



PK Management, LLC, Richmond Heights, OH

Multifamily Project-Based Section 8 Rental Assistance



To: Brenda J. Brown, Director, Asset Management Division, Baltimore Satellite Office, Multifamily Northeast Region, 3BHMLAP
//signed//
From: David E. Kasperowicz, Regional Inspector General for Audit, Philadelphia Region, 3AGA
Subject: PK Management, LLC, Richmond Heights, OH, Did Not Always Maintain Documentation Required To Support Housing Assistance Payments

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of PK Management's administration of housing assistance payments at multifamily projects.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov/>.

If you have any questions or comments about this report, please do not hesitate to call me at 215-430-6734.



Audit Report Number: 2019-PH-1003

Date: August 2, 2019

PK Management, LLC, Richmond Heights, OH, Did Not Always Maintain Documentation Required To Support Housing Assistance Payments

Highlights

What We Audited and Why

We audited PK Management, LLC, based on (1) media coverage of problems associated with Essex Village, an apartment complex in Virginia that it managed, and (2) issues identified in our prior audit of PK Management in Birmingham, AL. Our audit objective was to determine whether PK Management assisted eligible tenants and maintained documentation to support the housing assistance payments it received for residents of the properties it managed in the Philadelphia region.

What We Found

PK Management did not always maintain documentation to show that it assisted eligible tenants and supported the housing assistance payments it received for residents in accordance with U.S. Department of Housing and Urban Development (HUD) requirements. Specifically, it did not maintain eligibility documentation in 23 of the 60 tenant files reviewed.¹ In addition, PK Management did not always maintain other required documentation to support compliance in 27 of the 60 tenant files.² These conditions occurred because PK Management did not have adequate controls to ensure that it maintained documentation to show that tenants were eligible for assistance and that housing assistance payments were supported. As a result, HUD had no assurance that housing assistance payments totaling \$497,762, which it made on behalf of the residents at properties managed by PK Management, were correct and accurate.

What We Recommend

We recommend that HUD require PK Management to (1) provide documentation to support housing assistance payments it received totaling \$497,762 or reimburse HUD from nonproject funds for any amount that it cannot support and (2) implement controls to ensure that it maintains documentation in the tenant files to show that tenants were eligible for assistance and that the housing assistance payments were supported.

¹ Some tenant files were missing more than one document.

² Ibid.

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Background and Objective

PK Management, LLC, was independently formed on January 1, 2008. It operates nationally as a management agent for other U.S. Department of Housing and Urban Development (HUD) multifamily properties and is headquartered in Richmond Heights, OH, with a corporate functions office in Greenville, SC. PK Management managed 12 apartment complexes in the Philadelphia region at the beginning of our review. The owners sold 7 of the 12 properties managed by PK Management during our review. The remaining five properties managed by PK Management³ and located in Pennsylvania were

- Baldwin Towers, Pittsburgh, PA;
- Darby Townhouses, Sharon Hill, PA;
- Hillside Village, Catawissa, PA;
- Lodge Run Apartments, Portage, PA; and
- Spring Manor Apartments, Hollidaysburg, PA

The projects receive rental housing assistance payments from HUD's multifamily project-based Section 8 program. The program was authorized by Congress in 1974 to provide rental housing assistance payments for eligible tenants, including single persons, residing in specific multifamily apartment complexes. Under the program, HUD enters into long-term housing assistance payments contracts with project owners to provide housing units to eligible tenants. The housing assistance payments contracts impose general obligations on the owners of assisted properties, to include the leasing of assisted units to Section 8 income-eligible tenants; the maintenance of the project as decent, safe, and sanitary housing for the residents; and compliance with Section 8 reporting, management, and accounting requirements. PK Management's mission is to provide decent, safe, and sanitary housing for the poorest and most vulnerable in our society.

In late 2017, Essex Village, located in Richmond, VA, and managed by PK Management, received media attention for its poor physical conditions. In January 2017, the property received a failing inspection score from HUD's Real Estate Assessment Center due to life-threatening health and safety deficiencies. In August 2017, the Real Estate Assessment Center updated the property's inspection score to a passing score. In October 2017, Essex Village was sold and PK Management no longer managed the property. As part of our audit, we reviewed the physical condition of two other properties managed by PK Management and found that the inspection scores they received from the Real Estate Assessment Center fairly represented the condition of each property.

Our audit objective was to determine whether PK Management assisted eligible tenants and maintained documentation to support the housing assistance payments it received for residents of the properties it managed in the Philadelphia region.

³ PK Management had an identity of interest relationship with the owner entities during part or all of the audit period.

