



Issue Date	October 28, 2009
Audit Report Number	2010-LA-1001

TO: William Vasquez, Director, Los Angeles Office of Community Planning and Development, 9DD

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: City of Los Angeles Housing Department, Los Angeles, California, Did Not Ensure That the NoHo Commons Housing Development Met HOME Program Requirements

HIGHLIGHTS

What We Audited and Why

We audited the City of Los Angeles Housing Department (City) as the result of two complaints, which alleged violations of affordable housing and low-income housing tax credit regulations at the NoHo Commons housing development (development), which was partially funded with HOME Investment Partnerships Program (HOME) funds and administered by the Community Redevelopment Agency of Los Angeles (subrecipient). Our objective was to determine whether the alleged violations had merit and warranted further review. Specifically, we wanted to determine (1) the type and amount of U.S. Department of Housing and Urban Development (HUD) funding used and (2) whether the City administered its subrecipient and the development in accordance with pertinent HUD regulations.

What We Found

We identified the HUD funding used and found that the allegations had merit. The City improperly allocated HOME funds for the development without adequate controls in place to ensure compliance with HOME program requirements. Specifically, the City's subrecipient did not ensure that the development's management agent implemented a waiting list as established by its lottery and subsequent applications, correctly determined tenants' income to establish eligibility, maintained adequate documentation supporting

the use of the HOME funds, and implemented adequate monitoring policies and procedures for the development.

What We Recommend

We recommend that HUD require the City to suspend all HOME funding to the subrecipient until acceptable monitoring policies and procedures have been implemented to ensure compliance with all HOME program requirements, reconstruct and establish a complete waiting list, and determine which eligible applicants were improperly bypassed and ensure that they are given first priority for housing as vacancies arise. We also recommend that both the City and the subrecipient establish and implement effective policies and procedures to ensure compliance with HOME regulations.

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 provided the City a draft report on September 18, 2009, and held an exit conference with City officials on October 2, 2009. The City provided written comments on October 13, 2009. The City generally agreed with our report recommendations. The subrecipient also submitted a response in which it disagreed with the finding, but agreed to implement the recommendations.

The complete text of the City and subrecipient's response, along with our evaluation of that response, can be found in appendix A of this report. The subrecipient's response also included 14 attachments which did not constitute the views of the responsible officials and were voluminous in nature. Therefore, we did not include the attachments, but they are listed in appendix A of the report. The attachments can be provided upon request.

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BACKGROUND AND OBJECTIVE

The HOME Program

The HOME Investment Partnerships Program (HOME) is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, and program regulations are at 24 CFR [*Code of Federal Regulations*] Part 92. The HOME program is the largest federal block grant given to state and local participating jurisdictions, designed exclusively to create affordable housing for low-income households. The program's flexibility allows participating jurisdictions to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, rental assistance, or security deposits. The intent of the HOME program is to

- Provide decent affordable housing to lower income households,
- Expand the capacity of nonprofit housing providers,
- Strengthen the ability of state and local governments to provide housing, and
- Leverage private-sector participation.

The City

Los Angeles, California, is a participating jurisdiction which administers all of its HOME programs under the City of Los Angeles' Housing Department (City). The City typically awards HOME funds to various subrecipients, developers, and private lenders. The City's standard procedures state that developers must apply for HOME funding from the City through a notice of funding availability. The City's Affordable Housing Trust Fund Unit receives applications and then reviews and scores them using criteria established by the respective leveraging source identified by the applicant.

However, the City did not use the standard procedures for funding the NoHo Commons Development because, according to the City, the mayor and city council have authority to allocate City funds outside the notice of funding availability process. Therefore, the City allocated funding to its subrecipient using a cooperation agreement instead of standard procedures.

The Subrecipient

The Community Redevelopment Agency of the City of Los Angeles (subrecipient) has been the City's independent public partner in housing, commercial, neighborhood, and economic development, dedicated to revitalizing, refurbishing, and renewing economically underserved areas of Los Angeles. Since its creation in 1948, its main task has been to lend a hand to investors willing to take risks for a more vibrant city, to neighborhood residents with renewed aspirations for their communities, and to those in need who strive to take part in the City's growing prosperity. In addition, it helps to increase the supply of housing for low- and moderate-income families, provides infrastructure for commercial and industrial development, and creates jobs necessary to maintain acceptable levels of employment. The subrecipient receives funding from the City to help fund these activities.

