpower to complete work orders timely and properly, and a lack of funding to take on major renovations or extensive abatements.

We recognize there are many families who have great experiences with living on military installations and realize this may be reflected in tenant satisfaction surveys and successfully completed work orders. We commend the services and partners for the satisfaction they provide in these cases. However, because of the large scale of housing provided on installations (approximately 206,000), even a small dissatisfaction rate can mean thousands of families' housing issues are not receiving proper attention.

This statement will include a brief history of the Military Housing Privatization Initiative (MHPI) and government reports on the initiative. Additionally, it will address the above bullet points with regard to both privatized and government-owned housing/barracks.

Military Housing Privatization Initiative

A full 99 percent of DoD's domestic housing on military bases is part of the military housing privatization initiative (MHPI). This initiative, leasing out home construction and maintenance on military installations to public private partners (P3s), started as a pilot program in 1996 and has continued to this day in order to recapitalize and modernize base housing at a faster rate with lower overall costs than could be achieved by previous military construction programs.

Congressional Research Service Report

“During the past four decades, housing for military personnel and their families has been a relatively low priority component of military construction.” – CRS report 2001

In 2001, the Congressional Research Service developed a report to Congress ([CRS order code r131039](#)) to provide a general background on, and issues with, MHPI. Prior to MHPI, DoD found it difficult to keep up with “the effects of natural deterioration and changing societal definitions of adequate housing,” which led to approximately 60% of government-owned family housing not meeting standards for adequate housing.

The intention of MHPI, according to this report, was to build quality housing at a faster rate, but the report cautioned that the program “cannot be the ‘silver bullet’ remedy to substandard housing.” Authorized in the 1996 NDAA, MHPI was originally “a five-year pilot program within a 10-year plan to resolve the general military housing problem.” The target solution date was extended from 2006 to 2010 after a slow start to contract negotiations, and the pilot program was renewed multiple times in order to determine viability. Now, over 20 years into the initiative, it is evident to MOAA that the intention of the project to build quality housing and keep up with deterioration has not been met.

Privatization of military housing was attempted prior to MHPI through the Wherry and Capehart projects. However, these projects were terminated due to concern of “windfall profits” by Wherry and the impact the projects had on service budgets. Based on knowledge of these previous attempts at privatization, MHPI was designed to have the

advantages of private business while enjoying the flexibilities similar to DoD. MHPI was designated “twelve alternative authorizations” to operate within.

These authorizations are the framework for lease agreements/contracts made between DoD and public private partners. Of concern to MOAA are authorizations that take authority and control away from DoD, including: conveyance of real property, relaxation of federal specification of housing construction, and payment of rent by allotment. See the CRS report for a list of all twelve authorities, and for details on the contracting and budget scoring process.

DoD IG Report

In 2016, the DoD Office of the Inspector General (OIG) issued six reports from 2013-2016 that detail deficiencies in health and safety hazards in military housing, ranging from electrical system safety, fire protection systems, and environmental issues ([DODIG-2017-004](#)). The report found these deficiencies stemmed from “a lack of adequate preventative maintenance and inspections being performed at the installations”. OIG recommended that each military service conduct two annual inspections of installations to verify compliance with health and safety requirements, and that they create a joint-department working group to discuss findings from inspections and best practices. Despite these efforts being agreed to by the respective services, health and safety issues continue to run rampant.

Government Accountability Office Reports

A 1998 GAO report ([GAO/NSAID-98-178](#)) scrutinized the cost analysis methodology of the privatization initiative and raised concerns that actual savings would not be as large as DoD had originally claimed. Two years later, a 2000 GAO report ([GAO/NSAID-00-71](#)) concluded there were no measures for progress or effectiveness in place at that moment and there wasn’t enough data to determine if the initiative would reach the goal of ending substandard housing more economically and faster than traditional military construction. Despite these well-informed concerns, the initiative moved forward without much thought regarding alternatives should the project not be as effective as intended.