Results of Audit

Finding: PK Management Did Not Always Support Tenants Eligibility and Maintain Other Required Documents

PK Management did not always maintain documentation to show that it assisted eligible tenants and supported the housing assistance payments it received for residents in accordance with HUD requirements. Specifically, it did not maintain eligibility documentation in 23 of the 60 tenant files reviewed.⁴ In addition, PK Management did not maintain other program-required documentation to support compliance in 27 of the 60 tenant files.⁵ This condition occurred because PK Management did not have adequate controls to ensure that it maintained documentation to show that tenants were eligible for assistance and that housing assistance payments were supported. As a result, HUD had no assurance that housing assistance payments totaling \$497,762 which it made on behalf of the residents at properties managed by PK Management were correct and accurate.

Tenant Files Lacked Documentation To Support Eligibility

We reviewed a nonstatistical sample of 60 tenant files and found that 23 of the 60 files (38 percent) lacked documentation to show compliance with eligibility requirements. The missing tenant eligibility documentation included (1) background checks for drugs and violent criminal activity, (2) Citizenship Declaration Form, (3) authorizations for release of information and Privacy Act notices, (4) copies of Social Security numbers, (5) third-party verifications, and (6) proof of disability. Table 1 below summarizes PK Management’s tenant eligibility deficiencies and the related questioned costs.

Table 1: Eligibility documentation missing from tenant files

Tenant ⁶	Background checks	Citizenship declaration form	Authorization for release of information	Social Security number	3 rd -party verification	Disability	Unsupported housing payments
1					X		\$17,584
2					X		966
3					X		8,044
4					X		5,790
5					X		9,056
8					X		9,552
9					X		26,457
10					X		1,257
11					X		12,943
12					X		19,989
13					X		23,669

⁴ Some tenant files were missing more than one document.

⁵ Ibid.

⁶ The tenant numbers are not an order count; rather, they correspond to the tenant number count in appendix C.

Tenant ⁶	Background checks	Citizenship declaration form	Authorization for release of information	Social Security number	3 rd -party verification	Disability	Unsupported housing payments
14					X		4,425
15					X		6,308
16	X				X	X	20,857
17			X		X		13,081
18		X		X	X		22,936
20						X	9,213
21			X				6,224
22						X	4,665
24						X	11,630
25	X		X				7,232
27	X		X				20,528
33				X			17,808
Totals	3	1	4	2	16	4	280,214⁷

Background Checks for Drug and Violent Criminal Activity

Three tenant files were missing documentation to support that a background check for drug and violent criminal activity had been completed on all household members who were 18 years of age or older. HUD Handbook 4350.3, REV-1, paragraph 4-27, requires owners to retain documentation in the tenant file showing the date, type, and results of the criminal background check, including the State lifetime sex offender registration check. Further, paragraph 7-4, states that owners have the authority to require a criminal background check, including a State lifetime sex offender registration check, on tenants at recertification.

Citizenship Declaration Form

Citizenship declaration forms for two household members from one tenant file was missing. HUD Handbook 4350.3, REV-1, paragraph 3-12, states that all family members must declare their citizenship or immigration status. Owners must obtain for each family member, regardless of age, a signed declaration of citizenship. As part of the annual or interim recertification process, owners must determine the citizenship-immigration status of tenants from whom the owner has not previously collected the proper documentation.

Authorization for Release of Information and Privacy Act Notices

Four tenant files did not have signed forms for authorization for release of information (form HUD-9887) and Privacy Act notices (form HUD-9887-A). HUD Handbook 4350.3, REV-1, paragraph 5-15, states that applicants and tenants must sign two HUD-required consent forms – forms HUD-9887 and HUD-9887-A. Both forms require each adult member to sign the form regardless of whether he or she has income. This included the head of household, spouse, and cohead – regardless of age – and each family member who is at least 18 years of age must sign the forms at move-in and at each annual recertification. In addition, the owner was required to

⁷ This total includes costs that were also identified in table 2 for other required documents. To ensure that the costs were not double counted, a chart with all missing eligibility and other required documents and associated costs was included in appendix C. The total cost shown in appendix C is the unsupported amount reported in recommendation 1A.

sign the HUD-9887-A. The consent forms allow owners to request and receive information from third-party sources about the applicant or tenant. Owners must keep the original forms in the tenant's file.

Social Security Numbers

Two tenant files were missing copies to support Social Security numbers for household members. HUD Handbook 4350.3, REV-1, paragraph 3-9, states that applicants and tenants must provide adequate documentation to verify the complete and accurate Social Security number assigned to all household members. Adequate documentation means a Social Security card issued by the Social Security Administration; an original document issued by a Federal or State government agency, which contains the name and Social Security number of the individual, along with identifying information of the individual; or other acceptable evidence of the Social Security number.

