



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

Memorandum No: 2012-NY-1802

September 28, 2012

MEMORANDUM FOR: Vincent Hom, Director, Office of Community Planning and Development, 2ADM1

Edgar Moore

FROM: Edgar Moore, Regional Inspector General for Audit, New York, New Jersey, 2AGA

SUBJECT: Village of Spring Valley, NY, Hotline Complaint
Federal Housing Finance Agency Complaint Number Z-12-0445-1

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), conducted a review of the Village of Spring Valley, NY, a subrecipient of Rockland County, NY. On February 22, 2012, the Federal Housing Finance Agency (FHFA) OIG referred a confidential complaint (FHFA complaint number Z-12-0445-1) to HUD OIG's, Program Integrity (hotline) Division. On February 27, 2012, the Division referred the hotline complaint to Region 2¹'s Office of Audit for review. The complaint alleged that the Village (1) used eminent domain and Federal funds to seize property, (2) transferred ownership of properties to a developer to be sold at higher prices, and (3) allowed the developer to build segregated housing on the property as part of an urban renewal project. The objectives of the review were to determine whether the complaint alleging the use of eminent domain and Federal funds to seize and develop properties in the Village had merit and whether the Village used HUD funds as part of its urban renewal project in accordance with applicable rules and regulations.

This memorandum report contains three recommendations. In accordance with HUD Handbook 2000.06, REV-4, within 60 days, please provide us, for each recommendation in this memorandum, a status report on (1) the corrective action taken, (2) the proposed corrective action and the date to be completed, or (3) why action is considered unnecessary. Additional status reports are required 90 and 120 days after this memorandum is issued for any

¹ Region 2 includes the entire states of New York and New Jersey.

recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of this review.

Should you or your staff have questions, please contact Karen A. Campbell, Assistant Regional Inspector General for Audit, at (212) 542-7977.

METHODOLOGY AND SCOPE

To accomplish our objectives, we

- Obtained and reviewed relevant HUD Community Development Block Grant (CDBG) program and HOME Investment Partnerships Program regulations, applicable notices, and Code of Federal Regulations requirements applicable to our review objectives;
- Interviewed HUD, grantee, and subrecipient key personnel;
- Reviewed applicable CDBG funding approvals and HOME agreements;
- Reviewed applicable subrecipient and grant agreements;
- Obtained and reviewed the applicable urban renewal plan, project amendments, and monitoring report;
- Reviewed the Village's audited financial statements for the fiscal years ending May 31, 2005, May 31, 2006, and May 31, 2007;
- Obtained and reviewed CDBG and HOME drawdown data from HUD's Integrated Disbursement and Information System;
- Reviewed applicable urban renewal project contracts funded by CDBG and HOME funds; and
- Reviewed property records for the properties acquired by the Village using the Internet and Lexis-Nexis.com.

We performed our onsite work from May through June 2012 at the Rockland County Office of Community Development, located at 50 Sanatorium Road, Building K, Pomona, NY. The review period covered July 1, 2003, to June 30, 2008, and was expanded as deemed necessary. We tested 100 percent of the disbursements made by Rockland County (grantee) to the Village (subrecipient) during the review period. We tested a total of \$1.54 million, which consisted of \$945,000 in CDBG expenditures and \$598,575 in HOME expenditures.

BACKGROUND

The Village is a subrecipient of Rockland County, NY, an entitlement recipient of CDBG and HOME funds. The Village was established in 1902 and operates in accordance with the Village Law and various other applicable laws of the State of New York. The Village Board of Trustees is the legislative body responsible for overall operations. The mayor serves as the chief executive officer and the Village treasurer serves as the chief financial officer. The Village provides the following services to its residents: public safety, health, transportation, economic

opportunity and development, culture and recreation, home and community services, and general and administrative support.

