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STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

July 30, 2009

Mr. Rafael E. Cestero  
Commissioner  
New York City Department of Housing  
Preservation and Development  
100 Gold Street  
New York, NY 10038

Re: Report 2009-F-5

Dear Mr. Cestero:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article III of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Department of Housing Preservation and Development to implement the recommendations contained in our audit report, *Neighborhood Homes Program: Compliance with Requirements Relating to Building Sales* (Report 2006-N-3).

**Background, Scope and Objective**

The mission of the New York City Department of Housing Preservation and Development (Department) is to maintain and improve the availability, affordability, and quality of housing in New York City. The Department works with private, public, and community partners to strengthen neighborhoods and help more New Yorkers to become homeowners or to rent well-maintained, affordable housing. Created in 1998, the Neighborhood Homes Program (Program) takes City-repossessed one to four-unit residential buildings and sells them for \$1 each to non-profit and for-profit community-based sponsoring organizations. These sponsors are then required to rehabilitate the buildings and return them to private ownership by selling them to owner-occupants. Potential homebuyers are subject to household income limits.

To assist with the costs of rehabilitation, the sponsor receives a loan from the Department (generally up to \$50,000 per unit), as well as loans from other co-lenders. When the sponsor sells the rehabilitated building, the Department's loan is passed on to the homebuyer as a subsidy against the purchase price. The subsidy is secured by a mortgage between the homebuyer and the Department and includes a requirement that the homebuyer reside in one of the building units for seven years. At the end of each year, this mortgage is reduced by one-seventh of the original value, provided the homebuyer continues to reside in one of the building units.

The Department reported that it has transferred 422 Program buildings to sponsors and provided them with about \$72 million in loans toward rehabilitation costs since the Program began

in 1998. As of May 21, 2009, sponsors had reportedly sold 266 of these buildings to homebuyers; another 24 buildings were under contract for sale; sponsors were seeking purchasers for another 41 buildings; and rehabilitation had not been completed for the remaining 91 buildings. Officials state that 15 additional buildings may participate in the Program.

Our initial audit report, which was issued on July 12, 2007, examined whether selected non-profit sponsors participating in the Program were complying with Program requirements relating to building sales. We found that some of the sponsors we reviewed did not prepare adequate plans for marketing the buildings; did not have sufficient documentation of their efforts to market Program buildings to the pre-existing tenants; or did not have sufficient evidence that they took adequate steps to determine whether a homebuyer's household income was in compliance with Program limits. We also found that Program homes were sold to non-New York City residents and that the Department had not established adequate controls to ensure that homebuyers comply with the requirement to live in the purchased home for seven years. The objective of our follow-up was to assess the extent of implementation as of May 1, 2009, of the nine recommendations included in our initial report.

### **Summary Conclusions and Status of Audit Recommendations**

We found that Department officials have made some progress in correcting the problems we identified. However, additional improvements are still needed. Of the nine prior audit recommendations, four recommendations have been implemented, four recommendations have been partially implemented, and one recommendation has not been implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*Ensure that sponsors prepare adequate, written marketing plans which are approved by the Department and that document that the homebuyer selection process was fair and carried out in accordance with the marketing plans.*

Status - Partially Implemented

Agency Action - Department officials reported that all marketing plans are developed based on ongoing communication with the sponsor and that they verbally approve all final marketing plans. We reviewed the marketing plans for the three sponsors to whom the Department transferred Program properties since the audit report. We found that two of the plans adequately documented the homebuyer selection process and detailed the sponsor's plans to market the Program buildings to the public. The third marketing plan did not provide sufficient details regarding how the sponsor would select homebuyers or what details would be provided in advertisements for the properties. The Department's approval of the three plans was not documented.

## **Recommendation 2**

*Ensure sponsors make sufficient efforts to market buildings to pre-existing tenants.*

Status - Implemented

Agency Action - Department officials reported to us that they ensure that sponsors meet with pre-existing tenants of Program buildings and also inform the tenants in writing that they would be given preference, before any other buyers, to purchase the buildings in which they reside. We reviewed the efforts made by two of the three sponsors to whom Program properties were transferred after the issuance of our report and found that both sponsors maintained attendance rosters confirming that they met with pre-existing tenants. We also verified that letters were sent to these tenants informing them of their purchase priority for the buildings where they were living.

## **Recommendation 3**

*Provide specific guidance to sponsors on how to determine homebuyers' income eligibility, and the financial documentation homebuyers are required to submit.*

Status - Partially Implemented

Agency Action - The Department has provided sponsors with a list of documents, including financial documentation, which homebuyers are required to submit. However, the Department has not provided specific guidance to the sponsors on how to use the financial documents to appropriately determine homebuyers' income. As a result, there continues to be a risk that sponsors are not determining homebuyer income consistently.

## **Recommendation 4**

*Monitor sponsors to ensure they correctly determine homebuyers' income, and ensure that the income of all household members is included.*

Status - Implemented

Agency Action - Department officials explained that they monitor sponsors to ensure they correctly determine homebuyers' income and to ensure that the income of all household members is considered. They document this monitoring by signing off on the files reviewed. We reviewed the Department's files for five judgmentally-selected homebuyers, who had purchased Program buildings through two sponsors after we issued our report. We confirmed the Department's sign-off on each file.

### **Recommendation 5**

*Formally establish the City residency requirement in the Department's agreements with the sponsors.*

Status - Implemented

Agency Action - Department officials reported that they have examined their agreements with sponsors and concluded that the City residency requirement is formalized in the exhibits that are an integral part of these agreements. The Department further reinforced the residency requirement during the October 2007 meeting with Program sponsors.

### **Recommendation 6**

*Investigate the two sales of buildings to non-City residents for possible improper transactions.*

Status - Partially Implemented

Agency Action - We found that the Department limited its investigation to determining whether the two non-City residents who purchased Program properties were using the buildings as their primary residence. Department officials reported that they did not investigate the sponsor involved in the sales of the two properties to determine how or why these non-City residents were allowed to participate in the Program. They added that since this incident, the Department has not sold any Program properties to this sponsor.

### **Recommendation 7**

*The Department should re-examine its definition of building sales price to recognize the homebuyer's total obligation at the time of the sale.*

Status - Implemented

Agency Action - The Department informed us that they re-examined its definition of building sales price and concluded there would be no change. Department officials explained that this definition provides for greater affordability at the time of the initial sale, and promotes owner-occupancy for at least the seven-year compliance period.

### **Recommendation 8**

*Establish adequate controls to confirm homebuyer compliance with the seven-year residency requirement.*

Status - Partially Implemented

Agency Action - The Department has established an annual affidavit for homebuyers to confirm their residency. However, we found that affidavits were not sent to all homebuyers. In addition, few of those who received them responded to the Department. Officials indicated

that they will strengthen this process and continue to seek verification that homebuyers are complying with the seven-year residency requirement.

### **Recommendation 9**

*Recoup the liens prorated for the period of non-compliance from homebuyers who do not maintain their Program building as their primary residence for seven years.*

Status - Not Implemented

Agency Action - According to Department officials, based on advice from their legal department, they do not have sufficient proof that any Program buildings are not being used as the homebuyers' primary residence. As a result, recoupment is not being pursued.

Major contributors to this report were Gene Brenenson, Diane Gustard, and Menard Petit-Phar.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the Department's management and staff for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Cindi Frieder  
Audit Manager

cc: Steven Fodera, HPD, Audit Liaison  
George Davis, Mayor's Office of Operations