Third-Party Verifications

Sixteen tenant files lacked the required Enterprise Income Verification (EIV) reports,⁸ income and asset information, or both. Third-party verifications include EIV reports or income and asset information directly from the source, such as employers or financial institutions, which supports the information reported on the Owner's Certification of Compliance With HUD's Tenant Eligibility and Rent Procedures (form HUD-50059). HUD Handbook 4350.3, REV-1, paragraph 5-18, requires that all third-party verification documentation be in the tenant file to support the income verified.

Disability Status

Five tenant files were missing documentation to support the disability claimed for admission into apartment complexes designated for the elderly or disabled or for a reasonable accommodation. HUD Handbook 4350.3, REV-1, paragraph 3-26, states that owners must verify all income, expenses, assets, family characteristics, and circumstances that affect family eligibility. In addition, paragraph 3-28 of the handbook states that eligibility for certain projects, certain income deductions, and preferences are based upon whether the family is identified as elderly or disabled, or whether a family has any individual members who are elderly or disabled. Therefore, verifications of age and disability status are very important issues in determining eligibility and rent. Paragraph 3-28 also states that an owner may verify the disability to determine whether a family or person meets the definition of disability used to determine eligibility for a project, preferences, or an allowance. Verification of disability may be obtained through a third-party verification form sent by the owner to an appropriate source of information, including a physician, psychologist, clinical social worker, or other licensed health care provider, or by receipt of Social Security disability payments.

Other Required Documentation Was Not Maintained in Tenant Files

In the same nonstatistical sample of 60 tenant files, 27 of the 60 files (45 percent) did not contain

⁸ The Enterprise Income Verification system is a web-based computer system containing employment and income information on individuals participating in HUD's rental assistance programs. Regulations at 24 CFR (Code of Federal Regulations) 5.233 and HUD Handbook 4350.3, REV-1, require its use as a third-party verification.

other required documents to show compliance with HUD requirements. The other missing required documentation included (1) family composition; (2) proof of proper selection from the waiting list; (3) disclosure of lead-based paint certification to tenants; and (4) unit inspections, to include move-ins, move-outs, or annuals. Table 2 below summarizes the deficiencies in the other required documentation for which PK Management was responsible and the related questioned costs.

Table 2: Other required documentation missing from tenant files

Tenant ⁹	Family composition	Waiting list	Lead-based certification	Unit inspections	Unsupported housing payments
1		X	X		\$17,584
2		X		X	966
3		X			8,044
4		X		X	5,790
5		X		X	9,056
6		X		X	4,356
7		X	X		1,173
8		X		X	9,552
9		X	X	X	26,457
11		X		X	12,943
12		X			19,989
14		X			4,425
16		X			20,857
17		X		X	13,081
18		X			22,936
19		X			15,889
23		X			12,897
25				X	7,232
26		X			39,694
27				X	20,528
28		X		X	29,608
29		X		X	21,650
30	X				4,041
31				X	10,837
32		X			44,907
34		X			15,159
35		X			17,337
Totals	1	23	3	13	416,988¹⁰

Family Composition

One tenant file did not have documentation to support the family composition. HUD Handbook 4350.3, REV-1, paragraph 4-24, states that the owner must interview an applicant and request that the applicant bring documentation, to include adoption papers or legal documents showing

⁹ The tenant numbers are not an order count; rather, they correspond to the tenant number count in appendix C.
¹⁰ This total includes costs that were also identified in table 1 for eligibility deficiencies. To ensure that the costs were not double counted, a chart with all missing eligibility and other required documents and associated costs was included in appendix C. The total cost shown in appendix C is the unsupported amount reported in recommendation 1A.

formal adoption being pursued. The owner must obtain family income and composition information to verify eligibility and compute the tenant's share of the rent.

Proof of Proper Selection From the Waiting List

Twenty-three tenant files lacked proof of proper selection from the waiting list. Several of the waiting lists reviewed were either incomplete or did not cover the period of the tenant's entrance into the unit. HUD Handbook 4350.3, REV-1, paragraph 4-18, requires the owner to maintain a record of the waiting list, which provides an easily viewable record of the date and time of application and date and time of selection from the waiting list. The owner must maintain waiting lists as a permanent record.

Disclosure of Lead-Based Paint

Three of the PK Management properties were built before 1978, of which, three tenant files did not contain the disclosure certification for lead-based paint hazards. HUD Handbook 4350.3, REV-1, paragraph 6-8, requires owners to disclose known lead-based paint or lead-based paint hazards in housing to applicants before they sign their leases. Further, owners were required to document that tenants were given a copy of the Environmental Protection Act-HUD-Consumer Product Safety Commission Lead Hazard Information pamphlet before they signed the lease.