A March 2018 GAO report ([GAO-18-218](#)) on monitoring, reporting, and risk assessment of MHPI flagged even more areas of concern that could impact quality control and tenant satisfaction. Major issues highlighted in the report include late reports on financial

condition of housing projects to Congress and projected financial shortfalls for future projects – shortfalls that have forced housing offices to cut corners to reduce expenses.

Options to reduce expenses, cited by military departments and P3s, included measures that potentially would reduce the quality of housing and increase health and safety hazards. For example, to save money, projects could reduce or eliminate services such as landscaping or a 24-hour service desk, and could defer routine maintenance. Deferring routine maintenance can create problems such as mold, dangerous inconsistencies in heating and cooling, and leaks that can directly affect the health and well-being of servicemembers and their families.

Ironically, these findings on financial shortfalls and deferred maintenance run counter to the original reason MHPI was created: Expediting quality housing with less cost due to DoD's inability to prioritize funding for personnel and family housing, and completing renovations and construction in a reasonable timeframe.

The [2019 Defense Appropriations conference report](#) included a measure for GAO to conduct a study on how the services handle hazards involving lead-based paint in privatized housing. Subject matter experts at GAO expanded this study to include all health and safety hazards in privatized housing due to an overwhelming amount of evidence suggesting the issue goes well beyond lead-based paint. The report is expected to be finished in September 2019.

DoD/Services Response

After a number of news articles highlighted health and safety issues in military housing, the Army's Garrison Command teams hosted town halls at military installations across the country along with their P3 counterparts. Many of these town halls were made public through online live streaming or recordings. While the town halls were meant to answer questions and ease families' minds, generally, military families left with more questions than answers. It was and still is unclear what the private partners, the services, and DoD are doing to actively mitigate the hazards at a systemic level.

MOAA has reached out to several DoD leaders to learn more about the issue, to offer recommendations/information we are hearing from our membership, and to inform our membership of measures being taken. Oftentimes, our inquiries have been met with no response or surface-level responses that did not answer our questions.

In a February 8, 2019 hearing before the House Appropriations Subcommittee on Military Construction, Veteran Affairs, and Other Related Agencies on quality of life in

the military, senior enlisted leadership addressed the concerns of health, safety, and security in military housing. Sergeant Major of the Army Dailey detailed plans to eliminate poor and failing government owned housing by 2026, removing tenants from those units by FY 2021. However, in privatized housing the Army suggests they are better educating families on what is entailed with moving into older units, but it is unclear if any systemic issues or issues with new units are being addressed.

Chief Petty Officer Smith suggested the Navy does not have the same systemic issues as the Army; relying on results from satisfaction surveys. The Air Force reports an 80% satisfaction rate of their 55,000 privatized homes, which suggests that 20% or 11,000 homes are considered unsatisfactory by the respondents of the survey, a considerable amount.

MOAA is unable to confirm the validity of these surveys or whether the response rate is representative of the population. MOAA also understands that while the majority of housing may be satisfactory, there are still broad systemic issues that require additional exploration and oversight.

Quality and Responsiveness of Maintenance

Concerns regarding quality and responsiveness of maintenance include improper or temporary fixes to maintenance issues, incomplete work orders being closed out and marked complete, “red tape” associated with historic homes, and responsiveness of maintenance workers to health and safety hazards. These issues are persistent in reports from servicemembers and families out of both privatized and government-owned housing. Government-owned housing will be addressed in a later section.

Many families report improper or temporary fixes being made to maintenance issues. For example, one of the recurring issues mentioned by families included pervasive mold that would reappear even after following recommended abatement. When placing work orders, the maintenance team would repeat the cleaning already done by family but not address the root cause of the recurring mold. Families identified causes such as a lack of proper ventilation/broken HVAC, improperly sealed windows, and other infrastructure flaws that contribute to mold and other hazards in their homes, but these issues often were not properly addressed, or took very long to address.