The Development

The NoHo Commons (development) is a 16.7-acre mixed-use campus designed to act as a catalyst for the completion and revitalization of the commercial core in North Hollywood. The development is located at the intersection of Chandler and Lankershim Boulevards. It consists of three phases. NoHo Commons Phase I, called The Gallery at NoHo Commons, has 438 rental units, of which 115¹ are restricted to very low-, low-, and moderate-income households. NoHo Phase II, called The Lofts at NoHo Commons, has 292 rental units, of which 28² are affordable to very low-, low-, and moderate-income households. Phase III of the NoHo Commons development is not complete as of the date of this report.³

Funding for the three phases of the development consists of both private and public funds estimated at \$235.6 million, of which more than \$200 million in private investment is expected to be used by development completion. We determined that HUD funds for the three phases of the development consisted of a \$14 million Section 108 loan, \$1.8 million Economic Development Initiative (EDI) grant, \$3 million Community Development Block Grant (CDBG) float loan, and \$5 million in HOME funds as shown in the table below.

Funding type	Amount	Development phase
HUD Section 108 loan	\$14 million	I & II
HUD EDI grant	\$1.8 million	I & II
HOME grant	\$5 million	I
CDBG float loan	\$3 million	III

Audit Objective

Our objective was to determine whether the alleged violations of affordable housing and low-income housing tax credit regulations at the development had merit and warranted further review. Specifically, we wanted to determine (1) the type and amount of HUD funding used and (2) whether the City and the subrecipient administered the development in accordance with pertinent HUD regulations.

¹ Only 40 of these units are HOME-assisted rental units.

² None of these units is a HOME-assisted rental unit.

³ Although this phase is not complete, the \$3 million in CDBG funding has been used for parcel acquisition.

RESULTS OF AUDIT

Finding 1: The City Improperly Allocated HOME Funds for the Development to Its Subrecipient without Adequate Controls to Ensure Compliance with HOME Program Requirements

The City improperly allocated HOME funds for the development to its subrecipient without adequate controls in place to ensure compliance with HOME program requirements. Specifically, the subrecipient did not

- ✓ Ensure that the development's management agent (agent) implemented a waiting list as established by the initial lottery and subsequent applications received;
- ✓ Ensure that the development's agent correctly determined the tenants' income to establish eligibility;
- ✓ Maintain adequate documentation supporting the use of the HOME funds; and
- ✓ Implement adequate monitoring policies and procedures for the development.

These conditions occurred because the City lacked written procedures and had insufficient monitoring controls in place for projects that were not processed and administered through its affordable housing trust fund process. As a result, while we were able to independently confirm that the \$5 million in HOME funds was used for eligible purposes, the City did not fulfill its responsibility to HUD to ensure that the HOME program intent to provide affordable housing for low-income households was fully met.

Waiting List Not Implemented

The development's agent did not implement a waiting list as established by the lottery and subsequent applications received. We were provided multiple waiting lists; however, none of the lists was complete, and we were unable to establish which one was the official waiting list. In addition, the agent did not select or house individuals in the order listed on any of the waiting lists provided. Federal Regulations at 24 CFR 92.253(d) state, "An owner of rental housing assisted with HOME funds must adopt written tenant selection policies and criteria that: (4) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practical".

We acknowledge that a lottery is acceptable method to establish a waiting list for initial lease up when there is a large pool of applicants. However, we reviewed several lists provided by the subrecipient and its agent, and were unable to determine which list was the official waiting list and what process was used to offer housing to applicants. We

interviewed a subrecipient staff member and the agent's director of compliance who both stated that a waiting list was established during the initial lease-up process by using a lottery, in which applications were drawn from a box to establish the order, rather than compiling a list based on the order in which the applications had been received.

