

# Office of Inspector General



December 18, 2000  
Audit Report No. 00-050

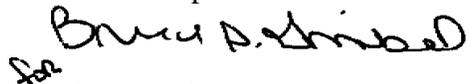
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**Audit of Real Estate Owned by the  
Federal Deposit Insurance Corporation  
and Its Receiverships and Subsidiaries**



**DATE:** December 18, 2000

**TO:** A. J. Felton, Deputy Director  
Division of Resolutions and Receiverships  
Dallas Field Operations Branch

  
**FROM:** Carl S. Mays  
Regional Director

**SUBJECT:** *Audit of Real Estate Owned by the Federal Deposit Insurance Corporation and Its Receiverships and Subsidiaries (Audit Report No. 00-050)*

This report presents the results of the Office of Inspector General's (OIG) audit of real estate owned by the Federal Deposit Insurance Corporation (FDIC) and its receiverships and subsidiaries. The audit addressed whether the FDIC owns real estate assets that it has not recorded in its records and, therefore, may not be managing or marketing those assets. We performed this audit because preliminary testing in selected counties indicated a potential for discovering real estate assets belonging to the FDIC or its receiverships and subsidiaries that are not recorded in the FDIC's records.

## **BACKGROUND**

The FDIC and the Resolution Trust Corporation<sup>1</sup> (RTC) assumed responsibility for managing failed financial institutions and their subsidiaries, partnerships, and joint ventures. Accordingly, the FDIC is responsible for ensuring that all assets—corporate-owned as well as those it controls as receiver for failed financial institutions—are properly recorded, managed, and marketed for sale.

The Division of Resolutions and Receiverships' (DRR) Dallas Field Operations Branch (DFOB) initiated a "discovered assets" project in February 1999. The purpose of that project was to identify real estate assets that county records showed that the FDIC owned in its corporate or receivership capacity but were not recorded in the FDIC's records. That project was undertaken, at least in part, because of the number of inquiries from the general public wanting to buy FDIC properties that were not recorded in the FDIC's records. After receiving a public inquiry

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<sup>1</sup>As provided in the *RTC Completion Act of 1993*, the RTC went out of existence on December 31, 1995, and the FDIC took over its functions on January 1, 1996.

concerning a property, the FDIC researches its records; performs a title search; and, if warranted, records the asset in the FDIC's records and offers it for sale.

Although the FDIC may not be aware of some of the properties that it owns in its corporate or receivership capacity, the Federal Deposit Insurance Act [12 U.S.C §1825 (b) (2)] protects those properties from foreclosure or attachment by a taxing authority. However, the law does not afford those same protections to assets owned by subsidiaries, partnerships, or joint ventures.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The audit objective was to determine whether the FDIC or its receiverships and subsidiaries own real estate assets that are not recorded in the FDIC's records. To accomplish our objective, we used databases developed by the OIG on a previous audit of abandoned property held by state unclaimed property agencies.<sup>2</sup> Those databases included comprehensive lists of failed banks, savings and loan associations, and subsidiaries controlled by the FDIC as receiver for those institutions. We sorted the lists by state and financial institution number (FIN) and matched subsidiaries with their parent institutions. We judgmentally selected eight counties in four southeastern states and searched current county property ownership and tax records to identify real estate owned by the FDIC or its receiverships and subsidiaries included in our databases. Those eight counties included Montgomery in Alabama; Palm Beach in Florida; Cobb in Georgia; and Beaufort, Charleston, Horry, Lexington, and Richland in South Carolina. We visited each county's public records departments and searched for property deeds to verify ownership.

We also used the Internet to search accessible databases of delinquent taxes for all counties in New Jersey and three counties in Florida. We then compared properties identified from county records to the FDIC's records on properties for sale, sold properties, and insured properties. In addition, we provided a list of properties to the FDIC's Division of Administration (DOA) librarian in the Atlanta office to search LEXIS/NEXIS<sup>3</sup> and other public record databases for property ownership. Those databases contain deed transfer, tax assessor, and business incorporation records.

