



**U.S. Department of Housing and Urban
Development**

Office of Inspector General for Audit, Midwest
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December 9, 1999

**AUDIT MEMORANDUM
00-CH-211-1805**

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

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

SUBJECT: Mayfair Manor
Multifamily Equity Skimming
Indianapolis, Indiana

The United States Attorney's Office in Indianapolis, Indiana has executed a Settlement Agreement and Stipulation of Dismissal with prejudice in the matter of United States v. John Bartle et al. John Bartle was the general partner of Mayfair Limited Partnership, owner of Mayfair Manor, a HUD-insured nursing home in Indianapolis, Indiana. The partnership defaulted on its HUD-insured mortgage in May, 1992. HUD subsequently sold the project at foreclosure in 1996.

The Settlement Agreement requires the project owner to pay the United States a lump sum cash payment of \$150,000. In addition, HUD may, if appropriate, suspend or debar the settling parties.

The Settlement resulted from a civil complaint filed by the United States Attorney's office to recoup double damages for unauthorized use and unsupported expenditures of project funds. At the request of the United States Attorney's office, OIG determined the amount of funds received by the owner subsequent to the default on its mortgage, and whether the owner used the funds in accordance with the HUD Regulatory Agreement and HUD's regulations and requirements governing multifamily properties.

The complaint alleged that, while in default, the owner received lease payments from the nursing home operator approximating \$361,000 but spent only \$31,000 for reasonable operating expenses and necessary repairs. The nursing home ceased operations in September, 1993. The project owner refused HUD's demand to turn over the net cash, and instead continued to spend

project funds for expenses and repairs on the project, even though it was no longer operational. These expenditures continued until 1996 when HUD finally sold the project at foreclosure. One of the legal theories included in the complaint was that the expenditure of project funds subsequent to the termination of its operation, could not be construed as necessary or reasonable operating expenses.

In view of several problematic facts, including the lengthy delay in getting to foreclosure, and the court's finding that nothing in the Regulatory Agreement prohibited otherwise permissible expenditures once the nursing home had closed down, the settlement negotiations were successfully pursued.

If you have any questions regarding this matter, please feel free to call me at 312-353-7832.

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