We reviewed several incomplete lists provided by the subrecipient and its agent. Specifically, we reviewed the following:

- A hand-written list entitled "lottery 12/13/06 No Ho Gallery" (lottery);
- An Excel spreadsheet entitled "Inclusionary Waitlist";
- A PDF file entitled "Lottery List for Inclusionary Program"; and
- A PDF file entitled "Waiting List."

We analyzed the various versions of the waiting lists and lottery lists and identified a number of inconsistencies. We compared the inclusionary waitlist to the hand-written "lottery" and determined that several individuals on the "lottery" did not appear on the waitlist and vice versa. For example, individuals listed as numbers 350, 359, 497, 498, 535, and 544 shown on the waiting list and not on the lottery were housed, while others shown on the lottery had not been contacted to determine eligibility for lease-up. Further, the individual listed as number one on the "lottery," "Lottery List for Inclusionary Program," and "Waiting List" had not leased up.

We determined that the waiting list and all documents related to the waiting list were inconsistent and haphazard. The agent's inadequate record keeping caused several individuals in need of affordable housing to be bypassed, while others were offered housing prematurely.

Documentation provided by the subrecipient in its response to this report further supported that the waiting list was not implemented, as it should have been. Specifically, the response stated that 318 applications were received for the 115 affordable units, then randomly selected to establish the chronological waiting list provided by the subrecipient in its response. Therefore this waiting list should have been completely exhausted by ensuring all 318 individuals had an opportunity to lease, be denied/disqualified, or decline. We determined that several individuals had been bypassed and no supporting documentation was provided to show why.

Tenants' Income Calculations Not Done Correctly

We reviewed 17 tenant files, and found that for 10 (59 percent) of the files, the agent miscalculated the tenants' income for one or more years of eligibility certifications. The subrecipient stated that at the time of initial income certification, HOME program eligibility was determined for all 17 applicants. However, we did not find any evidence to support this statement. The subrecipient provided an email and a document titled "Initial Rent and Occupancy" to support that initial occupancy was reviewed and

monitored. We determined that neither the email, nor the report adequately supported that the subrecipient monitored its agent. The miscalculations in the 17 tenant files we reviewed did not affect tenant program eligibility, however, it is possible that miscalculations could affect eligibility, allowing inappropriate acceptance into the program. Had the subrecipient monitored the agent as required, it might have detected the errors.

Inadequate Supporting Documentation Maintained

Although we were able to independently obtain supporting documentation from the developer, neither the City nor the subrecipient had adequate documentation to show that \$5 million in HOME funding allocated for the development was used for eligible purposes. Specifically, the City only maintained disbursement records, which included a reimbursement request and an interdepartmental memorandum. The interdepartmental memorandum from the City's finance department to its accounting department requested the draw of funds for the development but contained incorrect information, which included the wrong (1) cooperation agreement number, (2) development cross streets, and (3) Integrated Disbursement and Information System number.

The City's subrecipient also did not have adequate documentation to show that \$5 million in HOME funding allocated to its developer was used for eligible purposes. The subrecipient was able to supply copies of a wire transfer of \$2 million in HOME funding to Bank of America for reimbursement of parcel acquisition but was unable to provide documentation for the additional \$3 million in HOME funds. Additionally, the wire transfer documentation did not identify the purchased parcels. Subrecipient accounting personnel stated that a credit of \$3 million in HOME funding to the developer was supported by "using the grant agreement contract with the City and the owner participation agreement as supporting documentation."⁴

Lack of Monitoring Policies and Procedures

The City did not have monitoring policies and procedures in place to ensure that its subrecipient administered the development in compliance with HOME regulations. The City placed the responsibility on its subrecipient by executing a cooperation agreement, which stated that the subrecipient "shall be solely responsible to monitor the use of Home Funds and maintain its own records." Although the City had started to draft monitoring policies and procedures in response to a prior audit, the procedures were not in place at the time that it allocated HOME funds to its subrecipient.

The City's subrecipient did not have monitoring policies and procedures in place to ensure that its agent complied with HOME regulations. Instead, the subrecipient placed

⁴ We obtained supporting documentation for the \$3 million from the subrecipient's developer.

the burden of monitoring on the agent. The subrecipient's housing policy manual states that owners will be required to complete a self-monitoring form to verify that tenants meet eligibility requirements and that affordable units fall within applicable rent limits. We determined that the subrecipient did not monitor the agent because it was only able to provide a blank occupancy summary report, a blank certificate of continuing program compliance, and a household characteristics report. None of these documents adequately supported compliance with HOME regulations.