From our total sample of 40 counties in 5 states, we identified 999 properties valued at more than \$261 million for which information databases or county tax records showed the FDIC, RTC, or their failed institutions or subsidiaries as the current owner. However, our review of property deeds and tax records in the eight counties that we visited, inquiries of LEXIS/NEXIS databases, and our review of the FDIC's real estate records determined that the FDIC had sold 723 of the 999 properties. We did not find the remaining 276 properties in the FDIC's records. Table 1

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<sup>2</sup>Report entitled *Audit of Abandoned Assets Held by States' Unclaimed Property Agencies* (audit report number A99-038 dated August 27, 1999).

<sup>3</sup>LEXIS is a full-text legal services database that includes federal and state statutory, regulatory, and case law materials. NEXIS includes a large number of national and local business journals, wire services, and newspapers, including extensive back files, NAARS (a tax accounting database), and public records.

summarizes the number and value of properties by state that we initially identified as belonging to the FDIC and those properties we determined that the FDIC had sold.

**Table 1: Summary of Assets Identified as Owned and Subsequently Sold by the FDIC**

State	Number of Properties Identified	Value of Properties Identified*	Number of Properties Sold	Value of Properties Sold*
Alabama	23	\$ 1,630,550	21	\$ 1,566,350
Florida	439	39,799,461	372	32,508,674
Georgia	90	3,855,305	88	3,849,205
New Jersey	380	210,888,492	211	148,990,942
South Carolina	67	5,324,787	31	3,396,530
<b>Totals</b>	<b>999</b>	<b>\$261,498,595</b>	<b>723</b>	<b>\$190,311,701</b>

\*Value of properties based on county assessed value, sales value, or market value when given. We assigned a \$0 value to some properties when no value was available.

Source: OIG analysis of real estate information from our 40-county sample and the FDIC's real estate owned records and LEXIS/NEXIS public records databases.

Finally, we met with DFOB personnel to determine the status of their efforts to identify real estate assets that the FDIC owns but has not recorded in its records.

We did not evaluate the FDIC's internal controls over recording owned real estate assets because the OIG concluded that we could meet the audit objective more efficiently by conducting substantive tests. The OIG conducted the audit from July 1999 through July 2000 in accordance with generally accepted government auditing standards.

## RESULTS OF AUDIT

We identified 18 properties valued at about \$1.9 million that the FDIC appears to own in either its corporate or receivership capacity. However, we could not find those properties listed in the FDIC's records. County record databases also show that the FDIC owns 258 other properties in the 40 counties that we reviewed. However, we did not review property deeds at the county offices to verify ownership of those properties.

In April 2000, the FDIC discontinued its project to identify unrecorded assets that it began in February 1999 because of the project's limited success. However, we believe that the FDIC should consider reinstating its discovered assets project based on the results of our audit and the improving availability of on-line county property records that could streamline the asset search process. The FDIC needs to record properties that it owns in its records and market those

properties for sale. In addition, identifying and properly disposing of those assets could limit potential liabilities to the FDIC from not managing assets that it owns.

### **Properties Not Recorded in the FDIC's Records**

We verified property deeds for 18 properties valued at about \$1.9 million that show the FDIC as the current owner. Of the 18 properties we reviewed in detail, county records showed that 5 are owned by the FDIC, 2 by the RTC, 7 by failed financial institution receiverships, and 4 by a limited partnership of a failed financial institution. Examples of the unrecorded properties that the FDIC appears to own are discussed below.

**Wexford Plantation.** Beaufort County, South Carolina, tax records show the FDIC as owner of several lots on Hilton Head Island. On May 25, 1993, the FDIC, through a foreclosure sale, purchased tracts I and II of Wexford on the Green—a section of Wexford Plantation—located on Hilton Head Island, South Carolina. Those tracts included building lots for which the FDIC paid over \$1.2 million. The FDIC's records show that it sold one lot for \$49,000 on July 24, 1995. However, if the FDIC sold any of the other lots, the FDIC's sales database did not report the sales. As of March 2000, Beaufort County, South Carolina, tax records showed that property taxes on the lots were delinquent since 1995. Beaufort County had been sending the tax bills to the FDIC in care of McNamara Associates in Atlanta, Georgia. McNamara Associates was a property tax advisor for the FDIC whose contract with the FDIC expired on December 31, 1997.

