



U. S. Department of Housing and Urban Development
Office of Inspector General for Audit, Midwest
77 West Jackson Boulevard, Room 2646
Chicago, Illinois 60604-3507

AUDIT RELATED MEMORANDUM
97-CH-211-1804

May 27, 1997

MEMORANDUM FOR: Beverly Bishop, Director, Office of Housing,
Illinois State Office
Edward Hinsberger, Director of Multifamily
Housing, Illinois State Office

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

SUBJECT: Colonial Park Apartments
Multifamily Equity Skimming
Park City, Illinois

We completed an audit of the books and records of Colonial Park Apartments. We conducted the audit because financial statements indicated that the Project's funds may have been inappropriately used. Colonial Park Apartments is a multifamily project located in Park City, Illinois. The mortgage was coinsured under Section 207 of the National Housing Act pursuant to Section 223(f) and 244 of the Act. The Project defaulted on the mortgage on August 1, 1994 and the mortgage was assigned to HUD on March 21, 1995. The Project's mortgage note was sold during the December, 1996 Midwest Note sale. The Project has 320 units and is not subsidized.

Colonial Park Apartments is owned by Colonial Park Associates, an Illinois Limited Partnership, and is managed by an identity-of-interest management firm, The DeBruler Company. William DeBruler is the president and 90 percent owner of The DeBruler Company. William DeBruler owns or controls 65 percent of Colonial Park Associates. The Project's books and records are located at 131 East Park Avenue, Suite C, Libertyville, Illinois and at the project office in Park City, Illinois.

The audit objectives were to determine whether the Project owner and management agent used Project funds in accordance with the Regulatory and other agreements and applicable HUD policies and procedures. The audit covered the period of January 1, 1993 through April 30, 1996. We extended the audit period as necessary. We performed the audit between May and September 1996.

We Concluded that Colonial Park Associates, LTD, and it's Management Agent:

- Improperly used project operating funds of \$201,640 to make payments on loans from an identity-of-interest entity and to make owner distributions. Loan repayments totalled \$153,837 and owner distributions totalled \$47,803. Because of the poor financial condition of the Project, bank lines of credit were obtained in the name of the identity-of-interest entity rather than in the name of the Project. The managing general partner said he was unaware of any restrictions on the repayment of owner advances. The improper repayments and distributions contributed to the mortgage default and reduced the amount of project funds available to pay HUD subsequent to the mortgage default.
- Paid \$11,028 in costs which were not necessary to the operation or maintenance of the Project. The costs included legal fees of \$10,250; accounting fees of \$548; and miscellaneous partnership fees of \$230. All of these disbursements occurred while the Project was in a non-surplus cash position. Consequently, the Project had less funds available for operations, maintenance, and debt service.

We provided our draft findings to the Project owner and management during the audit. We held an exit conference on October 15, 1996. The Project Owner and management agent provided written comments to our draft findings and recommendations. As a result, HUD and the owner reached a settlement in which the owner agreed to pay HUD \$212,668 questioned in our draft findings, less a credit of \$52,951. This credit pertained to funds that the owner alleged were improperly retained by a prior servicing mortgagee during the 1990 refinancing of the Project's mortgage. On May 19, 1997, the owner paid HUD two cashiers checks totalling \$159,717. The \$159,717 represents a payment in full to HUD for the audit findings.

Should your staff have any questions, please have them contact me at (312) 353-7832.

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