Conclusion

The City improperly allocated HOME funds for the development to its subrecipient without adequate controls in place to ensure compliance with HOME program requirements. This condition occurred because the City lacked written procedures and had insufficient monitoring controls in place for projects that were not processed and administered through its affordable housing trust fund process. As a result, although we were able to independently confirm that the \$5 million in HOME funds was used for eligible purposes, the City did not fulfill its responsibility to HUD to ensure that the HOME program intent to provide affordable housing for low-income households was fully met.

Recommendations

We recommend that the Director of the Los Angeles Office of Community Planning and Development require the City to

- 1A. Suspend all HOME funding to the subrecipient until acceptable subrecipient monitoring policies and procedures are implemented to ensure compliance with all HOME program requirements.
- 1B. Reconstruct and establish a waiting list that is complete and lists the applicants in order based on the lottery results and/or the date the applicants applied for housing after the lottery cut-off date.
- 1C. Determine all eligible applicants that were improperly bypassed and ensure that they are given first priority for housing as vacancies arise for HOME-assisted rental units before other applicants are housed.
- 1D. Ensure that the subrecipient establishes and implements effective written policies and procedures to ensure that its HOME-assisted developments comply with HOME regulations.
- 1E. Establish and implement effective written policies and procedures for monitoring its subrecipients' projects that were not processed and administered through its affordable housing trust fund process.

SCOPE AND METHODOLOGY

We performed our on-site audit work from April through May 2009 at the subrecipient's offices in Los Angeles and North Hollywood, California, as well as the development's agent's office in North Hollywood, California. The audit generally covered the period June 2004 through July 2009. We expanded our audit period as needed to accomplish our objective. We reviewed the City's compliance with applicable laws and HUD regulations. Our methodology included

- Reviews of documentation provided by complainants;
- Reviews of loan files, grant files, project files, and accounting records at the City and its subrecipient to obtain the source, amount, and supporting documentation for HUD funding used for the housing development;
- Reviews of escrow documentation provided by the developer;
- Interviews with pertinent personnel at the City, its subrecipient, and the development;
- Reviews of the City's and its subrecipient's policies and procedures for financing and monitoring HUD-funded properties;
- Reviews of relevant HUD regulations related to the HUD funding used;
- Reviews of tenant files at the development to determine whether tenant eligibility, unit affordability, and records maintenance complied with HOME regulations;
- Reviews of physical inspection reports provided by the City; and
- Reviews of waiting lists provided by the City's subrecipient and the development.

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 findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

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

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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:

- Policies and procedures for the distribution of HOME funds to subrecipients.
- Policies and procedures for monitoring subrecipients that receive HOME funds.

We assessed the relevant controls identified above.

A significant weakness exists if internal 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 that the following items are significant weaknesses:

- The City did not have policies and procedures to ensure that HOME funding disbursed to its subrecipients was used for eligible purposes.
- The City did not have policies and procedures to ensure that subrecipients of HOME funding followed all HOME regulations for the entire affordability period (covenant period).

FOLLOW-UP ON PRIOR AUDITS

Audit of the City of Los Angeles Housing Department – HOME Program Administration and Monitoring, 2009-LA-1011, dated July 1, 2009

We audited the City as the result of problems noted during a prior audit involving HOME-funded activities administered by the Community Redevelopment Agency of the City of Los Angeles (subrecipient), which were not adequately monitored by the City, compounded by concerns stemming from various newspaper articles related to the Marlton Square project, which included the Buckingham Place Senior Affordable Housing (Buckingham Place) project. Our objective was to determine whether HUD funds awarded to Los Angeles and administered by the City were administered in accordance with HUD's requirements for the HOME program as they relate to a specific subrecipient.

We found that the City improperly allocated HOME funds for the Buckingham Place project to its subrecipient without adequate controls in place to ensure that HOME program requirements were met. This condition occurred because the City lacked written procedures and had insufficient monitoring controls in place for projects not processed and administered through its affordable housing trust fund process.

