



U. S. Department of Housing and Urban Development

*New York/New Jersey Office
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**Office of Inspector General
Office of Audit**

August 16, 1996

Audit Related Memorandum No. 96-NY-212-1802

MEMORANDUM FOR: Gerard W. Sheridan, Director, Office of Housing, 2AH

FROM: A. Paul Kane, District Inspector General
For Audit, 2AGA

SUBJECT: Unauthorized Loans
Beaveridge Housing, Project No. 012-35260
Roslyn Plaza Housing, Project No.012-35206

In response to information provided by Ervin & Associates, a loan servicing contractor for the U.S. Department of Housing and Urban Development (HUD), we completed a review of the subject projects. The primary objective of the review was to determine whether the Owners or Agent violated HUD regulations by making unauthorized loans and/or distributions from project funds. The review was limited to an examination of financial transactions made between January 1, 1994 and December 31, 1995 and was conducted during the period from June 17, 1996 through August 14, 1996.

To accomplish our objective we reviewed and verified the information reported in the projects' audited financial statements prepared by the Independent Public Accountant (IPA) Marden, Harrison & Kreuter, CPAs. We also examined the financial records maintained by JMI Management Company (JMI), the Management Agent for both projects, and met with the Controller of JMI and its Vice-President (who is also the General Partner of both projects).

The IPA reported and we confirmed that during the period January 1,1994 through December 31,1995, the General Partner of both projects made loans totalling \$4,333,500 from both projects to his affiliated company Jobco, Inc. without HUD authorization. These payments were above and beyond the allowable limited distributions also taken each year by the project Owners. The total amount owed the projects as at December 31,1995, according to the IPA audit reports is \$4,194,595, after taking into consideration accrued interest charged on the loans of \$474,595 and repayments of \$613,500 (Beaveridge Housing Company is owed \$2,614,266, and Roslyn Plaza Housing Associates is owed \$1,580,329). It should also be noted that a brief review of the projects' unaudited Fiscal Year 1996 cash disbursement records showed that additional loans to Jobco, Inc. had been made and the improper practice is continuing.

In short, at least \$4,194,595 of unauthorized loans were made to an affiliate of the Owners. As limited distribution projects the monies should have been deposited into a separate Residual Receipts account with the Mortgagee and only disbursed with the approval of HUD. The IPA raised these issues as findings in its 1994 and 1995 financial audits, but the Owners simply did not comply.

We spoke with the General Partner of both projects who explained that the loans were made to provide working capital for his affiliated company Jobco, Inc. This construction company was in need of working capital because of advances and accounts receivable amounting to approximately \$3.2 million on numerous other HUD funded projects constructed by Jobco.

In a recent letter dated July 18, 1996 to the Chief, Asset Management Branch, New York State Office, the General Partner repeated the above explanation and has asked whether he could apply these receivables against the amount he owes to Beaveridge Housing Company and Roslyn Plaza Housing Associates.

We are recommending that your Office instruct the General Partner to immediately stop making unauthorized loans from project funds, and to repay the projects the \$4,194,595 outstanding as of December 31, 1995. Additionally, a determination as to the total amount of 1996 loans made to Jobco, Inc. needs to be made, and these loans must be repaid to the projects as well. All monies repaid to the projects must be deposited into separate Residual Receipts accounts under the control of HUD. A repayment plan should be submitted to your Office for review and approval within 30 days of the date of this letter.

Should this matter not be satisfactorily resolved administratively, then your Office and the Office of Inspector General should jointly pursue with the U. S. Attorney' Office the double damages civil penalty remedy available under Section 1715z-4a, Title 12, USC.

A brief background of the projects, and details of the unauthorized loans are provided in Attachments 1 through 3 of this memorandum.

Background

Beaveridge Housing Company and Roslyn Plaza Housing Associates are both limited partnerships that were organized under the laws of the State of New York to develop and operate low-moderate income housing projects insured by HUD under Section 221(d)(4) of the National Housing Act. The General Partner of both projects is Mr. Michael S. Puntillo, who is also a principal of JMI Management Company and its Vice-President. Mr. Puntillo is a major stockholder of an affiliated construction company, Jobco, Inc.

Beaveridge Housing (a/k/a Beaveridge Senior Citizens Apartments) located in Yorktown, New York, is a 168 unit elderly housing development that received \$1,308,790 in Section 8 assistance payments from HUD in 1995. As at June 1,1996, the mortgage on the project was current, and a recent inspection conducted by the Mortgagee in March 1996, indicated that the physical condition of the project was satisfactory.

Roslyn Plaza Housing (a/k/a Roslyn Plaza Gardens) located in Roslyn, New York, is a 104 unit low-income family development that received \$907,887 in Section 8 assistance payments from HUD in 1995. As at June 1,1996, the mortgage on the project was current, and a recent inspection conducted by the Mortgagee in April 1996, indicated that the physical condition of the project was satisfactory.

Regulatory Provisions

In accordance with Paragraphs 8(b) and 8(e) of the HUD Regulatory Agreement with Beaveridge Housing Company dated November 29,1979, project funds can only be used to pay for operating expenses and necessary repairs; and distributions to Owners can only be made from surplus cash (residual receipts) and are limited to six percent of the Owners' initial equity investment for this limited distribution mortgagor. Furthermore, Paragraph 2(c) requires that all residual receipts be deposited in an account with the Mortgagee within 60 days after the end of the project's semiannual or annual period in which the receipts were generated.

Roslyn Plaza Housing Associates is also a limited distribution mortgagor. Paragraph 6 of the HUD Regulatory Agreement dated October 14,1977, provides that project funds can only be used to pay for reasonable operating expenses and necessary repairs, and distributions can only be made from surplus cash. While this Regulatory Agreement does not specify the allowable percentage for distribution purposes, HUD Regulations 24CFR 880.205 provide that unless otherwise approved by HUD distributions from non-elderly Section 8 projects are limited to 10 percent of the Owner's initial equity. Likewise, the requirements for Residual Receipts accounts are not provided in this Regulatory Agreement. Nonetheless, HUD requires that any remaining surplus cash after allowable distributions

for such projects, be deposited into a Residual Receipts account.

ATTACHMENT 4

Distribution

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Director, Accounting Division, New York/New Jersey
Special Assistant, New York State Office, 2AS (3)
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Deputy Assistant to the Secretary for Field Management, SDF, Room 7106
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