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MEMORANDUM NO:
2002-SE-0802

May 16, 2002

MEMORANDUM FOR: Marc A. Harris, Director, Field Asset Management Division, HTGF

(ORIGINAL SIGNED)

FROM: Frank E. Baca, District Inspector General for Audit, OAGA

SUBJECT: Survey Results on the Foreclosure Sale of the Rose Pointe Retirement Community
by the Fort Worth Property Disposition Center
Fort Worth, Texas

INTRODUCTION

We completed a survey of the foreclosure sale of the Rose Pointe Retirement Community by the Fort Worth Property Disposition Center in which we addressed allegations that the foreclosure sales price was too low.

Our objective was to determine if the Fort Worth Property Disposition Center (Center) foreclosure sale of Rose Pointe Retirement Community was effective, efficient, and economical. To evaluate the Center's performance we determined if:

- The Center considered all the methods of disposal that were available, such as negotiated sale, or sales to a nonprofit.
- The foreclosure sales amount was determined in accordance with HUD policies and procedures.
- The foreclosure sale was carried out in a timely manner.

METHODOLOGY AND SCOPE

To achieve our audit objective we performed audit procedures that included:

- Interviewing Center management to obtain information regarding:
 - Background of the Rose Pointe Retirement Community foreclosure sale, and

- Management controls over the processing of a foreclosure sale.
- Interviewing Center management and the Realty Specialist that processed the Rose Pointe Retirement Community foreclosure sale to obtain information on:
 - The Departmental requirements for processing a foreclosure sale, and
 - Specific processing steps for the Rose Pointe Retirement Community foreclosure sale.
- Researching the Departmental Requirements for foreclosure sale of HUD held Multifamily Property Mortgages to identify the implementing legislation, regulations, handbooks, and notices.
- Reviewing prior audits of the Property Disposition Centers to identify Departmental Requirements for foreclosure sale of HUD held Multifamily Property Mortgages.
- Reviewing the actual processing to evaluate compliance with the requirements related to the time line for sales, available methods of sales, and establishment of the sales price.

The audit covered the processing of the Rose Pointe Retirement Community foreclosure from the mortgagee's assignment of the mortgage to HUD on January 5, 2001 through the acceptance of the highest bid at the foreclosure sale on January 28, 2002. We extended the period covered as appropriate to include actions related to those taken during that period.

We discussed our results with the Director of the Field Asset Management Division on May 9, 2002. The Director told us that our results were what he anticipated we would find. The Director noted that the time for processing a foreclosure varies and that there are many factors affecting the amount of time needed. The Director did not consider the time for processing the Rose Pointe Retirement Community excessive.

BACKGROUND

HUD's Federal Housing Administration (FHA) has programs which insure mortgages or provide direct loans on multifamily properties. When a mortgagor defaults on a loan insured by FHA, the mortgagee can assign the mortgage to HUD and receive the benefits of the FHA mortgage insurance. The mortgage then becomes a HUD held mortgage and if the mortgage cannot be reinstated, HUD Multifamily Property Disposition forecloses on the property.

Multifamily Property Disposition is the program through which HUD forecloses on HUD held multifamily mortgages, sells HUD owned multifamily properties, and manages HUD owned properties and properties where HUD is mortgagee-in-possession. Properties are sold competitively, all cash, no financing or mortgage insurance provided. All sales require an earnest money deposit. Some properties are sold with repair or demolition requirements within a set period of time.

HUD's Multifamily Property Disposition program is carried out by two Multifamily Property Disposition Centers in Atlanta, Georgia and Fort Worth, Texas. We performed audit work

relating to the Rose Pointe Retirement Community at the Fort Worth Property Disposition Center.

RESULTS OF REVIEW

The Fort Worth Property Disposition Center (Center) generally carried out the foreclosure sale of Rose Pointe Retirement Community effectively, efficiently, and economically. The Center considered the methods of disposal available, and determined the foreclosure sales amount in accordance with HUD requirements. Although the Center did not meet the goal of completing the foreclosure in 200 days, HUD has no statutory or regulatory requirements for the time to complete a foreclosure.

The Center considered the required methods of disposal.

Under 12 USC 1701z-11 (c)(3) the Secretary shall, prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale. Also, the regulations at 24 CFR 290.11 address the notice requirements for tenants and units of general local government.

The Center notified tenants and units of general local government that HUD would be foreclosing on the Rose Pointe Retirement Community. In response to notification, the Housing Authority of the City of Spokane requested additional information on the project. The Center provided the information and followed up after not hearing from the Housing Authority. In response to the follow-up, Housing Authority officials told Center staff they were not interested in acquiring the project.

The Center determined the foreclosure sales amount in accordance with HUD requirements.

12 USC 1701z-11 (a) requires HUD to manage or dispose of multifamily housing projects that are subject to a mortgage held by the Secretary in a manner that will protect the financial interests of the Federal Government. Additionally, guidance from the Deputy Assistant Secretary for Multifamily Housing Programs requires a foreclosure package including a Sales Analysis, Form HUD-9650.

The Center completed a foreclosure package including the Sales Analysis. The Sales Analysis showed an Adjusted As-Is Price of \$206,690. However, the highest bid received at the foreclosure sale was \$105,000. Upon learning of the bid amount, Center officials evaluated the bid against the Adjusted As-Is Price and determined the bid should be accepted. We were told the decision to accept the \$105,000 bid on Rose Pointe took into account the factors of holding costs (about \$50,000 a month) and the difficulty obtaining a boarding house license from the Washington State Department of Social and Health Services. The subsequent documented evaluation of the bid took into consideration the cost of a second foreclosure sale (\$15,546), holding costs that HUD would incur (up to \$109,000), and the fact that the owner would have to obtain a license to operate the project from the Washington State Department of Social and Health Services. The evaluation concluded the prudent decision would be to accept the bid because recouping the additional costs plus adding additional funds to the insurance fund is highly unlikely.

The Center exceeded Departmental goals for the time to complete the foreclosure.

Guidance from the Deputy Assistant Secretary for Multifamily Housing Programs establishes a 200 day goal for completion of the foreclosure sale. However, there are no statutory, regulatory, or directive requirements for the time to complete the foreclosure sale.

The foreclosure hearing letter was sent to the mortgagor on January 16, 2001 and the foreclosure sale was held on January 28, 2002. The time to complete the foreclosure exceeded the Departmental goal by 178 days. Ft. Worth Center staff said that other priorities and delayed receipt of needed documents contributed to missing the goal.

We do not consider the missed goal a reportable condition because there are no statutory or regulatory requirements for the time to complete a foreclosure. Additionally, the guidance that established the goal recognized that it applied to normal or routine processing and provided for variance where unique or unusual circumstances warranted such treatment.

Should you or your staff have any questions, please call me at (206) 220-5360.

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