The Village was awarded a total of \$1.5 million in HUD funds from Rockland County, consisting of \$945,000 in CDBG funds and \$598,575 in HOME funds for the urban renewal project. It entered into yearly subrecipient agreements with the grantee from 2003 through 2006 for the urban renewal project. The project comprised of a Main Street revitalization project, which included streetscapes and lighting to revitalize the downtown Main Street business district in the Village. The objectives of the urban renewal project were to (1) eliminate blight conditions within the project area and (2) improve conditions of deteriorated or dilapidated buildings within the project area. Additionally, the Village acquired and demolished properties as part of the project. The boundaries of the project area included approximately 15 blocks along Main Street in the central portion of the Village. The project was supplemented with funds from a grant from the Empire State Development Corporation, the issuance of bonds, and funds from the Village.

The Community Development Block Grant (CDBG program was established by Title I of the Housing and Community Development Act of 1974 (Public Law 93-383). The program provides grants to State and local governments to aid in the development of viable urban communities. Governments are to use grant funds to provide decent housing and suitable living environments and expand economic opportunities, principally for persons of low and moderate income. To be eligible for funding, every CDBG-funded activity must meet one of the program's national objectives. Specifically, every activity, except for program administration and planning, must

- Benefit low- and moderate-income persons,
- Aid in preventing or eliminating slums and blight, or
- Address a need with a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

The HOME Investment Partnerships program, authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, is designed to create affordable housing for low-income households. The program provides formula grants to States and localities that communities use, often in partnership with local nonprofit groups, to fund a wide range of activities that build, buy, or rehabilitate affordable housing for rent or home ownership or provide direct rental assistance to low-income people.

RESULTS OF REVIEW

Our review determined that although the facts of some of the allegations were valid and substantiated, the Village generally used HUD funds in accordance with applicable rules and regulations for its urban renewal project. Thus, no further action is required. Specifically, the first and second allegations regarding seizure of property under the auspices of eminent domain and the transfer of ownership of these properties were valid; however, such actions are allowable under HUD rules and regulations. Further, the portion of the second allegation regarding the selling of the seized properties at higher prices did not have merit for any of the properties

acquired with HUD funds. The third allegation, regarding the developer building segregated housing, is discriminatory in nature and will be referred to HUD's Office of Fair Housing and Equal Opportunity.

The Village received \$102,438 in CDBG funds from Rockland County to acquire a property for which it could not provide documentation to support that a national objective of the CDBG program was met. Also, the Village did not inform the grantee of \$825,000 in program income earned from the sale of property site 3 to a developer. The specific results of the review are discussed below.

Seizure of Property Using Eminent Domain and HUD Funds

The allegation that the Village used eminent domain and Federal funds to seize property was valid and substantiated, as well as the acquisition of property, which is an allowable CDBG activity if funding was used before fiscal year 2006. Federal Register, Docket No. FR-5077-N-01, dated July 17, 2006, prohibited the use of fiscal year 2006 funds for eminent domain-related activities. Specifically, the Village used approximately \$773,438 in Federal funds (consisting of \$573,438 in CDBG and \$200,000 in HOME funds) from program years 2003 through 2005 funding to acquire five properties for use in its urban renewal project. The Village's urban renewal project included acquisition, relocation, and demolition of properties to enhance the Village's downtown area. The properties acquired using CDBG and HOME funding became property sites 1, 2, 3, and 4 of the project. Property sites 1 and 2 were incomplete at the time of our review; however, \$102,438 in CDBG funds was used to acquire one property on property site 1. Property site 3 included one property acquired with \$66,000 in CDBG funds, and property site 4 included three properties acquired with a total of \$405,000 in CDBG funds and \$200,000 in HOME funds. Property sites 3 and 4 were constructed to senior and family rental buildings to provide affordable housing. Each rental building included commercial space on the ground floor to be used for retail and services. HUD funding was also used to plan and demolish the properties at sites 1, 2, 3, and 4 for the project. Nevertheless, the Village complied with HUD rules and regulations when it acquired property for its urban renewal project using eminent domain and HUD funds.

