



Utah Housing Corporation, West Valley City, UT

Mortgage Servicing



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

Issue Date: September 27, 2012

Audit Report Number: 2012-DE-1005

TO: Charles S. Coulter, Deputy Assistant Secretary for Single Family Housing, HU

FROM: Ronald J. Hosking, Regional Inspector General for Audit, Denver Region, 8AGA

SUBJECT: A Hotline Complaint About Utah Housing Corporation, West Valley City, UT,
Mortgage Servicing Was Not Substantiated

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the hotline complaint about Utah Housing Corporation's mortgage servicing of Federal Housing Administration (FHA)-insured mortgages and corresponding downpayment assistance mortgages.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 913-551-5872.



September 27, 2012

A Hotline Complaint About Utah Housing Corporation, West Valley City, UT, Mortgage Servicing Was Not Substantiated

Highlights

Audit Report 2012-DE-1005

What We Audited and Why

We reviewed the allegations contained in a hotline complaint of the Utah Housing Corporation, West Valley City, UT, to determine whether the allegations that the Corporation commingled funds and serviced second mortgages before the first FHA mortgages could be substantiated.

What We Found

We found no evidence to substantiate the allegations. We found no evidence that the Corporation commingled funds from the first FHA mortgages and the second downpayment assistance mortgages. We also found no evidence that the Corporation serviced second mortgages before the first FHA mortgages by using first mortgage payments to pay the second mortgage. Therefore, the Corporation properly serviced the mortgages.

What We Recommend

This report contains no formal recommendations, and no further action is necessary.

TABLE OF CONTENTS

Background and Objective	3
Results of Audit	
A Hotline Complaint About Utah Housing Corporation, West Valley City, UT, Regarding the Commingling of Funds and Servicing Second Mortgages Before the First FHA Mortgages, Was Unsubstantiated	4
Scope and Methodology	6
Internal Controls	7
Appendix	
A. Auditee Comments	8

BACKGROUND AND OBJECTIVE

The Utah Legislature created the Utah Housing Corporation, previously known as Utah Housing Finance Agency, as a public corporation in 1975. The Corporation had authority to issue bonds and other obligations and to purchase mortgage loans in furtherance of its purpose of providing safe and sanitary housing for persons of limited income residing in the State of Utah.

The U.S. Department of Housing and Urban Development's (HUD) Office of Housing oversaw the Federal Housing Administration (FHA) and regulated housing industry business. Congress created FHA in 1934, and it became a part of HUD's Office of Housing in 1965. FHA provided mortgage insurance on loans made by FHA-approved lenders in the United States and insured mortgages on single-family homes and other properties.

As of March 31, 2012, HUD's Neighborhood Watch data showed that the Corporation had 10,377 active FHA-insured mortgages with a total original loan amount of more than \$1.3 billion, which was 98.7 percent of its loans. For 98 percent of its FHA mortgages, the Corporation provided the borrowers with downpayment assistance mortgages. It funded the downpayment assistance mortgages without HUD insurance or funding. The FHA mortgage was the senior or first mortgage, and the downpayment assistance mortgage was the subordinate or second mortgage.

The Office of Inspector General (OIG) received a confidential hotline complaint and conducted this audit to determine whether the complaint could be substantiated. The complainant alleged that the Corporation commingled funds and serviced the financial interest of the second mortgages before the first FHA mortgages and that the Corporation did not apply money paid by the customer to the first mortgage but, rather, applied it to the second mortgage. The complainant stated that this practice left the FHA mortgage in default and possible foreclosure.

Our objective was to determine whether the allegation that Utah Housing Corporation commingled funds and serviced second mortgages before the first FHA mortgages could be substantiated.

