



U.S. Department of Housing and Urban Development
Office of Inspector General for Audit
Great Plains Region, 7AGA
Gateway Tower II - 5th Floor
400 State Avenue
Kansas City, Kansas 66101-2406

MEMORANDUM NO: 2003-KC-1801

November 14, 2002

MEMORANDUM FOR: Charles Hester, Director, St. Louis Multifamily Program
Center, 7EHM
Jon Gant, Director, Departmental Enforcement Center, CV

Roger E. Niesen

FROM: Roger E. Niesen, Regional Inspector General for Audit, 7AGA

SUBJECT: University Forest Nursing Care Center
University City, Missouri
(FHA # 085-43064)

INTRODUCTION

We have completed a review of the University Forest Nursing Care Center. The review was initiated as a result of our local audit planning and concerns raised by the St. Louis Multi-Family Program Center on a project related to University Forest. Our objective was to determine if University Forest Nursing Care Center Inc. complied with the provisions of its Regulatory Agreement with HUD. Specifically, our concerns related to potential equity skimming from University Forest by the owner and the management agent and the eligibility of the expenses incurred by University Forest.

We identified significant violations of University Forest's Regulatory Agreement involving unauthorized payments and unnecessary expenses. During our review we actively coordinated our efforts with HUD's Office of Housing and Office of General Counsel to resolve these violations. While our review was in progress and HUD was actively pursuing corrective actions, the owner sold the project.

We recommend that the St. Louis Multi-Family Program Center ensure that the project's mortgage insurance is terminated and the Enforcement Center take appropriate administrative actions against University Forest's president and chairman of the board, members of the board, and the management agent for their noncompliance with HUD's requirements and the Regulatory Agreement.

METHODOLOGY AND SCOPE

In completing this review, we interviewed the management agent, appropriate HUD and General Motors Acceptance Corporation staff, and researched Lexis Nexis and St. Louis County Recorder of Deeds files to obtain background information on the owner, officers, management agent and project. We also analyzed the following documentation to determine if project officials complied with the Regulatory Agreement:

- St. Louis Multi-Family Program Center files and records
- University Forest's management agent's files
- Bank statements and disbursement journals
- Cancelled checks, deposit and wire transfer documents
- Corporate minutes
- General Motors Acceptance Corporation files
- Enforcement Center's Team Report
- Resident Trust Fund

In addition, we reviewed the project's year-end financial statements for the periods ended December 31, 1996 through December 31, 1999.

Our review covered the period January 1, 1996 through December 31, 1999. We extended the review period to include activity occurring in 2000.

BACKGROUND

On September 25, 1995, the Department of Housing and Urban Development insured, under the 232 program, a \$4,784,000 mortgage for University Forest Nursing Care Center. University Forest is a 120-bed nursing home located in University City, Missouri. University Forest Nursing Care Center Inc., a not-for-profit corporation, owns the facility. The owner defaulted on August 1, 2002. Then, on October 8, 2002, the owner sold the project and fully satisfied HUD's insured mortgage.

University Forest contracted with MuniCorp Medical Management Services, Inc. for management of the Nursing Care facility. University Forest's president and chairman of the board's son owns MuniCorp Medical Management Services.

RESULTS OF REVIEW

We found that the corporation, president and chairman of the board, members of the board, and the management agent were responsible for using approximately \$2.4 million of project funds for unauthorized compensation and unnecessary operating expenses. Specifically, they used the following project funds in the manner indicated without HUD approval:

- The corporation incurred a \$592,816 premium to call the 1989 series revenue bonds when the nursing home was refinanced in September of 1995. This was treated as an extraordinary loss affecting cash on the financial statements.
- The president and chairman of the board received a total of \$679,953 in unauthorized salary, fees and contractual payments.
- The directors (excluding the chairman) were paid \$44,534 in salary and fees.
- The management agent incurred \$143,495 in costs associated with an unsuccessful attempt to obtain a 241 Supplemental Loan for a Sub-Acute Care addition to the project. In addition, the management agent misappropriated \$983,095 for expenses that benefited the Management Agent's related entities.

University Forest Nursing Care Center Inc., as a not-for-profit corporation, is prohibited from taking distributions from the project. Any surplus cash goes to Residual Receipts and withdrawal of funds from Residual Receipts requires prior written approval from HUD. A Regulatory Agreement dated September 25, 1995 and signed by the president and chairman of the board governs the operation of the project. The provisions of this agreement prohibit any disbursements to any of its officers, directors or shareholders without prior approval of the Secretary. These provisions also prohibit disbursing any funds except for usual operating expenses and necessary repairs.

These improper expenditures were caused by the project officials not adhering to HUD's Regulatory Agreement. As a result, these acts increased the risk to HUD's mortgage insurance fund and depleted funds needed to provide services and care to residents. HUD needs to take appropriate action to protect the insurance fund from future transactions by these project officials. On May 9, 2001, we provided HUD's Office of General Counsel information that should assist management in taking administrative actions.

The Multifamily Housing Program Center of the HUD St. Louis Area Office and the Kansas City Office of General Counsel with OIG's assistance coordinated a diligent pursuit of these violations in an attempt to enforce the agreement and obtain reimbursement of diverted project funds. During the course of our review we provided draft summaries and discussed discrepancies we found so that HUD's program office and General Counsel could pursue corrective actions. Subsequently, the owner sold the project on October 8, 2002 and fully satisfied the mortgage. Because of this sale HUD not only avoided a \$4,784,000 claim to HUD's insurance fund, but also civil litigation costs associated with pursuing potential equity skimming issues under Title 12 U. S. Code Section 1715z-4a.

RECOMMENDATIONS

We recommend that the Director, St. Louis Multifamily Program Center:

- 1A. Ensure the project's mortgage insurance is terminated.

We recommend that the Director, Departmental Enforcement Center:

- 1B. Take debarment action against University Forest Nursing Care Center Inc.'s president and chairman of the board of directors, members of the board, and the management agent from participating in HUD programs.

Appendix A

**SCHEDULE OF QUESTIONED COSTS AND FUNDS
PUT TO BETTER USE**

<u>Recommendation Number</u>	<u>Type of Questioned Cost</u>	<u>Funds Put to Better Use</u>
	<u>Ineligible</u> <u>1/</u>	<u>Unsupported</u> <u>2/</u>
1A		\$4,784,000
<u>1/</u>	Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law, contract or Federal, State or local policies or regulations.	
<u>2/</u>	Unsupported costs are costs charged to a HUD-financed or HUD-insured program or activity and eligibility cannot be determined at the time of audit. The costs are not supported by adequate documentation or there is a need for a legal or administrative determination on the eligibility of the costs. Unsupported costs require a future decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of Departmental policies and procedures.	
<u>3/</u>	Funds Put to Better Use are costs that will not be expended in the future if our recommendations are implemented. (Funds Put to Better Use include: Costs not incurred, de-obligation of funds, Withdrawal of Interest, Reductions in Outlays Avoidance of Unnecessary Expenditures, Loans and Guarantees not Made, and Other Savings (see DAAMS user's manual Appendix D-73 for definitions))	

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