On top of recurring issues, many families have reported feeling brushed off or blamed for the health and safety hazards in their homes despite their constant efforts to remediate the hazards. While families have the opportunity to do a walkthrough of the

home prior to moving in, a number of hazards may not be identifiable with an initial walkthrough but are discovered as they live in the homes (mold being painted over, last time carpet was replaced, roof leaks, etc.). P3s shifting blame to families for hazards has led to families seeking legal action against P3s.

Families also report temporary fixes being used in place of long-term abatement of issues. For example, maintenance workers typically encapsulate (glaze over) chipping lead paint, a procedure that is suggested as a temporary solution by the environmental protection agency (EPA). The numerous encapsulations are evident in housing where windows are sealed shut (a fire hazard) and doors are difficult to close because of the layers of encapsulation glaze. It is unclear what the long term abatement plans are for lead-based paint and whether they are being actively pursued.

Another quality control issue arises when maintenance workers are in the process of abating hazards. For example, at a town hall at Fort Belvoir, one family expressed their frustration with the lead paint abatement process at her home. While chipping away lead paint, the subcontractor, APEX, did not follow proper EPA guidelines to contain the paint chips, allowing them to fly into neighborhood yards. The family was apprehensive to walk their dog for fear the animal might eat the paint chips. Despite negligence in abatement and reporting of the concern, the subcontractor is still employed by the P3 at Fort Belvoir.

“An upstairs bathtub leaked into our laundry room. Soaking the walls and ceiling. It took several weeks for them to fix the issues. They told me that ‘mold doesn't grow in Arizona’ when I voiced concern over the leak.” – Military Family in Michaels Housing

Limited Oversight Authority

Garrison Level Oversight

According to [DODI 4165.63](#), the Garrison Commander (GC) is to act as the servicemember and families first advocate with regard to disputes over housing. If a family's issue is not resolved at the housing office level, families are instructed to go to their GC with the issue. The GC can then advocate on behalf of the family, but this does not mean the GC has the authority to make the P3s do anything or hold them accountable. It is MOAA's understanding that GCs determine whether a P3 receives any monetary incentives, however this seems to be the only measure of authority given to them.

At the February 2019 hearing, the Marine Corps emphasized the importance of local commanders directly question Marines about their satisfaction to help keep track of the issues, however, servicemembers and families have reported they are uncomfortable going to their chain of command or GC to address housing issues. This can be for several reasons including fear of reprisal, issues being documented in performance evaluations, or feeling intimidated to approach senior leadership. It is unclear whether GCs have a clear understanding of housing issues on their installations if families are not reporting these issues to them.

Additionally, MOAA is concerned about whether GCs are using data on work orders and information given to them by P3s to determine incentives. This information may not be accurate due to reports (mentioned above) of work orders being closed out without fixing an issue, giving the appearance of a successfully run maintenance program.

It is also unclear what GCs are doing to escalate trends in issues on their installations to senior service leadership.

DoD/service level oversight

"Plettner contacted the Navy's hotline in Washington D.C. The Inspector General replied in a letter that, under the Navy's contractual relationship with the housing managers, the Navy 'has limited authority' to intervene in business affairs." – [Reuters](#)

While the Assistant Secretary of Defense for Energy, Installations and Environment (ASD EI&E) is the program manager for all DoD housing, whether government owned or privatized, and each service has an assistant secretary responsible for housing, it is evident their ability to resolve housing issues is limited due to the nature of these lease agreements, which are 50-year contractual relationships.

It is unclear how DoD can provide oversight and accountability of P3s with the restrictive nature of the lease agreements or whether agreements can be amended to allow for more oversight. It is also unclear what repercussions P3s face if they breach the agreement, are sued by families, or provide substandard services.