RESULTS OF AUDIT

A Hotline Complaint About Utah Housing Corporation, West Valley City, UT, Regarding the Commingling of Funds and Servicing Second Mortgages Before the First FHA Mortgages, Was Unsubstantiated

We reviewed the allegations contained in a hotline complaint about the Utah Housing Corporation, regarding the commingling of funds and servicing second mortgages before the first FHA mortgages. We found no evidence to substantiate the allegations. The significant allegations made in the complaint and the results of our review of those allegations are detailed as follows:

- The complainant alleged that the Corporation commingled funds from the first FHA mortgages and the second downpayment assistance mortgages. We found no evidence to substantiate this allegation. We reviewed the loan-level documents and accounting records for 20 of the 352 applicable FHA first mortgages and the associated second mortgages. The loan-level documents showed that each mortgage had a distinct mortgage number and payments were applied directly to the appropriate mortgages. The accounting records showed no indications of the intermingling of funds between the first mortgages and corresponding second mortgages.
- The complainant alleged that the Corporation serviced second mortgages before the first FHA mortgages by using first mortgage payments to pay the second mortgage. The complainant believed that second mortgage payments should be applied to corresponding delinquent first mortgages. We found no evidence to substantiate this allegation. We reviewed the loan-level documents and accounting records for 20 of the 352 applicable FHA first mortgages and the associated second mortgages. The review of loan servicing documents for 20 borrowers showed proper servicing of the first and second mortgages. The review of accounting records for the 20 loans sampled showed that the payments were properly recorded to the first and second mortgages.

The Corporation properly processed the first and second mortgages as two separate and independent legal mortgages and correctly serviced the mortgage payments. The Corporation was obligated to apply the loan payments according to borrower instructions.

The Corporation's procedures were supported by applicable principles of law. According to principles of contract and commercial law adopted by the courts, two general maxims govern the application of payments made by a debtor to a creditor. One maxim provides that a debtor who owes multiple obligations to a creditor has the right to apply a payment toward a particular debt even if the creditor disagrees with the debtor's application. The second maxim states that when a debtor fails to direct a payment to a specific debt, the creditor may apply the debtor's payment to any one of several debts held against the

debtor. The creditor must make proper application of the proceeds in accordance with that direction. Therefore, the Corporation properly serviced the mortgages.

Recommendations

This report contains no recommendations, and no further action is necessary.

SCOPE AND METHODOLOGY

We performed our onsite audit work at the Corporation's office at 2479 South Lake Park Boulevard, West Valley City, UT, between April and May 2012. The audit generally covered the period January 1, 2010, through March 31, 2012.

To accomplish our objective, we interviewed pertinent Corporation and HUD staff and reviewed

- Applicable Federal regulations, HUD requirements, and mortgage laws;
- The Corporation's policies and procedures relating to mortgage servicing;
- The mortgage notes for the first FHA and second downpayment assistance mortgages;
- The Corporation's payment and accounting records;
- The Corporation's loan servicing records; and
- HUD's servicing monitoring review and the Corporation's responses to the findings.

We selected and reviewed a sample of the Corporation's borrower records. Of the 352 FHA mortgages that fit the parameters of our review, we selected a total of 20 using a random number generator. We reviewed the servicing and accounting records for the first FHA mortgages and the corresponding second downpayment assistance mortgages.

We did not rely on computer-processed data for our audit purposes. We traced or verified the supporting documentation to draw our conclusions about the allegation.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Controls over the recording of loan payments.
- Controls over the servicing of first and second mortgages.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the Corporation's payment processing- and loan servicing-related internal controls.

APPENDIX

Appendix A

AUDITEE COMMENTS

Auditee Comments



2479 S. Lake Park Blvd. West Valley City, UT 84120
P 801.902.8250 800.344.0452 F 801.902.8303 www.utahhousingcorp.org

Mortgage Servicing

September 5, 2012

Ronald J. Hosking
Regional Inspector General
Office of Audit Region 8
1670 Broadway, 24th Floor
Denver, CO 80202

Re: Utah Housing Corporation Hotline Complaint - Not Substantiated

Dear Mr. Hosking:

Utah Housing Corporation (UHC) has received and reviewed the draft report concerning comingling funds and inappropriate loan servicing. We are pleased with the resulting audit conclusion, finding the hotline allegations were unsubstantiated. Our staff appreciated the thoroughness and professionalism of your audit team. Utah Housing will continue our pledge to properly service our loans and monitor our internal controls.

Sincerely,

Amy White
VP, Mortgage Servicing
Utah Housing Corporation

Cc: Grant Whitaker, CEO
Jonathan Hanks, Senior Vice President/COO
Cleon Butterfield, Senior Vice President/CFO
Chad Moore, Controller