Unit Inspections

Thirteen tenant files were missing either the move-in, move-out, or annual unit inspections. HUD Handbook 4350.3, REV-1, paragraph 6-29, requires owners in all HUD-subsidized multifamily properties to complete move-in and move-out inspections, along with annual unit inspections. Owners must document these unit inspections. Further, move-in inspections required that both the owner and tenant be present and that the inspection form be signed by both parties and attached as part of the lease. The annual and move-out inspections allowed the owners to ensure that the appliances and equipment were functioning properly and to determine whether any damage to the unit was caused by the tenant's abuse or negligence and if so, make the necessary repairs and bill the tenant for the cost of those repairs.

PK Management Did Not Have Adequate Controls To Ensure Compliance

The above deficiencies occurred because PK Management did not have adequate controls to ensure that it maintained documentation to show that tenants were eligible for assistance and that housing assistance payments were supported. Specifically, it did not properly implement its own policies and procedures. For example, PK Management had a property review checklist policy that guided its area or regional managers when they performed audits of tenant files for accuracy. One of the checklist requirements included ensuring that each file had all of the required documents and that the documents were completed accurately and thoroughly so that the file "tells the story." However, the property review checklists reviewed did not include detailed notes of audit findings or corrective actions taken and did not show that supporting documentation had been verified and told the complete story accurately and thoroughly. If PK Management plans to rely on checklists to help ensure that its tenant files are complete and accurate, the checklists must cover all of the requirements, be used consistently, and be detailed enough to follow the audit review performed.

Conclusion

As a result of PK Management's weak internal controls, the projects violated their housing assistance payments contracts with HUD for its Section 8 program by submitting certifications to bill HUD for unsupported tenants in 35 of 60 files reviewed.¹¹ This condition occurred because PK Management lacked adequate controls to ensure that it maintained documentation to show that tenants were eligible for assistance and that housing assistance payments were supported. As a result, the projects collected housing assistance payments of \$497,762, which PK Management could not support. Further, it could not assure HUD that the tenant housing assistance payments it made on behalf of the residents at properties it managed were correct and accurate.

Recommendations

We recommend that the Director, Asset Management Division, Baltimore Satellite Office, Multifamily Northeast Region, direct PK Management to

- 1A. Provide documentation to support housing assistance payments the projects received totaling \$497,762 or reimburse HUD from nonproject funds for any amount that it cannot support.
- 1B. Implement controls to ensure that it maintains adequate documentation in the tenant files to show that tenants were eligible for assistance and that the housing assistance payments were supported.

¹¹ See appendix C.

Scope and Methodology

We performed the audit from January 2018 through July 2019 at six properties managed by PK Management located in Virginia and Pennsylvania and our office located in Richmond, VA. The six properties were

- Baldwin Towers, Pittsburgh, PA;
- Darby Townhouses, Sharon Hill, PA;
- Hillside Village, Catawissa, PA;
- Lodge Run Apartments, Portage, PA;
- Spring Manor Apartments, Hollidaysburg, PA; and
- Woodland Crossing, Richmond, VA.

The audit covered the period of October 1, 2015, through October 31, 2017, but was expanded to include November and December 2017 Housing Owner's Certification and Application for Housing Assistance Payments (form HUD-52670) submissions that had housing assistance payment adjustments related to our audit period.

To accomplish our audit objective, we

- reviewed applicable laws and HUD regulations relating to the use of Section 8 project-based housing assistance payments;
- reviewed applicable PK Management controls and policies and procedures used to administer the Section 8 project-based housing assistance program;
- interviewed HUD officials, PK Management personnel, and 46 tenants at the 6 apartment projects; and
- reviewed a total sample of 60 tenant files, 10 files from each of six properties.

At the start of our audit, PK Management managed 12 properties in the Philadelphia region: 8 in Pennsylvania, 3 in Virginia, and 1 in Maryland. We selected two properties to review during our initial work. One of the two properties had the lowest Real Estate Assessment Center inspection score (Woodland Crossing), and the other property had the highest inspection score (Hillside Village). We specifically selected the properties with the lowest and highest inspection scores to determine whether the scores fairly represented the condition of each property. We found that the inspection scores fairly represented the condition of the properties and conducted no further work in this area. The two properties had 276 tenants and received housing assistance payments totaling nearly \$3.7 million during our audit period of October 1, 2015, through October 31, 2017. We reviewed a nonstatistical sample of 10 tenant files each from Woodland Crossing and Hillside Village to determine whether PK Management maintained documentation to show that housing

assistance payments were supported and accurately calculated.

The owners sold 7 of the 12 properties that PK Management managed during the early stage of our audit, including the Woodland Crossing property in March 2018, which was after we started the audit and performed work at the property. We decided to review 10 files from each of the 4 remaining properties that we had not yet reviewed to determine whether PK Management maintained documentation to support the housing assistance payments it received. We used a random number generator to determine the samples of 10 files at each property. The 4 properties had 404 tenants and received housing assistance payments totaling nearly \$7.4 million during our audit period.