We recommended that HUD require the City to provide documentation supporting the eligibility of the \$8.5 million HOME investment for its proposal to complete the one partially completed building and have it ready for occupancy within two years of the date of the report or repay the funds from nonfederal sources. In addition, the City should establish and implement written procedures for projects administered by its subrecipients that are not processed through the affordable housing trust fund process. On October 21, 2009, we entered into management decisions with HUD to correct the items in the recommendations, which have a target completion date of September 1, 2011.

Audit of the City of Los Angeles Housing Department Rehabilitation of Four HOME- Funded Projects, 2009-LA- 1007, dated February 20, 2009

We audited the City as a result of a prior audit (2008-LA-1016), which detected four projects that may not have been rehabilitated as intended. We found that the City did not always ensure that its HOME-assisted rehabilitation work was complete and in accordance with HOME requirements. Of the four projects, we found one project in

which the City paid \$22,466 in HOME funds for incomplete rehabilitation work. On June 19, 2009, we entered into management decisions with HUD to correct the items in the recommendations, which have a target completion date of February 20, 2010.

**Audit of the City of Los Angeles
Housing Department – HOME
Affordability Monitoring and
Inspections, 2008-LA-1016,
dated September 18, 2008**

We audited the City's HOME affordability monitoring and inspection requirements regarding HOME-assisted rental units, prompted by a prior audit (2008-LA-1004), which detected problems in this area. We found that the City did not comply with HOME affordability monitoring and inspection requirements for its HOME-assisted rental housing. It failed to maintain the required tenant eligibility information for 26 HOME-assisted rental housing projects totaling nearly \$38 million. In addition, it did not maintain complete tenant eligibility information, did not ensure that its contractor conducted occupancy monitoring in accordance with HOME program requirements, and failed to inspect HOME-assisted rental housing projects when required. On December 2, 2008, we entered into management decisions with HUD to correct the items in the recommendations, which have a target completion date of December 2, 2009.

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



Los Angeles Housing Department
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Antonio R. Villalagosa, Mayor
Mercedes Márquez, General Manager

October 13, 2009

Tanya Schulze
Office of the Inspector General
U.S. Department of Housing and Urban Development
Los Angeles Field Office, Region IX
611 W. 6th Street, Suite 1000
Los Angeles CA 90017

**RE: Discussion Draft Audit Report
City of Los Angeles Housing Department
NoHo Commons Project**

Dear Ms. Schultz,

As the HOME Program administrator for the City of Los Angeles, the Los Angeles Housing Department (LAHD) appreciates the time and attention given by the OIG to the preparation of this report. The LAHD understands that it cannot pass on its responsibilities for ensuring compliance in the use of HOME funds to another entity and that agreements that seek to do so are out of compliance with HUD requirements.

With regard to **Recommendations 1A – 1D**, attached for your review is a detailed response from the Community Redevelopment Agency of Los Angeles (CRA/LA). The LAHD will work closely with the CRA/LA to ensure that each action is implemented as requested.

Recommendation 1E – Establish and Implement written policies and procedures for monitoring subrecipients' projects not processed or administered through the Affordable Housing Trust Fund.

LAHD Response: LAHD will establish and implement effective written policies and procedures as requested.

At a minimum, policies and procedures will cover the following areas when monitoring HOME projects:

1. **Project Eligibility Determination** including, but not limited to:
 - Property type and proposed tenant eligibility;
 - HOME subsidy limits;
 - NEPA environmental review; and
 - Site and neighborhood standards (if applicable).
2. **Project Tracking** for all stages of a project's development, including, but not limited to a review of:

An Equal Opportunity Affirmative Action Employer

- Project proformas to determine appropriate subsidy layering;
- Tenant relocation to assure that federal and local relocation requirements have been carried out appropriately;
- Written agreements (to ensure that all federal requirements are addressed) between:
 - LAHD and CRA;
 - CRA and the Developer;
 - the Developer and general licensed contractor (GC); and
 - GC and subcontractors.

