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Office of Inspector General for Audit, Midwest
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**AUDIT MEMORANDUM
00-CH-211-1802**

October 20, 1999

MEMORANDUM FOR: Edward J. Hinsberger, Director, Chicago Multifamily Hub

FROM: Dale L. Chouteau, District Inspector General for Audit, Midwest

SUBJECT: Onterie Center
Multifamily Equity Skimming
Chicago, Illinois

We completed a review of the books and records of Onterie Center. We performed the audit to determine whether the use of project operating funds was reasonable and complied with the Regulatory Agreement and applicable HUD regulations. The review was part of Operation Safe Home and was conducted in coordination with the Assistant United States Attorney.

Onterie Center is a 60-story mixed use residential, commercial and retail complex located in Chicago, Illinois. The Project was completed in 1986 using tax-exempt and taxable bond financing supported by an FHA-insured mortgage under Section 221(d)(4) of the National Housing Act, as amended.

We concluded the Onterie Associates Partnership improperly disbursed \$2,150,732 of the Onterie Center Project funds and assets. The inappropriate disbursements included: (1) \$282,845 for ineligible salary expenses; (2) \$297,191 for ineligible payments to the wife of the General Partner; (3) \$409,888 to Monroe Partners and \$49,013 to PSM International, both identity-of-interest companies, for unnecessary computer, facsimile, and photocopier related expenses; (4) \$97,843 for refinancing and mortgage workout related legal and accounting expenses; (5) \$40,758 for ineligible brokerage commissions paid to the General Partner; (6) \$528,383 for ineligible management fees paid to the General Partner; and (7) \$333 for supplies used to clean up a lot at 600 North Lake Shore Drive that was unrelated to the Project. Additionally, \$53,299 of income was lost. This represented free parking and health club memberships, and excess rental rebates given for the General Partner and his family. If the misused funds had been available to the project, it could have earned another \$391,179 in interest by investing the funds in one-year Treasury Bills. The inappropriate disbursements and uses of cash and assets occurred when the Project was in a non-surplus cash position. Onterie Associates Partnership

overstated Project expenses and understated Project income. As a result, fewer funds were available for normal operations or debt service and HUD's security interest in the Project was weakened.

Using the procedures developed under Operation Safe Home we referred our draft findings and the Owner's responses to the Assistant U. S. Attorney for civil matters in Chicago. HUD and the Assistant United States Attorney executed a Settlement Agreement with the owner on May 14, 1999. Under the terms of the settlement, the Owner and Project Manager agreed to:

1. Not procure goods or services for the Project from any identity-of-interest firms, service providers or individuals of the Owner or Manager without HUD's consent.
2. Procure, at the Project's expense, a new computer system and software to replace services provided by an identity-of interest firm.
3. Use a competitive procurement process according to HUD's regulations when procuring goods and services.
4. Appoint a qualified building manager to replace the wife of the Owner, who had been acting in that capacity.
5. Not have project employees perform duties that are unrelated to front line Project operations.
6. Not include any expenses of the Owner and Manager's other businesses as Project expenses.
7. Not pay leasing commissions for commercial space rentals to the Owner, Manager or any identity-of-interest firms, service providers or individuals of the Owner or Manager.

The Owner also agreed to:

1. Pay HUD \$350,000, the amount contained in a management fee retention escrow, and,
2. Deposit \$500,000 of non-project funds in a Commercial Space Costs Account. These funds were to be used to pay Commercial Space Costs and for not to be used for any no other purpose.

Additionally, HUD agreed that it would not proceed with foreclosure proceedings for at least 60 days while the Owner sought to obtain acceptable financing to permit restatement and modification of the Second Mortgage Note. In the event the Owner did not obtain acceptable financing, HUD was entitled to restart its foreclosure process, and receive the funds deposited in the Commercial Space Costs Account.

The Owner did not obtain acceptable financing to permit restatement and modification of the Second Mortgage Note. As a result, on August 4, 1999 HUD restarted its foreclosure process. On August 26, 1999, the \$503,269 deposited in the Commercial Space Costs Account was released to HUD -- \$411,269 was applied to delinquent interest under the Second Mortgage Note and \$92,000 was deposited in the General Insurance Fund as a reimbursement for OIG's audit costs.

In summary, HUD recovered a total of \$853,269, the Owner agreed to correct past practices that resulted in the improper use of project funds, and HUD is proceeding with its foreclosure actions.

If you or your staff have any questions, please contact me at (312) 353-7832.

Distribution

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Senior Advisor to the Secretary for Pine Ridge Project, W, 10216
General Counsel, C, Room 10214
Director, Office of Federal Housing Enterprise Oversight, O, 9th Floor Mailroom
Assistant Secretary for Housing/Federal Housing Commissioner, H, Room 9100
Office of Policy Development and Research, R, Room 8100
Assistant Secretary for Community Planning and Development, D, Room 7100
Assistant Deputy Secretary for Field Policy and Management, SDF, Room 7108
Government National Mortgage Association, T, Room 6100
Assistant Secretary for Fair Housing and Equal Opportunity, E, Room 5100
Chief Procurement Officer, N, Room 5184
Assistant Secretary for Public and Indian Housing, P, Room 4100
Chief Information Officer, Q, Room 3152
Director, Office of Departmental Operations and Coordination, I, Room 2124
Chief Financial Officer, F, Room 2202
Director, Enforcement Center, V, 200 Portals Building
Director, Real Estate Assessment Center, X, 1280 Maryland Avenue, SW, Suite 800
Director, Office of Multifamily Assistance Restructuring, Y, 4000 Portals Building

Deputy Staff Director, Counsel, Subcommittee on Criminal Justice, Drug Policy &
Human Resources, B 373 Rayburn House Office Bldg., Washington, DC 20515

Appendix A

The Honorable Fred Thompson, Chairman, Committee on Governmental Affairs, 340 Dirksen
Senate Office Building, United States Senate, Washington, DC 20510

The Honorable Joseph Lieberman, Ranking Member, Committee on Governmental Affairs, 706
Hart Senate Office Building, United States Senate, Washington, DC 20510

The Honorable Dan Burton, Chairman, Committee on Government Reform, 2185 Rayburn Bldg.,
U.S. House of Representatives, Washington, DC 20515

Henry Waxman, Ranking Member, Committee on Government Reform, 2204 Rayburn Bldg.,
U.S. House of Representatives, Washington, DC 20515

Ms. Cindy Fogleman, Subcommittee on Oversight and Investigations, Room 212,
O'Neil House Office Bldg., Washington, DC 20515

Director, Housing and Community Development Issue Area, U.S. General Accounting Office,
441 G Street NW, Room 2474, Washington DC 20548 (Attention: Judy England-Joseph)

Steve Redburn, Chief, Housing Branch, Office of Management and Budget, 725 17th Street,
NW, Room 9226, New Executive Office Building, Washington, DC 20503

General Partner, Onterie Associates