



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
96-CH-212-1806

March 8, 1996

MEMORANDUM FOR: John E. Breuer, Acting Director, Multifamily Housing Division,
Grand Rapids Area Office

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

SUBJECT: Forest Creek Apartments, Phase III
Multifamily Equity Skimming
Grand Rapids, Michigan

We completed a limited review of the books and records of Forest Creek Apartments, Phase III. The review was based on a survey done at the Grand Rapids HUD office that indicated the Project's funds may have been inappropriately used. Forest Creek Apartments Phase III is a 168 unit multifamily project. On February 8, 1980, HUD insured the Project for \$3,185,900 under Section 221(d)(4) of the National Housing Act. When the Project's current owners acquired the Project on December 27, 1985, the mortgage balance was \$3,100,153.

Forest Creek Apartments Phase III is owned by Forest Creek Associates Limited Partnership I. The General Partner is Equity Interest Partners. Equity Interest Partners consists of the following General Partners:

- John G. Dodgson, Managing General Partner
- Raymond A. Weigel
- Gregory E.V. Dodgson
- James E. Vantil
- Tony K. Knight
- Casimer Kay

Equity Interest Partners operates Forest Creek Phase III through its identity-of-interest management agent, Equity Interest Management Company. Equity keeps the records for Forest Creek Apartments in its office at 125 Ottawa, N.W., Suite 235, Grand Rapids, Michigan.

We reviewed Forest Creek's books and records to determine if the use of project funds was reasonable and in compliance with the Regulatory Agreement and applicable HUD requirements.

We reviewed the HUD Grand Rapids Loan Management and the Project Owner/General Partnership files and records to assess the appropriateness of expenditures made between January 1, 1989 and January 31, 1995.

We concluded the Project Owners use of \$360,000 in project funds did not fully comply with the Regulatory Agreement and HUD's requirements. The Owner's disbursed funds for ineligible and unsupported costs when the Project was in a negative surplus cash position and the Project needed repairs. The Grand Rapids HUD Office estimated the Project needed repairs totaling \$339,950.

We provided our draft findings to the Managing General Partner and HUD's Grand Rapids Office during the review. We held an exit conference on June 21, 1995. The Managing General Partner provided written comments to our draft findings and recommendations.

The General Partner's comments disagreed with our findings and recommendations. At our exit conference, the owners said they intended to sell the Project, but they did not provide concrete plans that adequately protected HUD. Therefore, using procedures developed under Operation Safe Home, we submitted the draft findings and management comments to the Assistant U.S. Attorney for civil matters in Grand Rapids. The Assistant U.S. Attorney negotiated a settlement with the principles involved.

Under the terms of the agreement the Project owners paid HUD \$35,000 to show good faith and provided HUD a \$325,000 line of credit (Appendix A). The payment and line of credit are to compensate HUD for the deferred repairs and accounts payable over 30 days old. If the project is not sold, the HUD program office plans to use the funds to make repairs to the Project and satisfy the accounts payable. If the Project is sold without HUD mortgage insurance, the funds and line of credit will be returned to the owners when the HUD insured mortgage is completely paid off. The program office plans to give the owners until May 1, 1996 to sell the Project.

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

Line of Credit



Grand Bank
126 Ottawa N.W.
Grand Rapids, MI 49503

February 12, 1996
Letter of Credit
Number 00161

BENEFICIARY:

U.S. Department of Housing and
Urban Development
50 Louis Street N.W.
Grand Rapids, MI 49503

APPLICANT:

Wendy's West Michigan, Inc. and
Wendy's Real Estate, Inc.
125 Ottawa N.W.
Grand Rapids, MI 49503

Gentlemen:

We hereby open our Irrevocable Letter of Credit Number 00161 in the amount of Three Hundred Twenty Five Thousand and 00/100 Dollars (\$325,000) in favor of U. S. Department of Housing and Urban Development ("HUD"), for the account of Wendy's West Michigan, Inc. and Wendy's Real Estate, Inc., expiring February 12, 1997.

Funds under this Letter of Credit are available upon presentation and submission of (i) your site drafts(s), which shall clearly specify the requested draw amount and the date and number of this Letter of Credit, and (ii) this original Letter of Credit.

This Letter of Credit is subject to the Uniform Commercial Code of the State of Michigan. Except so far as otherwise expressly stated herein, this Letter of Credit is subject to the "Uniform Customs and Practices for Documentary Credits (1993 Revision), International Chamber of Commerce Publication Number 500".

This Letter of Credit shall be automatically extended without amendment for a period of one year from the initial expiration date or any future expiration date, unless, not less than forty five (45) days prior to such expiration date, we notify you by registered or certified mail that this Letter of Credit will not be renewed for any such additional period.

Partial drawings are permitted. The amount available for drawing under this Letter of Credit shall be permanently reduced by the full amount of each draft honored by us, effective immediately upon the honoring of such draft. Subject to the expiration provision contained in the immediately preceding paragraph, this Letter of Credit will remain valid and effective, and following each draw shall be returned to the Beneficiary, so long as any part of the stated amount of this Letter of Credit remains undrawn.

GRAND BANK

By: 

William H. Fickes
Senior Vice President

Distribution

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