Transfer of Property Ownership

The allegation that the Village later transferred ownership of the acquired property was also valid. All properties acquired using HUD funding were transferred to developers for use in the urban renewal project. The transfer of ownership to a developer is allowable under HUD rules and regulations. Further, the transfer was necessary to proceed with the project to develop the sites in accordance with the Village's urban renewal plan. The second part of the allegation, alleging that the properties were transferred to the developer and sold at higher prices did not have merit for the properties acquired with HUD funds. In March of 2006, the Village used CDBG funds to acquire one property on property site 3. Additionally, CDBG funds were used for the planning and other costs pertaining to this site. In February 2008, the Village sold property site 3 (location of planned senior rental housing) to a developer for \$825,000. Nevertheless, the Village complied with HUD rules and regulations when it transferred property ownership for its urban renewal project.

Segregated Housing

The allegation that the developer built segregated housing is discriminatory in nature. Therefore, we plan to make a referral to HUD's Office of Fair Housing and Equal Opportunity.

Unsupported CDBG Funds Disbursed

The Village disbursed \$102,438 in CDBG funds to acquire a property for which it could not provide documentation to support that a national objective of the CDBG program was met. This condition occurred because the Village transferred the property to a developer without informing Rockland County. Regulations at 24 CFR (Code of Federal Regulations) 570.208 provide that to be eligible for funding, every CDBG-funded activity must meet one of the three national objectives of the CDBG program: (1) benefit low- and moderate-income persons, (2) aid in prevention or elimination of slums and blight, or (3) address a need with a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community. Since property sites 1 and 2 had not been completed, there was no marketing plan in place to describe the uses of these sites. As a result, \$102,438 in CDBG funds used for the acquisition and associated expenses was considered unsupported. We recommend that the Village provide documentation to support that the \$102,438 in CDBG funds met one of the three CDBG national objectives.

Program Income Not Recorded

The Village did not inform Rockland County of program income it earned from the sale of a property to a developer for property site 3. The Village acquired a property and paid planning, demolition, and other expenses related to site 3 using CDBG funds for its urban renewal project. Regulations at 24 CFR 570.500(a)(1) provide that program income is defined by gross income received by the recipient or subrecipient directly generated from the use of CDBG funds. This condition occurred because the Village sold property site 3 of the urban renewal project without informing Rockland County. Therefore, Rockland County could not report program income to HUD and did not have an accurate accounting of the program income earned by the Village. The resulting \$825,000 in sales proceeds from property site 3 should have been reported to HUD and recorded in HUD's Integrated Disbursement and Information System. Thus, the \$825,000 earned by the Village from the property sale was considered ineligible and should have been used to offset future CDBG costs. As a result, the funds should be repaid to the grantee's CDBG line of credit from non-Federal funds so that the funds can be used before additional CDBG drawdowns are requested.

CONCLUSION

Our review determined that two of the allegations in the complaint had merit and HUD funds were generally used in accordance with applicable rules and regulations for the Village's urban renewal project. However, \$102,438 was used for unsupported costs, and \$825,000 in program income was not recorded. The third allegation, pertaining to segregated housing, will be referred to HUD's New York Office of Fair Housing and Equal Opportunity.

RECOMMENDATIONS

We recommend that the Director of HUD's New York City Office of Community Planning and Development instruct Rockland County officials to require the Village to

- 1A. Provide documentation to justify that the \$102,438 in unsupported CDBG funds used to acquire property meets one of the three CDBG national objectives. Any costs determined to be ineligible should be reimbursed from non-Federal funds.

Further, we recommend that the Director of HUD's New York City Office of Community Planning and Development instruct Rockland County officials to

- 1B. Record the unreported program income of \$825,000 related to the sale of property site 3 in HUD's Integrated Disbursement and Information System so that these funds can be used before additional CDBG funds are drawn down.
- 1C. Strengthen controls over the recognition and reporting of program income to ensure that all program income is properly recorded in HUD's Integrated Disbursement and Information System and used before future CDBG funds are drawn down.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible <u>1/</u>	Unsupported <u>2/</u>
1A		\$102,438
1B	\$825,000	

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Auditee officials agree with the results of the review and declined to provide written comments.