We relied in part on data maintained by PK Management and the Pennsylvania Housing Finance Agency and Navigate, HUD's Section 8 contract administrators. Although we did not perform detailed assessments of the data, we performed minimal levels of testing and found the data to be adequately reliable for our purposes. Testing for reliability included comparison of the computer-processed data to housing assistance payment vouchers requesting payment. The test results refer only to the tenants sampled and cannot be projected to the universe of tenants.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- PK Management lacked adequate controls to ensure that it maintained documentation to show that tenants were eligible for assistance and that housing assistance payments were supported (finding).

Followup on Prior Audits

PK Management, LLC, Did Not Ensure Adequate Accountability and Administration of Its Multifamily Projects; Audit Report 2014-AT-1011; Issued September 22, 2014

The following recommendations were still open at the time of this report:

- 1A. Require PK Management to reimburse its project \$216,749 from nonproject funds for the ineligible housing assistance payments.
- 1B. Require PK Management to support or reimburse its project \$218,676 from nonproject funds for housing assistance payments that lacked supporting documentation.

On January 20, 2015, we agreed with HUD's proposed management decisions for these recommendations. The final action target dates for completing the corrective actions for recommendations 1A and 1B was January 1, 2017. We will track HUD's resolution of these recommendations through the management decision process prescribed in HUD Handbook 2000.06, REV-4.

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Unsupported 1/
1A	\$497,762


- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a 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.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



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July 10, 2019

Via Email (dkasperowicz@hudoig.gov)

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Office of Inspector General
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RE: Response to July 3, 2019 Discussion Draft Audit Report regarding PK Management, LLC (Report No. 2019-PH-100X)

Dear Mr. Kasperowicz:

Thank you for providing us with a copy of HUD OIG's draft report concerning its recently completed audit of several properties owned and operated by PK Management, LLC ("PK Management") in the Philadelphia region, dated July 3, 2019 (the "Draft Report"). We appreciate the opportunity that PK Management was given to cooperate with HUD OIG's audit of the properties. On behalf of PK Management we respond to the Draft Report.¹

We are pleased that HUD OIG has not found—and had no basis to find—that any housing assistance payments provided to PK Management were incorrect or inaccurate. The Draft Report recommends, however, that HUD seek further documentation to support tenant eligibility and compliance relating to 35 residents, or if not provided, reimbursement of \$497,762 in housing assistance payments made on behalf of those residents. At the outset we note that there is no dispute that all of the residents in question were or are low-income persons housed at the assisted housing properties. Nor is there any dispute that housing services were provided to all such residents and that the residents benefitted from the rent subsidy and the housing. There is also no real disagreement that each tenant file contained ample documentation as to the income level and other qualifications of the residents. The issue is only whether certain documents, mainly collected at initial occupancy, were retained. Of particular note, many of the residents in question

¹ In conjunction with this letter, we have provided additional documentation relevant to issues raised in the Draft Report. We have provided that information under separate cover for HUD OIG's review, and not for publication. If you intend to publish that information, please inform us first, so that we can address all necessary privacy and proprietary concerns.

Comment 1

Comment 2

Comment 3

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 4
Comment 2

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initially occupied their units years before the audit period and years before PK Management's management of the properties. (PK Management is not the owner, but for simplicity's sake may be considered to have identity of interest with the owner during part or all of the audit period.) HUD OIG has identified what amounts to a series of *de minimis* administrative deficiencies that do not materially address the question of whether low-income persons otherwise qualified were in fact provided housing.

A. Files Inherited from Prior Owners

Comment 3
Comment 5

HUD OIG recommends that HUD seek further documentation relating to 35 residents. Much of the documentation pertains to information collected only at initial project occupancy, e.g. background checks (3 files), citizenship declaration form (1 file), and selection order from a waiting list (23 files). PK Management did not take over management of four of the properties until January 2010, another until October 2011, and another until October 2013. Of the residents for whom HUD OIG has recommended that HUD seek further documentation, 16 of their tenancies began prior to PK Management's management—indeed, the tenancies in question date as far back as August 1977. Insofar as HUD OIG has identified missing documentation relating to eligibility and compliance determinations made prior to PK Management's management, there is no appropriate basis on which to penalize PK Management for any failure of prior owners to maintain proper documentation. There is also no possible way for a future owner or manager to recreate documents that were not contemporaneously retained regarding initial selection.