**Cheyenne Street.** Charleston County, South Carolina, property records show that Cooper River Federal Savings and Loan Association—FIN 1282—owns a property on Cheyenne Street in North Charleston, South Carolina. According to the deed, Cooper River, which the RTC took into receivership in June 1992, acquired the property through a court action on August 8, 1983 for the sum of \$72,844. However, records that we obtained from the county tax assessor's office showed that the taxes were current and the county mailed the tax bill to Cooper River Federal Savings and Loan Association, in care of citizen A (name redacted).

We contacted citizen A to determine why he was paying taxes on a property that, according to county records, Cooper River owned. According to documents provided by citizen A, he bought the property from Cooper River in 1984 for \$64,000 and was required to make monthly loan payments to Cooper River over a 25-year period. In addition, under the sales agreement, Cooper River was to execute and deliver title to the property to citizen A on August 1, 1987, 3 years after the sale. Thirteen years later, citizen A still does not have title to the property.

At some point after Cooper River failed, Midland Loan Services began servicing the loan for the RTC. We contacted Midland Loan Services to determine who currently owns the loan. According to Midland, State Street Bank, as trustee for the RTC, owns the loan. Accordingly, the FDIC should determine who owns the property. If citizen A properly purchased the property, the FDIC, as successor to the RTC and receiver for Cooper River, should provide him with a title to the property. For its use in resolving this matter, we provided DRR with a copy of the property deed showing that Cooper River acquired the property in 1983, the sales contract, and citizen A's loan payment statement from Midland Loan Services.

**Village of Skull Creek.** Beaufort County, South Carolina, tax records also showed the Village of Skull Creek, a limited partnership of City Federal Savings and Loan Association, Birmingham, Alabama, as owner of four properties that were not recorded in the FDIC's records. City Federal failed in September 1990 and became an RTC receivership. According to the Subsidiary Information Management Network—the FDIC's system of record for subsidiaries, partnerships, and joint ventures—the FDIC dissolved the Village of Skull Creek partnership in September 1999. Beaufort County tax records showed the owner's address as the Resolution Trust Corporation in Atlanta, Georgia. Beaufort County mailed the 1999 tax bill for one of the Village of Skull Creek properties to the FDIC's Atlanta office. The DRR account officer responsible for managing the Village of Skull Creek partnership confirmed that the FDIC dissolved the partnership in September 1999 because it was inactive. The account officer stated that he was not aware of the Village of Skull Creek properties located in Beaufort County, South Carolina.

We obtained property deeds, descriptions, tax records, and other information for the 18 properties that the FDIC or its receiverships appear to own but do not appear in the FDIC's records. We provided that information (see appendix I) to DRR staff in Dallas for their review and consideration.

## **FDIC EFFORTS TO IDENTIFY REAL ESTATE ASSETS**

The FDIC exposes itself to potential asset losses and liability suits for properties that it does not properly manage and insure. In February 1999, DFOB initiated a discovered assets project to identify assets that county records show are owned by the FDIC in its corporate or receivership capacity but are not recorded in the FDIC's records. Before DFOB initiated the project, it operated primarily in a reactive mode in that it responded to public inquiries expressing interest in purchasing properties that as it turned out the FDIC had not recorded in its records as owning.

Due, at least in part, to such public inquiries, DFOB began actively searching public record databases and county real estate ownership and tax records to identify properties that belong to the FDIC or its receiverships. DFOB focused primarily on 49 counties in Texas but also included 2 counties in Arizona, 3 counties in California, and 9 counties in Florida. DFOB identified 2,469 properties valued at about \$134 million that public record databases showed that the FDIC owned. After DFOB personnel searched county databases and the FDIC's records, they sometimes used a contractor to perform title searches for properties that appeared to belong to the FDIC.