When a project is in the construction phase, staff will review all documents to check the following:

- Subcontractor management and review;
- Labor standards, Davis-Bacon (if applicable);
- Section 3 (if applicable);
- Compliance with contract deadlines;
- Comparison of payment requests with eligible costs; and
- Completed items on work item list or an addendum/change order.

Any time a project appears to be experiencing difficulties, staff will conduct an on-site visit.

3. Project Completion Review

When a project is complete, LAHD construction staff will make an onsite visit to monitor compliance with the following requirements:

- Property standards;
- Only eligible costs have been reimbursed;
- Construction management records;
- Lien waivers from both general contractor and all subcontractors;
- Proper data is collected to prepare Women Business Enterprise and Minority Business Enterprise (WBE/MBE) reports; and
- If match is being provided, the monitor will check that all proper documents have been submitted for review and calculation.

LAHD monitors will use HUD's Rental Project Completion Checklist for this step when a project is near completion. At that time, the LAHD monitor will verify that initial HOME requirements have been met.

4. Initial Rent and Occupancy Review

LAHD will review the following:

- CRA/LA meetings with the project's property manager at 50% completion to discuss HOME requirements and affordable rents;
- CRA/LA's review of the Property Management Plan;
- CRA/LA's review of the project's Affirmative Marketing Plan;
- CRA/LA's review of initial income certifications; and
- CRA/LA's review of stabilized occupancy (95 percent or more), including the rent roll and copies of signed leases.

LAHD monitors will use HUD's Initial Rent and Occupancy Checklist to review the project when the owner has submitted the first Compliance Report.

5. Ongoing Monitoring

LAHD monitoring staff will review all of the actions taken by CRA/LA to ensure ongoing compliance including review of annual Project Compliance Reports for compliance with rent and low-income occupancy requirements and perform regular on-site visits throughout the affordability period to ensure continued compliance with:

- Rent and occupancy requirements;
- Property standards; and
- Other Federal requirements (e.g., fair housing, affirmative marketing, etc.)

Monitors will use HUD's Ongoing Monitoring Checklist for this step.

6. Address Program Compliance Issues

The LAHD Occupancy Monitoring Unit will continue to monitor and address program compliance issues as they arise.

In closing, LAHD is committed to addressing the issues identified in this audit and to improve the efficiency and effectiveness of its subrecipient monitoring program. If you have any questions about the materials provided or items that you feel have not been fully addressed in this submission, please contact Marlene Garza, Assistant General Manager, either by phone (213) 808-8899 or by email mgarza@lahd.lacity.org.

Sincerely,



RUSHMORE D. CERVANTES
Interim General Manager

cc: Cecilia Estolano, CRA/LA

Attachments



Community Redevelopment Agency
of the CITY OF LOS ANGELES

354 South Spring Street - Suite 800
Los Angeles - California 90013-1258

DATE / **October 9, 2009**

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Rushmore Cervantes
Interim General Manager
Los Angeles Housing Department
1200 West 7th Street, MS 958
Los Angeles, CA 90017

SUBJECT: CRA/LA Response to the HUD Office Of Inspector General Audit Report of the
NoHo Commons Housing Development

Dear Mr. Cervantes:

Attached is the CRA/LA formal response to the HUD Office of Inspector General's audit of the
NoHo Commons Housing Development.

If you have any questions regarding our response, please contact Gordon Seaberg at 213-977-
1891, or me directly at 213-977-1801.

Sincerely,

Cecilia V. Estolano
Chief Executive Officer

Attachment

cc: Marlene Garza

CRA/LA Response to the HUD OIG Audit of NoHo Commons

Comment 1

The CRA/LA disagrees with the audit report for the following reasons:

1. "Chronological waiting list not created or implemented"

24 CFR 92.253 (d) (3) states "provide for the selection of tenants from a written waiting list in the chronological order of their application, **insofar as is practical.**" (see attachment 1)

The Monitoring Home: Ensuring Program Compliance Manual published by HUD states in Chapter 7: Rental Program Activities that "Monitors will find that tenants may be selected through a number of different ways including: **Lottery: Sometimes, demand for a program is so great that a PJ (or owner/developer/sponsor) may elect to select applicants by lottery. To the extent that all applicants are eligible, this process is as fair and open as any.**" (see attachment 2)