Comment 5

For example, HUD OIG has questioned nearly \$146,000 in housing assistance payments made for the benefit of six residents for which the only purported deficiency is a lack of documentation regarding each resident's proper selection from the property's waitlist, which can only be verified by preserving a copy of the waitlist in effect at the time of each resident's selection. There is no possible way to recreate those waiting lists or the residents' selection off of them. There is also no evidence whatsoever that they were improperly selected. All six of those residents were selected and moved in prior to PK Management's ownership, some by more than 35 years. PK Management thus had no control over the waitlists in effect at the relevant times, no power to ensure they were preserved by prior owners, and no ability to recreate them after the fact. To penalize PK Management for a requirement that PK Management has had no practical ability to comply with is inconsistent with traditional standards of fairness and due process. We have similar concerns with HUD OIG's identification of purportedly missing documentation relating to background checks and citizenship declaration forms, all but one of which concern residents for whom eligibility and compliance determinations were made by prior owners.

Comment 3

Comment 6

We appreciate that, as the Draft Report notes, HUD Handbook 4350.3, REV-1, requires various documentation to be maintained. But where that documentation is no longer retained through changes in ownership and management, there is no affirmative obligation to re-create those documents, even if it were possible. Moreover, the legal force and effect of the Handbooks is unclear, and in no way should a Handbook be used to moot the statutory and regulatory

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 7

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purposes of the Section 8 Housing Assistance Payments program, which is to provide rent subsidies on behalf of residents to secure affordable housing. There is no dispute that the purpose of that program was achieved here.

B. Off-Site Files

With respect to other categories of documents identified by HUD OIG as missing from tenant files, certain documents are not typically stored in onsite tenant files. PK Management has identified many of the purportedly missing documents in off-site storage and has provided them to HUD OIG in further support of the questioned payments. Given that the scope of HUD OIG's review covered the period from October 31, 2015 to October 31, 2017, it would be inappropriate to penalize PK Management for seeking efficiencies and maintaining documents not typically used in active files in a long-term storage site.

Comment 8

C. Apparent Physical Impairments

HUD OIG has questioned \$25,508 in housing assistance payments made for the benefit of three residents for which the only purported deficiency is a lack of documentation regarding each resident's disability status. Two of the tenant files contained documentation that the residents' disabilities were readily apparent. Not only was PK Management not required to request additional verification from those residents, *see* HUD Handbook 4350.3, REV-1, paragraph 3-28 (stating only that an owner "may" verify disability), but it would have risked violating state and federal anti-discrimination laws if it had done so. *See* HUD "Reasonable Accommodations and Modifications" Information Page (https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications; last accessed July 9, 2019) (housing provider "may not request any additional information" if "a person's disability is obvious, readily apparent, or otherwise known to the provider"). The third tenant did not reside in an ADA-accessible unit; that tenant's disability status thus was irrelevant, and there was no verification obligation.

Comment 9

D. Discrepancies in Alleged Unsupported Housing Assistance Payments

The Draft Report recommends that HUD seek reimbursement of \$497,762 in housing assistance payments made on behalf of 35 residents if PK Management cannot provide further documentation to support tenant eligibility and compliance. Appendix C to the Draft Report states a specific dollar amount in alleged "unsupported housing assistance payments" for each of the 35 residents. However, we have been unable to verify that the amounts listed match PK Management's records of the housing assistance payments received on behalf of each resident. We thus dispute HUD OIG's recommendations to the extent they are inconsistent with the actual housing assistance payments made on behalf of each resident.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 6
Comment 5

Comment 10

Comment 11

Comment 3

Mr. David E. Kasperowicz
July 10, 2019
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E. Improper Presumption of Liability

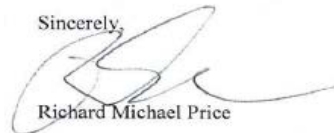
We also dispute the general presumption underlying the Draft Report that a current management agent can be held responsible for the past failure of unrelated parties to maintain proper documentation. We do not believe HUD regulations may be interpreted to impose such a liability on *bona fide* purchasers for value of properties that receive project-based Section 8 rental assistance payments.

We also dispute the presumption that every document called out in HUD handbooks and guidance is unique and that all files must contain all of them at all times. Indeed, many HUD forms and procedures are duplicative and contain overlapping information, which has been reviewed and tested by HUD field staff through Management Occupancy Reviews, and, in most cases, through annual audits. To have passed through those procedures without issue only to, in a real sense, take the same test a third time, and after all of the years and reviews, find documentation missing that does not negate the low-income occupancy, elevates the paperwork as more important than the residents.