As of March 2000, DFOB had completed further research on 2,117 of the 2,469 properties and found that only 39 of those properties valued at about \$600,000 actually belonged to the FDIC. The FDIC had either previously sold or already recorded the other properties in the FDIC's records or the FDIC never owned the properties. According to a July 28, 2000 report, DRR discontinued the project because of the low number of discovered properties in relation to the number of properties reviewed and the resources devoted to the project.

If DFOB confirms the 18 unrecorded assets that we identified belong to the FDIC, we believe that the FDIC should reconsider whether to completely abandon its discovered asset project. Because on-line access to county property databases is improving rapidly, much of the initial asset search can be performed in-house by FDIC personnel without incurring the cost of title searches. Outside legal assistance to verify ownership can be reserved for only those properties that in-house research shows are likely to belong to the FDIC or its receiverships or subsidiaries.

In addition to the lost monetary value of the 18 potential discovered assets that we identified, the FDIC also faces potential costs when it does not properly manage properties that it owns. For example, the value of properties that the FDIC owns, but is unaware of, can decline significantly due to vandalism and the lack of general maintenance. To illustrate, one of the properties that we identified in Montgomery County, Alabama, was boarded up and needed maintenance (see figure 1).

**Figure 1: Property in Montgomery County, Alabama**



Source: OIG photograph.

The FDIC is potentially liable for costs to bring that property up to county standards. In addition, the FDIC could also be liable for accidents, crimes, or other acts committed on the property. Accordingly, the FDIC needs to assess the potential liabilities associated with properties that it

owns but is not managing along with the market value of those properties in relation to the cost of identifying those properties.

## **CONCLUSIONS AND RECOMMENDATIONS**

We identified 18 properties valued at about \$1.9 million that the FDIC appears to own in either its corporate or receivership capacity but are not recorded in the FDIC's records. In addition, we identified 258 other properties that according to county property databases belong to the FDIC or its receiverships. Accordingly, the FDIC may not be managing or marketing any of those properties that it owns. Although the results of DFOB's project to discover FDIC-owned assets met with limited success, discontinuing the project based solely on the project cost versus the value of the discovered assets may not be justified. Not identifying FDIC-owned assets could expose the Corporation not only to the loss of the value of the asset but also to potential liabilities. Accordingly, the OIG recommends that the Deputy Director, DRR, DFOB, take the following actions:

- (1) Confirm whether the 18 properties valued at about \$1.9 million (funds put to better use) that we identified are owned by the FDIC. As appropriate, DRR should add those assets to the FDIC's owned real estate inventory and manage and market them.
- (2) If the Cheyenne Street property in Charleston County, South Carolina (property number 15 in appendix I) was sold, execute and deliver title to the property to the purchaser.
- (3) Conduct in-house research on the 258 properties that we identified through LEXIS/NEXIS and county databases that may belong to the FDIC or its receiverships. As warranted, conduct more detailed research to confirm ownership of those properties that the FDIC appears to own.
- (4) Consider reinstating DRR's discovered assets project based on the results obtained from recommendations (1) and (3), the improved availability of on-line databases needed to search county property and tax records, and a cost/benefit analysis of the resources needed versus the value of discovered assets plus the potential liabilities to the FDIC from not identifying and managing properties that it owns.

## **CORPORATION COMMENTS AND OIG EVALUATION**

On December 1, 2000, the Deputy Director, DRR, DFOB, provided a written response to a draft of this report. The Deputy Director's response agreed with the recommendations and provided the requisites for a management decision on each of the four recommendations. We did not summarize the Deputy Director's response because the actions planned or completed are the same as those recommended. Appendix II to this report presents the Director's response.

Appendix III presents management's proposed actions on our recommendations and shows that there is a management decision for each recommendation in this report. Based on the audit work, the OIG will report funds put to better use of \$1,905,547 in its *Semiannual Report to the Congress*.

