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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 16, 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-6

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 Profits on Building Sales* (Report 2006-N-13).

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 rehabilitate the buildings and sell them to owner-occupants. To assist with the costs of rehabilitation, sponsors receive a loan from the Department - generally up to $50,000 per unit - as well as loans from other co-lenders. When the sponsors sell the rehabilitated building, the Department loan is passed on to the homebuyer as a subsidy against the purchase price.

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 September 26, 2007, examined whether the Department collected and deposited its share of profits on Program buildings sold by selected sponsors during the period January 1, 2002, through December 31, 2005. We found an overall lack of control over the accounting for, collection, and deposit of profits owed by sponsors. We were concerned that this lack of control results in a significant risk that other sponsors may owe profits to the Department. The objective of our follow-up was to assess the extent of implementation as of May 1, 2009, of the five 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 needed. Of the five prior audit recommendations, one recommendation has been implemented, two recommendations have been partially implemented and two recommendations have not been implemented.

Follow-up Observations

Recommendation 1

Require all sponsor agreements to contain a profit-sharing requirement on the sale of Program buildings.

Status - Not Implemented

Agency Action - The Department entered into agreements with three sponsors after the issuance of our audit report. We reviewed these agreements and found none of the agreements required sponsors to share profits with the Department. Department officials indicated that future agreements will include the requirement to share profits with the Department.

Recommendation 2

Establish policies and procedures addressing the waiver or amendment of the profit-sharing requirement in sponsor agreements. These should include documentation and authorization requirements.

Status - Implemented

Agency Action - The Department has documented its policies and procedures addressing the waiver and amendment of the profit-sharing requirement. The newly-written policies and procedures include documentation and authorization requirements. When we reviewed one recently submitted request by a sponsor to amend the Department's share of profits, we found the procedures were followed.

Recommendation 3

Establish fiscal controls for recording, monitoring, accounting for, and depositing the Department's share of profits owed by sponsors.

Status - Partially Implemented

Agency Action - The Department has strengthened fiscal controls designed to ensure that profit checks the Department receives from Program sponsors are deposited into Department accounts. Department officials established written procedures detailing the cash receipts process. These include the recording of checks received, the immediate endorsement of checks, a review of the deposit package before final processing, and the retention of validated deposit slips.

The Department still needs to strengthen its review of the profit reported by the sponsors. While the Department's Division of Architecture, Construction and Engineering monitors the rehabilitation process and reviews change orders, that unit does not review the sponsor's actual expenditures. As a result, the Department lacks assurance that the profits reported by the sponsor to the Department are accurate amounts.

Recommendation 4

Review the $758,200 in uncollected profits we identified and seek recovery, where appropriate. Document reasons for not recovering any portion of these profits.

Status - Partially Implemented

Agency Action - Department officials indicated that the sponsors of these buildings reported cost overruns, and based on these reports, the Department would not pursue collection. However, Department officials only provided documentation related to cost overruns for 1 of the 4 sampled sponsors who had not remitted profits due to the Department. Furthermore, while that one sponsor provided schedules of construction expenses, we saw no evidence that the Department adequately verified those reported costs.

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Recommendation 5

Review all sales of Program buildings to date to determine whether sponsors submitted profits due, and seek recoveries where appropriate. Document any reasons for not recovering profits required to be remitted.

Status - Not Implemented

Agency Action - Department officials reported that because of staffing constraints it was not feasible to review all building sales to determine whether sponsors submitted the profits due. Accordingly, they did not seek recoveries.

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