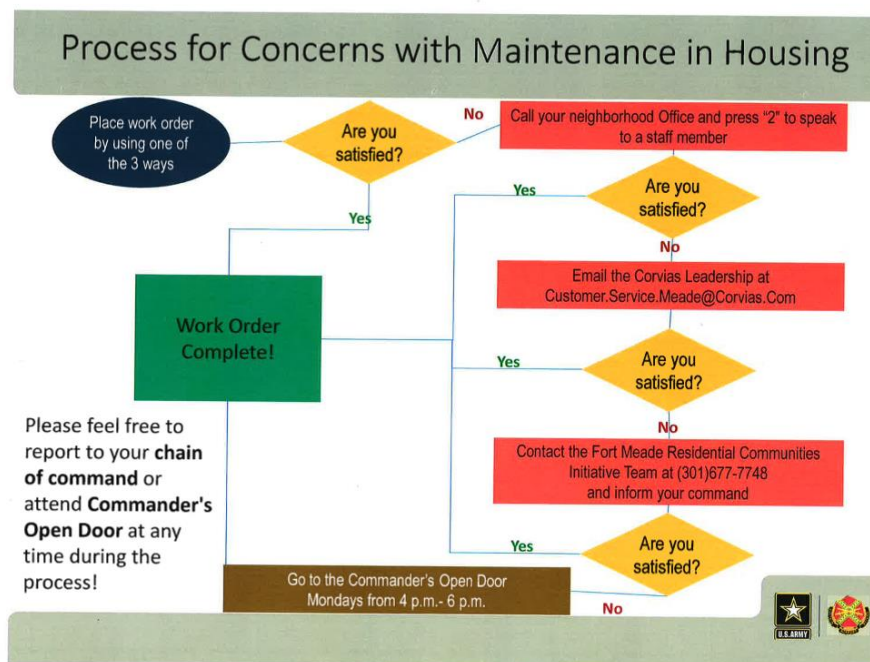
For example, [a federal jury recently awarded](#) \$350,000 to the family of a Marine who filed a lawsuit in 2011 against Mid Atlantic Military Family Communities for negligence in mold abatement. Additional lawsuits are expected, with at least 19 already filed against this company. However, the company still holds lease agreements with DoD and continues to operate military housing.

Tenant Rights

When military families finally become fed up with living among these health and safety hazards, tenant regulations on military installations prevent them from pursuing the basic rights most tenants receive. In most states, tenants can get out of their leases due to unsafe housing, deduct incurred repair costs from rent, and enlist local health officials to test their home and enforce health codes. These rules do not apply to military base tenants.

While a tenant typically can withhold rent from a landlord until a housing dispute is resolved, that is not the case for tenants in privatized military housing, whose BAH is transferred directly from DoD to the P3s. If families do have the option to work with DoD to withhold rent for a housing dispute, this information is not well known.

While GCs and P3s have been clear on the process families can go through to escalate housing concerns (see chart below), this does not mirror how tenants can address issues in civilian housing on the local economy. While a tenant on the economy can address disputes in ways listed above, a tenant in privatized military housing has to jump through a number of hoops – three housing offices, their chain of command, and their garrison commander – to say they've done their due diligence. A tenant on the economy does not have to go to their boss at work to resolve housing disputes, nor should a tenant in privatized military housing.



With regard to seeking legal recourse when housing disputes are not addressed by the above process, many families are confused when it comes to getting legal advice or counsel. Many remain confused as to whether they can go to state court for claims on federal land, or whether their servicemember can even sue, based on the Feres Doctrine. Even when seeking advice from attorneys or JAG officers, these experts seem not to know exactly what legal recourse families have. While there may be answers to these concerns, this process is not clear and many families seeking a way forward are left in the dark.

Out-of-Pocket Expenses

Many servicemembers and their families have reported paying out of pocket for hazard remediation, additional health care costs brought about by housing conditions, and for moving out of unsafe or unhealthy housing. When families conduct regular maintenance/cleaning of their home, they often find some hazards are augmented by previous infrastructure issues. This makes regular maintenance expensive and time intensive for families/servicemembers.

As mentioned in the Fort Meade example previously, despite families taking preventative measures to conduct routine maintenance and cleaning, root causes of the issues continue to remain unfixed, which increases the time and money families spend on preventative maintenance for health and safety hazards.