HUD's record-keeping requirements must be interpreted in accordance with their purpose, which is to verify that quality affordable housing is available to qualified low-income residents. *See, e.g., Yeboah v. United States DOJ*, 223 F. Supp. 2d 650, 655 (E.D. Pa. 2002) (agency action must be "rationally related to the purposes to be served") (quoting *Hondros v. U.S. Civil Service Com'n*, 720 F.2d 278, 295-96 (3rd Cir. 1983)). In this case, there is no allegation—nor is there any basis for one—that any resident was ineligible for housing assistance payments made to PK Management on their behalf. Many of those residents are longtime tenants for whom eligibility and program compliance was long ago established by prior owners. There is no rational basis for an interpretation of HUD regulations that would force subsequent owners to forfeit the right to housing assistance payments necessary for the preservation and improvement of the properties in question simply because they inherited legacy tenant files from prior owners that may have contained technical—but not substantive—administrative deficiencies.

We appreciate the opportunity to provide this response. We are available to discuss any of these matters further with the appropriate officials.

Sincerely,



Richard Michael Price

OIG Evaluation of Auditee Comments

Comment 1 PK Management stated that it was pleased that we had not found and had no basis to find that any housing assistance payments provided to PK Management were incorrect or inaccurate. We do not agree with this statement. We identified discrepancies with housing assistance payment calculations in 6 of 19 files that we reviewed during the survey phase of our audit work. Because the value of the discrepancies was less than 5 percent of the total housing assistance payments that we reviewed, we decided not to audit additional files during the verification phase of the audit. We will issue a separate letter to PK Management so that it can follow-up on these issues and take any necessary corrective action.

Comment 2 PK Management noted that there was no dispute that all the residents in question were or are low-income persons housed at assisted housing properties. It stated there was no dispute that housing services were provided to all such residents and that the residents benefitted from the rent subsidy and housing. PK Management further stated there was no real disagreement that each tenant file contained ample documentation as to the income level and other qualifications of the residents. It noted that the only issue is whether certain documents, mainly collected at initial occupancy, were retained. PK Management stated that the HUD OIG identified what amounts to a series of *de minimis* administrative deficiencies that do not materially address the question of whether low-income persons otherwise qualified were in fact provided housing.

We do not agree with the totality of these statements. As stated in the audit report, because files were missing documentation, PK Management could not show that some tenants were eligible for assistance. Specifically, 16 files were missing third-party verifications such as EIV reports or income and asset information directly from the source, such as employers or financial institutions, to show that the tenants met the income eligibility requirement. Further, the objective of our review was not to determine whether the residents were low-income or whether the residents benefitted from the rent subsidy and housing provided. Our audit objective was to determine whether PK Management assisted eligible tenants and maintained documentation to support the housing assistance payments it received for residents of the properties it managed in the Philadelphia region. PK Management's assumption of no dispute or disagreement deflects from the issues identified in the report. Further, we do not agree with PK Management's characterization of the issues and amounts identified in the report as trivial or minor administrative deficiencies. The audit found that PK Management failed to maintain documentation required by HUD to support payments totaling \$497,762; therefore, because the files lacked required documentation, we could not determine eligibility at the time of the audit.

Comment 3 PK Management noted that many of the residents in question initially occupied their units years before the audit period and years before PK Management

managed the properties. PK Management stated that much of the documentation pertained to information collected only at initial project occupancy, e.g. background checks, Citizenship Declaration Form, and selection order from a waiting list. It stated that it did not take over management of four of the properties until January 2010, another until October 2011, and another until October 2013. PK Management noted that 16 tenants began their residency prior to PK Management managing the properties, noting that some of the tenants began their residency as far back as August 1977. PK Management asserted that there is no appropriate basis on which to penalize it for any failure of prior owners to maintain proper documentation. It further contended that there was no possible way for a future owner or manager to recreate documents that were not retained during the tenant's initial selection.

We agree that residency for some tenants began as far back as 1977. However, we disagree with PK Management's assertion that documents, specifically, background checks and citizenship declaration forms can only be obtained during initial occupancy. As noted in the report, paragraph 7-4 of HUD Handbook 4350.3, REV-1, states that owners have the authority to require a criminal background check, including a State lifetime sex offender registration check, on tenants at recertification. In addition, paragraph 3-12 of the handbook states that as part of the annual or interim recertification process, owners must determine the citizenship-immigration status of the tenants from whom the owner has not previously collected the proper documentation. Therefore, PK Management had the ability to rerun the necessary background checks or obtain from the tenant the necessary citizenship documentation to address items that were missing from the tenant's file.

Comment 4 PK Management stated that it was not the owner, but for simplicity's sake, may be considered to have an identity of interest with the owner during part or all of the audit period. We agree that PK Management has an identity of interest relationship with the owners. We edited the report to show that PK Management managed the properties and had an identity of interest relationship with the owner entities during part or all of the audit period.

