



Issue Date June 19, 2007

Audit Report Number 2007-PH-1007

TO: Lloyd W. Wilkerson, Director, Multifamily Program Center, Charleston Field Office, 3CHMLAT

FROM:  John P. Buck, Regional Inspector General for Audit, Philadelphia Regional Office, 3AGA

SUBJECT: Oak Mound Associates, Clarksburg, West Virginia, Improperly Billed HUD for Section 8 Subsidies

HIGHLIGHTS

What We Audited and Why

We audited Oakmound Apartments, Clarksburg, West Virginia, based upon your concern that Oak Mound Associates (Oak Mound) overbilled the U.S. Department of Housing and Urban Development (HUD) for its project-based Section 8 subsidy. Our overall audit objective was to determine whether Oak Mound properly submitted bills for Section 8 subsidy according to contractual requirements and HUD regulations.

What We Found

Oak Mound did not always submit bills for its Section 8 contract subsidy in accordance with contractual requirements and HUD regulations. Our review of 10 tenant files identified problems with the monthly housing assistance payments in all 10 files. Oak Mound did not request the proper subsidy in 53 of the 121 (44 percent) individual monthly subsidy requests reviewed in these 10 files. The audit identified subsidy overpayments totaling \$3,473, resulting from Oak

Mound's failure to properly adjust its requests for housing assistance payments when tenant income increased (\$2,626) and because Oak Mound improperly requested subsidies when units were vacant for up to 13 days (\$847). Oak Mound also lacked proper documentation to support other housing assistance payments it received totaling \$5,671.

What We Recommend

We recommend that the director of HUD's Multifamily Program Center direct Oak Mound to repay the contract administrator \$3,473 from nonfederal funds for the ineligible housing assistance payments it received and provide documentation to support the \$5,671 in questioned costs and, if any of the costs cannot be supported, reimburse the contract administrator from nonfederal funds. We further recommend that HUD direct Oak Mound to develop and implement policies and procedures to ensure that subsidy requests are accurate, fully supported by documentation in the tenant files, and maintained as required.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We discussed the report with Oak Mound during the audit and at an exit conference on June 1, 2007. Oak Mound provided written comments to our draft report on June 4, 2007. Oak Mound accepted the conclusions in the report and agreed to repay all of the questioned costs. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVES

Oak Mound Associates (Oak Mound) was formed under the laws of the Commonwealth of Pennsylvania on June 6, 1980, as a limited partnership for the purpose of constructing, owning, and operating Oakmound Apartments. Oakmound Apartments is a 159-unit complex located in Clarksburg, West Virginia. It is managed by NDC Real Estate Management, Inc., an affiliated corporation of Oak Mound. NDC Real Estate Management, Inc., was established in January 1982 by the principals of National Development Corporation, a real estate development company headquartered in Pittsburgh, Pennsylvania. NDC Real Estate Management, Inc., has more than 20 years experience in the operation and management of rental housing, as well as condominiums and homeowner associations. NDC Realty Investments, Inc., is the general partner in the Oak Mound limited partnership.

The project is financed by a mortgage loan insured by the U.S. Department of Housing and Urban Development (HUD) pursuant to Sections 221(d)(4)¹ and 223(a)(7)² of the National Housing Act. The project receives Section 8 project-based subsidies for eligible low-income tenants under a project-based Section 8 housing assistance payments basic renewal contract (contract). In May 2002, Oak Mound renewed its Section 8 contract with the West Virginia Housing Development Fund (contract administrator) for a 5-year period. The contract administrator is responsible for monitoring Oak Mound's compliance with Section 8 program requirements, receiving and reviewing its monthly subsidy vouchers, making monthly subsidy payments to Oak Mound, and working with it and/or the management agent to resolve issues related to voucher reviews or routine contract monitoring. For 2004 and 2005, Oak Mound received an average annual subsidy of \$873,000.

Our audit objective was to determine whether Oak Mound properly submitted bills for Section 8 subsidy according to contractual requirements and HUD regulations.

¹ Section 221(d)(4) is a HUD multifamily housing program that provides mortgage insurance for the construction or substantial rehabilitation of multifamily rental properties consisting of five or more units for up to 90 percent of a project's estimated replacement cost.

² Section 223(a)(7) gives the Federal Housing Administration (FHA) the authority to refinance FHA-insured loans of multifamily rental properties consisting of five or more units up to 85 percent of appraised value.