In addition to expenses related to abating everyday hazards, families pile up additional expenses once they decide it is in their best interest to move off post. These include any move out charges, new rental deposits, hotel stays/eating out, mover charges, replacing furniture/personal items ruined by hazards such as mold and vermin, etc.

Family members who have experienced negative health impacts due to health and safety hazards in their homes report additional expenses incurred through doctor visits and medical supplies.

“My family is over \$20,000 in debt from living in a hotel 5 months and from paying [a] specialist not covered by Tricare to treat mold exposure. That does not include what we spent to replace almost everything in our house.” – Enlisted Navy Family, Naval Base San Diego

“\$475 for an expedited mold test, 7 air purifiers (between \$80-300 each depending on size), hepa replacement filters plus carbon replacement filters (changing out every two weeks or more) about \$500 maybe more actually, 5 large dehumidifiers \$170-\$269 (each; some are

brand name others are not), six one-gallon jugs of Mold Control at \$37.50 each, spray bottle \$14.59, face masks for going into the attic and treating the basement \$6.95 (2-pack) bought at least 6 packs \$83.40, new shelves to replace moldy linen closet shelves \$44, Kilz paint to paint moldy laundry closet (after we treated with sporicide) \$75, laundry detergent (have been moved to temp quarters and have to wash everything I own) \$50, vinegar (\$2.75/gallon easily 50 gallons or more) for constant, CONSTANT, cleaning \$137.50, \$25 in co-pay for medication to treat sinus infection and lower respiratory infection... I'm sure there is more than just that mentioned. Oh, hours and hours of my husband's time away from his work and my time wasted getting stood up or dealing with these people. We are easily into the thousands of dollars since we received keys to this place on June 30, 2018. We are currently in temp quarters. Another meeting today to see how we are supposed to proceed forward ..."

- Officer Family, Fort Meade, MD

"We had to move off base because our baby was diagnosed with reactive air way disease... Treatable with an inhaler and pack machine, which may have now jeopardized his own military future ... the year we lived on base delayed his speech and communication due to the constant URI and ear infections leading to him needing to have tubes in and his tonsils and adenoids out... then the developmental milestone delays started... I'm a child psychologist and I can tell you his development before moving on base was right on schedule ... we had to break the lease, pay back pa,y and then invest around \$5000 to move out and secure a new house off base... we also lost around \$7000 worth of furniture, clothing, and baby items due to inadequate storage and rodents in the sheds provided... never again will we live on base. I'd rather go broke." - Anonymous

Communication with Health Officials

On top of additional medical expenses incurred, families report unsatisfactory experiences with military treatment facilities.

The spouse of a USMC E-7 noticed her health start to deteriorate in 2015 after dealing with soil/water contamination in previous housing in Hawaii and mold in her 2015 home at Camp Lejeune. The symptoms were similar to those of a patient with multiple sclerosis. After seeing multiple providers at an MTF at Camp Lejeune, she was told they weren't sure what her symptoms were coming from but that it was "impossible" they came from environmental factors such as toxic mold. The woman was never referred to an allergist or respiratory doctor. After not receiving thorough care on Tricare Prime, the family took on the additional expense of Tricare Select in hopes of getting proper medical treatment. Like many other families, this spouse turned to functional medicine, an alternative holistic medicine doctor, to try and get

some answers to her medical issues. This doctor was not covered by Tricare and the family spent \$1,000 for two doctors' visits which included tests and supplements. This doctor detected an autoimmune condition, Chronic Epstein Barr, which is made worse by toxins such as mold. The family makes approximately \$4,000 per month. She has stopped seeing the functional medicine doctor due to cost, but spends over a quarter of their monthly income to purchase supplements to mitigate flare-ups, maintain an air/water purification system, and stock cleaning supplies to abate the mold themselves.