CRA Housing Policy Section 9.03.10.1 Affirmative Marketing Requirements states "An application period of sufficient duration to ensure that various ethnic, racial and language groups have sufficient time to learn about the availability of the project and complete the required preliminary application process. **All persons who respond during this period are to have an equal opportunity to be selected for occupancy. A method of random selection must be used to establish relative priority among those who respond during this period.**" (see attachment 3)

Using these three attachments as a backdrop, the CRA/LA followed its Housing Policy and HUD monitoring guidelines by requiring the Property Management Agent to use a "lottery" as the fairest process for the initial lease-up and tenant selection (see attachment 4). There were 318 applications received during the initial application period, for the 115 affordable units of which 40 were HOME units. The 318 applications were randomly selected to establish the initial chronological waiting list (see attachment 5).

The applications received postmarked after the initial application deadline, but before the lottery was held, were placed on the "lottery" established waiting list in chronological order according to the postmark date. Any additional "waiting lists" examined by the auditors were simply the product of the property management agent's documentation and tracking of applications. These lists were not to serve as "additional waiting lists."

Comment 2

2. "Tenants' Income Eligibility and Calculations Not Done Correctly."

Of the 18 tenant files reviewed by the auditors (see attachment 6), all were reviewed by the CRA/LA for initial program eligibility, HOME units included (see attachment 7). At the time of initial income certification, HOME program eligibility was determined for 17 of these 18 applicants. One applicant (Aviva Plafkin) did not meet the income criteria according to the Property Management Agent's review (see attachment 8). Accordingly, Aviva Plafkin did not occupy a HOME unit at the time of her initial occupancy (see attachment 9).

In November 2008, the CRA/LA monitoring staff performed a site visit to examine the tenant files as required by the HOME program (see attachment 10). During the course of the file review the CRA/LA monitoring staff determined many inconsistencies and decided to perform a technical assistance in-service to train the four all new property management staff in managing the HOME and other affordable units. It was at this time that the CRA/LA monitoring staff was informed that the property owner was in the process of selling the project. CRA/LA staff decided to wait until the selling of the property was final and a new property management agent was in place before making another site visit. The property was sold during September 2009 and CRA/LA monitoring staff will be making a site visit within the next 90 days.

Comment 3

3. "Inadequate Supporting Documentation Maintained"

The CRA/LA agrees that the supporting documentation provided to the auditor for the transfer of \$3,000,000 in HOME funds was inadequate. The transfer of these funds was performed through escrow, which reflects the credit of \$3,000,000 to the developer (see attachments 11 and 12).

In addition, the subarea A acquisition parcels (2350-013-003 & 2350-013-004) should have been included as part of the supporting documentation submitted to LAHD for the \$5,000,000 request for reimbursement.

Comment 4

4. "Lack of Monitoring Policies and Procedures"

The CRA/LA monitored the Property Management Agent as follows:

- a. Attended the "lottery" random selection process of establishing the initial waiting list.
- b. Reviewed the initial occupant move-in packets including source documentation for all initial applicants to ensure that the Property

Management Agent properly determined eligibility for leasing of the affordable units including the HOME units.

- c. Received and reviewed Occupancy Summary Reports quarterly (see attachment 13).
- d. Performed an annual monitoring site visit in November 2008.

The auditors interviewed the CRA/LA staff member responsible for monitoring the Gallery at NoHo Commons but the auditor did not ask for or mention the lack of any monitoring documentation. In fact, the "self monitoring" form referenced in the CRA/LA Housing Policy was never utilized, instead the certificate of continuing program compliance and the occupancy summary report was used for monitoring (see attachment 14). The Housing Policy was not updated to reflect this as it is pending revision.

Recommendations:

- 1A. The CRA/LA will formalize its monitoring practices with written procedures within 90 days.
- 1B. With the sale of the project, the CRA/LA will now work with the new owner/property management agent to ensure that all affordable units are leased according to the qualified master waiting list in chronological order. This meeting will take place in the next 60 days.
- 1C. The CRA/LA will work with the new owner/property management agent to ensure that no eligible applicant is bypassed and that the property continues to provide priority as detailed in the CRA/LA Housing policy.
- 1D. As stated in recommendation 1A, the CRA/LA will establish written procedures to document the process currently being followed to adequately monitor HOME units. These procedures will be completed within 90 days and submitted to LAHD for review.