RESULTS OF AUDIT

Finding: Oak Mound Improperly Billed HUD for Section 8 Subsidies

Oak Mound did not always submit bills for its Section 8 contract subsidy in accordance with contractual requirements and HUD regulations. Oak Mound did not request the proper subsidy or could not support that it requested the proper subsidy in 53 of the 121 (44 percent) individual monthly subsidy requests reviewed. As a result, Oak Mound was overpaid at least \$3,473 because it failed to properly adjust its payment requests when tenant income increased and for days when units were vacant. Oak Mound also could not properly support housing assistance payment requests totaling \$5,671. These problems occurred because Oak Mound did not establish and implement adequate policies and procedures to ensure that its subsidy requests were accurate and complete, in accordance with applicable HUD requirements.

Oak Mound Billed for Ineligible and Unsupported Subsidies

Our audit identified problems with housing assistance payments requests in all 10 tenant files reviewed. More specifically, Oak Mound did not request the proper subsidy in 53 of the 121 (44 percent) individual monthly subsidy requests reviewed in these 10 files. Oak Mound requested and received subsidy overpayments totaling \$3,473, because it did not properly adjust its requests for housing assistance payments when tenant income increased (\$2,626) and because it improperly requested subsidies when units were vacant (\$847). Oak Mound also lacked proper documentation to support other housing assistance payments it received totaling \$5,671. Details are discussed in the paragraphs below.

- In seven of the files, Oak Mound's payment requests included subsidies for up to 13 days when the units were vacant. HUD Handbook 4350.3, chapter 9, states that owners are entitled to assistance payments only for the actual number of days during the month that the tenant occupies the unit. For these seven units, Oak Mound received formal written notification of move-out dates, such as notices from the utility companies detailing the exact date that the tenant vacated the unit, but failed to adjust its payment requests accordingly. As a result, Oak Mound improperly received \$847 (12 monthly payments) in housing assistance payments for these seven tenants.
- In three of the files, Oak Mound did not retroactively adjust rents as required. HUD Handbook 4350.3, chapter 7, states that owners must process an interim certification and retroactive rent increase to the first day of the month following the date that the action occurred when a tenant

fails to notify the owner that the family's income has increased by more than \$200 per month. Oak Mound did not comply with this requirement, and as a result, it improperly received \$1,787 (27 monthly payments) in housing assistance payments for these three tenants.

- In one of the files, Oak Mound did not increase the tenant's rent as required. HUD Handbook 4350.3, chapter 7, provides that if a tenant's rent increases because of an interim adjustment, the owner must give the tenant 30 days advance notice of the increase and that the effective date of the increase will be the first of the month commencing after the end of the 30-day period. Oak Mound did not comply with this requirement, and as a result, it improperly received \$291 (one monthly payment) in housing assistance payments.
- In one of the files, Oak Mound did not properly calculate the total tenant payment when the tenant received a delayed benefit payment in a lump sum. HUD Handbook 4350.3, chapter 5, states that settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets, but lump-sum payments caused by delays in processing periodic payment for unemployment or welfare assistance are included as income. Oak Mound did not comply with this requirement, and as a result, it improperly received \$548 (three monthly payments) in housing assistance payments.
- In three of the files, Oak Mound could not support that it requested the proper subsidy. Oak Mound was required to ensure that the tenants signed a HUD 50059 form certifying compliance with HUD's tenant eligibility and rent procedures and that a copy was maintained in the tenant file. HUD Handbook 4350.3, chapter 9, requires owners to keep the signed 50059 facsimiles for all subsidized tenants from the time of move-in to move-out and for a minimum of three years thereafter. Oak Mound did not maintain the form as required in two of the tenant files. In the third file, although Oak Mound maintained a copy of the HUD 50059 form, it was not signed by the tenant. This is critical because the tenant also did not complete an alternate zero income certification. Therefore, Oak Mound had no record of the tenant's certifying to zero income. Consequently, the \$5,671 (10 monthly payments) in related housing assistance payments for these three tenants is unsupported.

We audited the monthly payments of only 10 units due to Oak Mound's lack of adequate accounting records, as discussed below. Therefore, we are concerned that Oak Mound's improper billing practices could be much more prevalent than the audit identified, considering that it is a 159-unit apartment complex. Appendix C of this report lists the discrepancies identified in the 10 tenant files reviewed.