It is evident there is unclear communication and data collection between housing officials and military treatment facilities to address health issues brought on by environmental factors. The Tricare for Kids Coalition, of which MOAA is a member, [sent a letter](#) to the Defense Health Agency on January 17, 2019, requesting a meeting on this issue and providing a list of questions regarding DHA's role in addressing health and safety hazards in military housing. We are still awaiting a response.

It is also unclear what role state and local health officials play in ensuring military installations are following health codes and their ability to provide expert advice. Some families report access barriers to allow health officials onto base to test homes for hazards.

Government-Owned Housing/Barracks

"Lessons learned in MHPI can be applied in standard military housing construction and maintenance" - GAO Report

MOAA has received similar reports on health and safety hazards in government-owned buildings on military installations, and concerns have been raised as to the last time some of these buildings have undergone renovations.

A 2014 GAO report ([GAO-14-313](#)) reviewed how the services determined whether to privatize unaccompanied servicemember barracks. The Navy and Army determined privatization could be used for specific circumstances at specific installations, but the Air force and Marine Corps determined "privatization was not suitable for meeting any of their housing needs." From MOAA's understanding, the majority of barracks are still government-owned and -operated.

As the 2001 CRS report (CRS Order Code r131039) alluded to, housing for military personnel has been a low priority for funding for 40 years. The 2016 DoD IG Report also

identified deficiencies and health/safety hazards in government-owned housing. Servicemembers have identified root causes of health and safety hazards ranging from lack of manpower to insufficient funds to conduct regular maintenance and major renovations. These findings have left MOAA with one overarching question: How can DoD provide oversight and accountability of private partners if government owned facilities have similar hazards brought on by negligence in maintenance?

For example, one alarming scenario exists at Virginia's Fort Myer. A servicemember notified MOAA of health and safety hazards in the barracks, where he oversees 26 buildings including barracks that house over 600 soldiers in the 3D Infantry Regiment, better known as "The Old Guard" – a prestigious military unit responsible for escorting the president, laying servicemembers to rest at Arlington, and protecting the Tomb of the Unknown Soldier.

This soldier brought to our attention a number of alarming issues happening at Fort Myer and at barracks around the country. Ninety percent of the buildings he oversees are in a severe state of disarray. Health assessments conducted by the Army Corps of Engineers describe the uninhabitable nature of the barracks. The Installation Safety Requirement (ISR) rating has rated most buildings as failing to meet standards with recommendations to remove the servicemembers from the living quarters, which has not happened. The issues seem to stem from years of neglect and not enough money or manpower given to abate the issue. Currently the department of public works (DPW) on Fort Myer is operating below 35% manpower and has difficulties fulfilling work/service orders, which has led to lower quality service and work orders not being fulfilled in a timely fashion. Worse, many of the larger facility issues require work that is beyond the DPW level of work and there is difficulty finding money to contract out the large renovations.

This is just one example of lack of funds and manpower to address health and safety hazards in federally or state-owned military housing. While funding for military construction for personnel housing has not been a priority for the past few decades, it can no longer go neglected as the health impacts can affect mission readiness of servicemembers and impact recruitment and retention.

MOAA's Recommendations

- Review lease agreements and contract language to determine whether changes can be made to give DoD more oversight and accountability capabilities over P3s.
- Appropriate sufficient funds to military construction in order to address needed renovations in government-run military personnel and family housing.
- Provide informational materials on how to seek legal recourse for housing disputes, and provide training for JAG officers to assess proper action within the military organizations or through referral services.
- Implement a military installation tenant bill of rights so tenants understand what their rights are before they move into such housing, and how they are different from tenants on the economy in that state.
- Improve communication between state/local health officials, military treatment facilities and housing officials to address environmental health concerns families bring up at doctor's appointments with a goal of identifying certain conditions that must be reported to the GC or possibly the Inspector General.
- Improve and standardize the tenant satisfaction survey at military service level for comparability to eliminate respondent bias, and change "should" to "shall" language in DODI so surveys are required to be distributed.