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

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Memorandum

TO Kathleen Zadareky
Deputy Assistant Secretary, Single Family Housing, HU

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

SUBJECT: Opportunity in Living, Centennial, CO's Participation in the HUD Single Family Property Disposition Program

INTRODUCTION

The Office of Inspector General (OIG) conducted an audit of Opportunity in Living (OIL), Centennial, CO's participation in the U.S. Department of Housing and Urban Development's (HUD) Single Family Property Disposition program. We initiated this review based on a request from the Denver HUD Office of Single Family Housing. A HUD review of OIL's nonprofit recertification application raised questions as to its suitability for recertification in the HUD program. Specifically, the HUD review found that OIL purchased 10 homes during the exclusive listing period and sold 2 of them to its staff and 8 to possible investors. In addition, HUD found that some of the investors sold homes on the day they bought the property from OIL. Our audit objective was to determine whether OIL's purchase of HUD-owned homes during the exclusive listing period violated HUD regulations at 24 CFR (Code of Federal Regulations) Part 291.

METHODOLOGY AND SCOPE

We reviewed OIL's affordable housing plan, reviewed five property files, and interviewed OIL's executive director about its real estate-owned (REO) property purchases. We reviewed the housing plan to determine whether it contained language that would prevent OIL from purchasing REO properties during the exclusive listing period without a discount. We analyzed the five properties that OIL purchased through the REO sales program to determine whether OIL worked with investors to avoid meeting the investor requirements. We reviewed the property files located at the auditee's office and local county tax assessor records.

We also retrieved REO property data from HUD's Yardi P260 System. The P260 system tracks HUD's REO properties. It includes a portal for lenders to enter information, such as preconveyance requests and scans of title documents. We identified 40 HUD single-family REO properties purchased between September 1, 2010, and May 3, 2014. From the 40 properties, we selected 5 based on indications from HUD program staff that they contained discrepancies.

BACKGROUND

The HUD Single Family Property Disposition Program is designed to dispose of REO properties in a manner that expands home-ownership opportunities, strengthens neighborhoods and communities, and ensures a maximum return to mortgage insurance funds.

Under this program, nonprofit organizations are eligible to purchase REO properties. HUD regulations at 24 CFR Part 291 contain a definition of "private nonprofit organizations," which includes specific eligibility requirements (24 CFR 291.5(b)), and provide various processes for purchase. One process is the direct sales program (24 CFR 291.210), in which preapproved government agencies and nonprofit organizations may directly acquire REO properties at a discount. The regulations note that HUD may limit the number of direct sales to a given purchaser and there may be restrictions on resale to ensure expanded affordable housing opportunities. Part 291 also contains a separate competitive sale process (24 CFR 291.205), which does not provide a discount or reference postsale restrictions. The competitive process provides that priority will be given to government entities and nonprofit organizations over other owner occupants. This is also referred to as the exclusive listing period. Part 291 includes nonprofit organizations in the definition of owner occupants (see 24 CFR 291.205(a)(2)).

HUD regulations at 24 CFR 200.194 state that HUD maintains a roster of nonprofit organizations eligible to participate in certain Federal Housing Administration (FHA) activities. According to 24 CFR Chapter II, HUD recognizes a nonprofit as one that is on the approved roster and complies with any requirements stated in a specific applicable provision of the single-family regulations. Additionally, section 200.194 states that a nonprofit organization must submit an application that specifies the FHA activities it proposes to carry out.

HUD has established guidelines for removal of a nonprofit organization from its approved FHA roster. According HUD regulations at 24 CFR 200.195, HUD may remove an organization from the approved roster for failure to comply with applicable single-family regulations in Chapter II, mortgagee letters, or other written instructions or standards issued by HUD; failure to further all objectives described in the affordable housing program narrative; or misrepresentation or fraudulent statements.

In 1996, OIL was founded as a nonprofit organization. It is located at 6930 South University Boulevard, Suite 100, Centennial, CO. Its mission is to provide affordable quality housing to low- to moderate-income families and individuals by acquiring HUD homes and rehabilitating them. OIL's Web site indicated that it had purchased and rehabilitated more than 200 homes and as of 2014, had 22 homes in its inventory in the Denver metropolitan area. OIL's 2012 HUD-approved housing plan stated that OIL had provided more than 230 qualified low- to moderate-income buyers with the opportunity of home ownership. OIL's housing plan did not reference its intent to purchase REO properties without a discount. OIL was included on HUD's roster of nonprofit agencies eligible to participate in certain FHA activities in 2012 and continued to purchase homes under the Single Family Property Disposition program until 2014. In 2014, HUD denied OIL's recertification to participate in FHA activities. HUD cited OIL's failure to ensure that REO properties purchased by OIL were sold to low- to moderate-income buyers who intended to be owner occupants, contrary to OIL's affordable housing plan.

RESULTS OF REVIEW

During the review, we determined that OIL did not violate HUD requirements at 24 CFR Part 291 when it purchased HUD-owned homes during the exclusive listing period.

OIL purchased some REO properties through the competitive process and sold them to investors and individuals employed by or affiliated with the organization. Specifically, for the five properties reviewed,

1. Three were sold to investors the day OIL purchased the properties from HUD, and
2. One was sold to an individual associated with the nonprofit.

We interviewed the executive director of OIL, who stated that the nonprofit purchased some homes during the exclusive listing period and sold them for a profit. He stated that OIL sold some of the homes for a profit to buy additional homes for low- to moderate-income home buyers. He further stated that the housing plan outlined how OIL would purchase and dispose of homes purchased with a discount, not homes purchased during the exclusive listing period without a discount.

OIL did not violate HUD requirements at 24 CFR Part 291 when it purchased HUD REO properties at a nondiscount during the exclusive listing period. HUD's regulations at Part 291 do not prescribe how a qualified nonprofit should purchase homes during the exclusive listing period. When OIL purchased the properties through the REO competitive sale program under 24 CFR 291.205 it was not subject to the use restrictions that pertain to sales of discounted properties as part of the direct sale program in 24 CFR 291.210.

CONCLUSION

We agree with HUD that OIL acted like an investor when it purchased homes without a discount during the exclusive listing period. However, we do not believe that OIL violated regulations at 24 CFR Part 291. We note, however, that HUD removed OIL from the nonprofit eligibility roster on October 20, 2014, because "OIL did not ensure that properties purchased through the HUD Homes program were sold to low- to moderate-income buyers who intended to reside in the property as their principal residence." While HUD based its decision on separate requirements, we will work with the HUD Office of Single Family Housing to suggest recommendations on how to better clarify the Part 291 rules for nonprofits that purchase homes without a discount during the exclusive listing period to ensure that the intent of the program is met and other nonprofits on HUD's approved roster do not act as investors. These recommendations will be included in a separate report to HUD.