Oak Mound Lacked Adequate Controls and Records

The problems occurred because Oak Mound did not establish and implement policies and procedures to ensure that subsidy requests were accurate and fully supported by documentation in the tenant files. By implementing our recommendations and improving controls over its subsidy requests, Oak Mound will cease collecting ineligible housing assistance payments and, thereby, put at least \$1,389³ to better use in the future.

Also, Oak Mound lacked controls to ensure that it maintained accurate and complete accounts, books, and records for the project in compliance with applicable HUD requirements⁴ and generally accepted accounting principles as required by its regulatory agreement.⁵ Oak Mound did not maintain subsidiary tenant accounts receivable ledgers or reconcile the balances and, therefore, it did not maintain its records in a condition to facilitate an effective audit. However, using available documentation, such as monthly closing reports, records of subsidy deposits, and tenant deposits, we re-created the monthly accounts receivable balances to complete our review of the 10 tenant files selected from the period January 2004 through June 2006. The lack of the required financial information prevented us from auditing a larger sample of tenant files as planned. Oak Mound needs to develop and implement controls to ensure that the project's accounts, books, and records are accurate, complete, and in full compliance with applicable federal and HUD requirements.

Recommendations

We recommend that the director, Multifamily Program Center, Charleston field office, direct Oak Mound to

- 1A. Repay the contract administrator \$3,473 from nonfederal funds for the ineligible subsidy payments identified.
- 1B. Provide documentation to support the \$5,671 in questioned costs identified and, if any of the costs cannot be supported, reimburse the contract administrator from nonfederal funds.

³ \$1,389 of funds to be put to better use is calculated by dividing \$3,473 (the ineligible costs identified) by 30 months (the audit period) and multiplying by 12 months (to annualize).

⁴ HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs and HUD Handbook 4370.2, REV-1, Financial Operations and Accounting Procedures for Insured Multifamily Projects.

⁵ Regulatory Agreement for Insured Multifamily Housing Projects (with Section 8 housing assistance payment contracts).

- 1C. Develop and implement policies and procedures to ensure that subsidy requests are accurate, fully supported by documentation in the tenant files, and maintained as required, thereby putting \$1,389 to better use.
- 1D. Develop and implement controls to ensure that the project's accounts, books, and records are accurate, complete, and in full compliance with applicable federal and HUD requirements.

SCOPE AND METHODOLOGY

We performed the audit at Oakmound Apartments, located in Clarksburg, West Virginia, and at NDC Real Estate Management, Inc. (management agent), located in Pittsburgh, Pennsylvania, from September through December 2006. The audit was performed in accordance with generally accepted government auditing standards and included tests of internal controls that we considered necessary under the circumstances. During the audit, we assessed the reliability of computer-processed data relevant to our audit by comparing the data to hard-copy information. We found the computer-processed data were sufficiently reliable to meet our audit objectives.

The audit covered transactions representative of operations at the time of the audit and included the period January 2004 through June 2006. We expanded the scope of the audit as necessary. We discussed operations with the management agent's staff and key officials from the West Virginia Housing Development Fund (contract administrator) and HUD's Charleston, West Virginia, field office.

To determine whether Oak Mound submitted bills for Section 8 subsidy in accordance with contractual requirements and HUD regulations, we

- Reviewed Oak Mound's internal control structure.
- Reviewed the independent auditor's reports for Oak Mound for fiscal years 2003 through 2005.
- Reviewed Oak Mound's project-based Section 8 housing assistance payments basic renewal contract, regulatory agreement, and applicable HUD program regulations and guidance.
- Reviewed the management agent's management certification for projects with identity-of-interest or independent management agents.
- Reviewed correspondence maintained by HUD, the contract administrator, and Oak Mound related to the audit and results of monitoring reviews.
- Randomly selected and reviewed the tenant files for 10 former tenants to determine whether they were eligible for Section 8 subsidies and whether housing assistance payments were calculated correctly. Based on our work, we estimate that Oak Mound will put \$1,389 to better use by implementing our recommendations and ceasing to collect ineligible housing assistance payments. We calculated the \$1,389 of funds to be put to better use by dividing \$3,473 (the ineligible costs identified) by 30 months (the audit period) and multiplying by 12 months to annualize.
- Reviewed all documentation provided by Oak Mound related to our audit objective, including general ledgers, bank statements, closing reports, rent schedules, utility transfer agreements and related correspondence, and subsidy payment vouchers.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

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

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- Policies, procedures, and controls implemented to ensure that Oak Mound properly submitted bills for Section 8 subsidy according to contractual requirements and HUD regulations.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

Based on our review, we believe the following items are significant weaknesses:

Oak Mound did not

- Establish policies and procedures to ensure that subsidy requests were accurate, fully supported by documentation in the tenant files, and maintained as required.
- Establish controls to ensure that the project's accounts, books, and records were accurate, complete, and in full compliance with applicable federal and HUD requirements.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A	\$3,473		
1B		\$5,671	
1C			\$1,389

- 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 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.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. This includes reductions in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings which are specifically identified. In this instance, if Oak Mound implements our recommendations, it will cease collecting ineligible subsidies. Once Oak Mound successfully improves its controls, this will be a recurring benefit. To be conservative, our estimate reflects only the initial year of these recurring benefits.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

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**NDC Realty
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Sent VIA E-Mail

June 4, 2007

Mr. John P. Buck
Regional Inspector General for Audit
U. S. Department of Housing and Urban Development
Wanamaker Building, Suite 1005
100 Penn Square East
Philadelphia, PA 19107-3380

Dear Mr. Buck,

Re: Draft Audit Report
Oakmound Apartments
Clarksburg, WV

We have reviewed the draft audit report for Oakmound Apartments as discussed in the June 1, 2007 exit conference. The report is the result of an eight month audit of a number of tenant files at the property. The auditors concluded that we have over-requisitioned, or appear to have over-requisitioned, \$9,144 of Section 8 housing assistance funds over a thirty month period. More specifically, the draft audit identifies \$3,473 in ineligible costs (that need to be repaid by the property), and \$5,671 in unsupported costs (that need to be repaid by the property if additional support cannot be provided).

As we discussed during the exit conference on June 1, 2007, NDC Realty Investments, Inc. and its affiliates have successfully owned, operated and managed HUD assisted housing for over thirty years. We take pride in the quality of our management operations and work to comply fully with all HUD program requirements in the management of our properties. Although we strive for perfection, we realize that perfection is not possible, and when deficiencies are pointed out to us, we take action on a timely basis to correct them and to ensure that they will not be repeated in the future.

As you are aware, we provided your auditors with a large amount of electronic and paper documentation. When we were informed of the preliminary conclusions of the audit, we provided (at the request of your audit team) supplemental material relating to the tenant files included in the audit. We understand this material was reviewed but was not deemed sufficient to change the conclusions reached in draft audit.

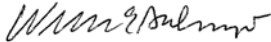
Comment 1

As you are also aware, we are not fully in agreement with some of the conclusions of your auditors. In addition, we believe that HUD's instructions (contained in handbooks and elsewhere) are in some instances unclear or ambiguous, and that our staff and your auditors in fact are simply interpreting HUD's written instructions differently, and that either interpretation can be considered acceptable.

Nevertheless, as we have told you, we are accepting the conclusions of the draft audit report and when the audit is issued in final form, we will work with the Charleston Field Office to clear the findings and implement the recommendations in a manner that is acceptable to all parties. We intend to repay not only the disallowed amounts, but also the unsupported amounts, in order to show our good faith, to maintain our good relationship with the Department, and to move this audit to full resolution as quickly as possible.

We await a copy of your final report. Should you or your staff have any questions or need additional information, please contact me at 412-578-7826.

Sincerely,



William E. Balsinger
President
NDC Realty Investments, Inc.
General Partner
Oakmound Associates

cc: Arthur R. Hessel, Hessel and Aluise, P.C.
David Kasperowicz, HUD OIG
Debra Braun, HUD OIG
Lloyd Wilkerson, HUD Charleston

OIG Evaluation of Auditee Comments

Comment 1 We disagree that HUD instructions applicable to the audit were unclear and ambiguous. Rather, Oak Mound needed to develop and implement policies and procedures to ensure that its subsidy requests were accurate, fully supported by documentation in the tenant files, and maintained as required.

Appendix C

DEFICIENCIES AND QUESTIONED COSTS BY TENANT FILE

Unit numbers of tenant files reviewed	Subsidies billed for vacant units	Lump-sum benefit payment not included in tenant income	Required forms not in tenant file or not signed	Tenant subsidies not adjusted to consider unreported income benefits	Rent increase not effective after 30 days
2108	\$262		\$1,707		
4305		\$548			
2209	\$43				
4207	\$30		\$3,817		
3307	\$19				\$291
4110				\$932	
4102	\$184				
3209	\$108		\$147		
4307				\$578	
4108	\$201			\$277	
Totals	\$847	\$548	\$5,671	\$1,787	\$291