**POTENTIAL DISCOVERED ASSETS**

No.	FDIC Ownership Capacity	Property Description	County/State	Value
1	RTC	327 Shelly Lane	Montgomery, AL	\$ 24,200
2	RTC	5156 Levenson Road	Montgomery, AL	40,000
3	First American Bank & Trust (Receivership)	4169 Herbertz	Palm Beach, FL	347,772
4	Centrust Savings Bank (Receivership)	470 Executive Center Drive	Palm Beach, FL	27,400
5	City Federal Savings Bank (Receivership)	624 12 <sup>th</sup> Avenue	Palm Beach, FL	136,712
6	RTC as receiver for American Pioneer Federal Savings	1153 Avenue H	Palm Beach, FL	10,313
7	RTC as receiver for Oak Tree Federal Savings	Palm Beach Polo Village	Palm Beach, FL	500
8	First Community Bank of Cherokee (Receivership)	Loring Drive NW, Lot #144	Cobb, GA	1,100
9	FDIC, c/o McNamara Associates	Master Wexford on the Green, 7.42 acres	Beaufort, SC	565,250
10	FDIC, c/o McNamara Associates	Master Wexford on the Green, 2.47 acres	Beaufort, SC	637,500
11	Village of Skull Creek, c/o RTC (Limited Partnership)	Village of Skull Creek #61A	Beaufort, SC	1,000
12	Village of Skull Creek, c/o RTC (Limited Partnership)	Village of Skull Creek #64	Beaufort, SC	Unavailable
13	Village of Skull Creek, c/o RTC (Limited Partnership)	Village of Skull Creek #64D	Beaufort, SC	Unavailable
14	Village of Skull Creek, c/o RTC (Limited Partnership)	Village of Skull Creek #94	Beaufort, SC	Unavailable
15	Cooper River Federal Savings & Loan (Receivership)	Cheyenne Street, Lots 23-26 & 28	Charleston, SC	85,200
16	FDIC	Garland Street	Richland, SC	15,000
17	FDIC	Deer Ridge Drive, Lot #17	Richland, SC	6,800
18	FDIC	Deer Ridge Drive, Lot #18	Richland, SC	6,800
<b>Total</b>				<b>\$1,905,547</b>

Source: OIG review of property deeds at county offices.

**FDIC****Dallas Field Operations Branch**1910 Pacific Ave.  
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DATE November 27, 2000

MEMORANDUM TO: Carl S. Mays, Director  
Office of Inspector GeneralFROM:  A. J. Felton, Deputy Director   
Division of Resolutions and Receiverships  
Dallas Field Operations BranchSUBJECT: Response to OIG Draft Report of *Audit of Real Estate Owned  
By the Federal Deposit Insurance Corporation and Its  
Receiverships and Subsidiaries*

In the Office of Inspector General above audit, dated November 2, 2000 to A.J. Felton, it was suggested in the **Conclusions and Recommendations** that:

- (1) Confirm whether the 18 properties valued at about \$1.9 Million (funds put to better use) that we identified are owned by the FDIC. As Appropriate, DRR should add those assets to the FDIC's owned real estate inventory and manage and market them.

**RESPONSE:** In a telephone conference on October 13, 2000, with the OIG/Atlanta and Washington DRR office representatives, it was agreed that the Dallas Owned Real Estate Department would research the 18 properties for ownership. The ORE Department ordered title commitments from independent title companies on all 18 properties which should have the ownership questions answered by the Corrective Action Date deadline of March 31, 2001.

- (2) If the Cheyenne Street property in Charleston County, South Carolina (property number 15 in appendix I) was sold, execute and deliver title to the property to the purchaser.

**RESPONSE:** This property is one of the 18 properties identified in the number one recommendation. A deed search has been ordered as noted above. A search of the fin, (1282) for the property address of Cheyenne Street in Charleston County, South Carolina, does not show the FDIC/RTC as ever owning an asset by that name. The deed search will clear up this issue and will be reported by the Corrective Action Date of March 31, 2001.

- (3) Conduct in-house research on the 258 properties that we identified through LEXIS/NEXIS and county databases that may belong to the FDIC or its receiverships. As warranted, conduct more detailed research to confirm ownership of those properties which FDIC appears to own.