THE COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF LOS ANGELES, CALIFORNIA

HUD OIG AUDIT – NOHO COMMONS – RESPONSE

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OIG Evaluation of Auditee Comments

Comment 1 We agree that a lottery is an acceptable method for establishing a list of applicants and revised the finding accordingly. However, we disagree that the waiting list was implemented in the chronological order it was established. Specifically, the response stated that 318 applications were received for the 115 affordable units, then randomly selected to establish the chronological waiting list. Therefore, these 318 individuals should have been given the opportunity to obtain housing in that order, or be denied/disqualified, or decline. We found this was not the case. We determined that several individuals had been bypassed and no supporting documentation was provided to show why.

In addition, the subrecipient's response stated that applications received after the initial application deadline, but before the lottery was held, were placed on the "lottery" established waiting list, in chronological order of receipt of application. Therefore, those individuals listed as 319 - 573 on the waiting list were not to be offered housing until the first 318 individuals were exhausted. We found this was not the case. The subrecipient's occupancy summary reports (attachment 13) showed that individuals listed as 350, 359, 497, 498, 535, and 544 had leased up in 2007, but no support was provided to describe why several individuals on the waiting list of the first 318 applicants were bypassed.

Comment 2 We agree that one of the 18 tenant files reviewed was not a HOME assisted unit and removed it from the report. However, we disagree that the subrecipient conducted reviews of all applicants at the time of initial certification, or that it conducted the required annual monitoring for program compliance. As stated in the finding, we found that 10 of 17 tenant files reviewed showed miscalculated income for one or more years. The report did not state that the tenants were ineligible, rather the data was used to support the lack of monitoring conducted by the subrecipient. The subrecipient stated that at the time of initial income certification, HOME program eligibility was determined by the subrecipient for all 17 applicants. However, that is false. Attachment 7 of the subrecipient's response showed that 3 of 17 applicants were not reviewed. The spreadsheet shows the applicant's name, unit number, date received, status, and date approved, does not show what was reviewed or who reviewed it.

Further, the subrecipient states that it conducted on-site monitoring in November 2008, however, none of the documentation adequately showed the extent of the monitoring that was conducted, the results, or any subsequent actions taken.

Comment 3 Since the subrecipient agreed with our conclusion in this section, we have no further comment.

Comment 4 We disagree with the subrecipient's statements. On June 2, 2009, we asked the subrecipient's Director of Audits and Compliance for its monitoring policies and procedures and supporting documentation to show what had been monitored and

the results of that monitoring. The Director told us that the Housing Monitoring Managers would provide the information. However, the Housing Monitoring Manager was only able to provide a blank occupancy summary report, a blank certificate of continuing program compliance, and a household characteristics report, and stated that he didn't have access to the other documents as they were in the working file already provided to us. The working file did not contain this information.

The subrecipient's response also indicated that we interviewed the Housing Management Officer responsible for monitoring the Gallery, but did not ask for or mention the lack of any monitoring documentation. We agree we had not asked this individual for monitoring documentation. We interviewed her early in the audit to determine whether she had additional information about the management agent and/or complaints from tenants located at a different property also administered by the subrecipient. At that point in time, we had not concluded that there was a lack of monitoring documentation. Two months later, we asked the Director of Audits and Compliance for the monitoring documentation since he was our point of contact for information requests. If the Director of Audits and Compliance knew that the Housing Management Officer had the documents we requested, he should have obtained them for us.

Further, the occupancy summary and certificate of continuing occupancy reports submitted were not adequate evidence of monitoring for program compliance because they were incomplete. No signatures were found on any of the occupancy summary reports submitted and we noted that the signature area was deleted from all of the forms; therefore, we were unable to determine who generated these forms. In addition, the certificate of continuing program compliance in attachment 13 was not signed by anyone; therefore, we were unable to determine who generated this form.