**RESPONSE:**The Dallas ORE Department with assistance from DRR Customer Service will conduct an in house detailed research for ownership of the 258 properties. If any of the subject properties prove to be owned by the FDIC, appropriate action by the ORE Department will be taken.

- (4) Consider reinstating DRR's discovered assets project based on the results obtained from recommendations (1) and (3), the improved availability of on-line databases needed to search county property and tax records, and a cost/benefit analysis of the resources needed versus the value of discovered assets plus the potential liabilities to the FDIC from not identifying and managing properties that it own.

**RESPONSE:** The Dallas ORE and DRR Washington explored the continuing research of county tax records through out the United States, i.e.: the *Discovered Assets Program*. It was found that the cost and benefits obtained did not warrant any future pursuit on a comprehensive basis. Over 2,400 tax records were researched during 1999 from online taxing jurisdictions in four states and 62 counties. The results demonstrated that over 98% of the tax records were in error. And only 1.5% of the records involved properties where FDIC, RTC or FSCLIC was the current owner. A memorandum on these findings was sent to the Washington DRR office which has concurred to restricting any further pursuit of the program. If circumstances warrant, management will revisit the *Discovered Assets Program* for possible continuance.

cc: Gail Patelunas, DRR Washington  
John Recchia Internal Review Washington  
Thomas J. O'Keefe DRR Dallas  
Rick Hoffman, Internal Review Dallas  
Mike Lamb, Internal Review Dallas  
Richard, H. Fischman, DRR Washington  
Dean R. Eisenberg DRR Washington  
Douglas Woodward, DRR Dallas  
Art Miller, DRR Dallas

## MANAGEMENT RESPONSES TO RECOMMENDATIONS

The Inspector General Act of 1978, as amended, requires the OIG to report on the status of management decisions on its recommendations in its semiannual reports to the Congress. To consider the FDIC's responses as management decisions in accordance with the act and related guidance, several conditions are necessary. First, the response must describe for each recommendation

- the specific corrective actions already taken, if applicable;
- corrective actions to be taken together with the expected completion dates for their implementation; and
- documentation that will confirm completion of corrective actions.

If any recommendation identifies specific monetary benefits, FDIC management must state the amount agreed or disagreed with and the reasons for any disagreement. In the case of questioned costs, the amount that the FDIC plans to disallow must be included in management's response.

If management does not agree that it should implement a recommendation, it must describe why it does not consider the recommendation valid.

Second, the OIG must determine that management's descriptions of (1) the course of action already taken or proposed and (2) the documentation confirming completion of corrective actions are responsive to its recommendations.

This table presents management's responses on recommendations in our report and the status of management decisions. The OIG based the information for management decisions on management's written response to our report.

<b>Rec. Number</b>	<b>Corrective Action: Taken or Planned / Status</b>	<b>Expected Completion Date</b>	<b>Documentation That Will Confirm Final Action</b>	<b>Monetary Benefits</b>	<b>Management Decision: Yes or No</b>
1	The Deputy Director, DRR, DFOB, agreed with the recommendation and stated that the DFOB would research ownership of and had ordered title commitments from independent title companies on all 18 properties.	01/31/01	Title commitments.	\$1.9 million funds put to better use	Yes
2	The Deputy Director, DRR, DFOB, agreed with the recommendation and stated that DFOB has ordered a deed search, which will clear up the ownership issue.	01/31/01	Property deed.	Unknown	Yes
3	The Deputy Director, DRR, DFOB, agreed with the recommendation and stated that the DFOB will conduct in-house research to determine ownership of the 258 properties and take appropriate action on any of the properties owned by the FDIC.	06/30/01	Research results and title commitments as appropriate.	Unknown	Yes
4	The Deputy Director, DRR, DFOB, agreed with the recommendation and stated that if circumstances warrant management will revisit the discovered assets program for possible continuance.	06/30/01	Management decision based on outcome of corrective actions on recommendations 1 and 3.	Unknown	Yes