Comment 5 PK Management stated that we questioned nearly \$146,000 in housing assistance payments made for the benefit of six residents and the only deficiency in their files was lack of documentation to show their selection from the property's waiting list. It asserted that selection from the waiting list can only be verified by preserving a copy of the wait listing that existed at the time of each resident's selection and that there was no possible way to recreate those waiting lists or the resident's selection from them. PK Management stated there was no evidence whatsoever that the residents were improperly selected from the waiting lists and that all six of the residents were selected and moved in prior to their ownership of the properties, some by more than 35 years. It stated that it had no control over the waitlists in effect at the relevant times, no power to ensure they were preserved by prior owners, and no ability to recreate them after the fact. PK

Management asserted that to penalize it for a requirement that it had no practical ability to comply with is inconsistent with traditional standards of fairness and due process.

Although PK Management had no control over the subject waiting lists, no power to preserve them and no ability to recreate them after the fact, it could have obtained assurance that the tenant files it inherited complied with applicable requirements to mitigate its risk before its identity of interest owners acquired, and it managed, the properties. If it could not obtain the assurance, then it could have memorialized in an agreement with the seller a delineation of who would be responsible if future audits and reviews detected deficiencies with transactions that predated the sale of the property. Paragraph 4-18 of HUD Handbook 4350.3, REV-1, states that owners must maintain waiting lists as a permanent record. Several times we requested copies of the sales documentation related to the subject properties so that we could determine who was responsible for deficiencies identified with transactions in the tenant files that occurred before the sale of the property. However, PK Management did not provide any documentation in response to our requests. During our audit, we also determined whether PK Management maintained documentation to support housing assistance payments and we reported that 23 tenant files, including the 6 files discussed here, lacked proof of proper selection from the waiting list. Because the required waiting list documentation was not maintained we could not determine whether the tenants were properly selected from the waiting lists. Therefore, we classified the housing assistance payments related to this deficiency as unsupported costs. Unsupported costs, by definition, are costs charged to a HUD program for which we cannot determine eligibility at the time of the audit and require a decision by HUD program officials. Accordingly, based on recommendation 1A, HUD will make a determination of whether any funds need to be paid back because the waiting list documentation was missing.

Comment 6 PK Management stated that where documentation is no longer retained through changes in ownership and management, there is no affirmative obligation for it to recreate those documents, even if it were possible. It further stated that the legal force and effect of the HUD handbooks is unclear, and in no way should a handbook be used to raise question of the statutory and regulatory purposes of the Section 8 Housing Assistance Payments program, which are to provide rent subsidies on behalf of residents to secure affordable housing. PK Management stated there is no dispute that the purpose of that program was achieved here.

We disagree with PK Management's assertion. We do not raise question of the statutory and regulatory purposes of the rental housing assistance payments funded by HUD through its project-based Section 8 program. We do question the eligibility of some payments for some tenants because the tenant files for which PK Management was responsible lacked required documentation that would show compliance with requirements.

Comment 7 PK Management stated that certain documents identified in the audit report as missing from tenant files are not typically stored in the onsite tenant files. It claimed that it had identified many of the purportedly missing documents in off-site storage and provided them to the auditors. It stated that it would be inappropriate for it to be penalized for maintaining some documents in a long-term storage site.

We understand that tenant file documentation can be physically stored in more than one location as part of an effective file management system. HUD Handbook 4350.3, REV-1 simply states that documentation must be kept in the tenant file. Before each onsite visit, we provided PK Management a list of the tenant files we had selected for review. Therefore, PK Management had ample time to pull together all of the files necessary for our review. Moreover, at the exit conference, we agreed to review documentation that PK Management had collected to address our audit results. We reviewed the documentation, updated the draft report and provided the updated draft report to PK Management and HUD. The results in the updated report showed there were 35 files that lacked documentation and the related housing assistance payments that were therefore unsupported totaled \$497,762. As part of the audit resolution process, PK Management will have the opportunity to collect any additional documentation that it believes supports the questioned costs and provide it to HUD. HUD will review the documentation, determine whether it satisfies the recommendation, and provide its determination and the documentation to OIG for review and concurrence.

Comment 8 PK Management stated that we questioned \$25,508 in housing assistance payments made for the benefit of three residents whose only deficiency was a lack of documentation regarding each resident's disability status. It asserted that the files for two of the tenants contained documentation to show that the residents' disabilities were readily apparent. PK Management stated that it was not required to request additional verification from those residents per paragraph 3-28 of HUD Handbook 4350.3, REV-1, that states that only an owner may verify disability. It would have risked violating State and Federal anti-discrimination laws if it had tried to verify the disabilities. PK Management also quoted a HUD information page on reasonable accommodations and modifications noting that a housing provider "may not request any additional information" if "a person's disability is obvious, readily apparent, or otherwise known to the provider." It further stated that the third tenant did not reside in an Americans with Disabilities Act-accessible unit; therefore that tenant's disability status was irrelevant and there was no verification obligation.

We disagree with PK Management's statement that documentation in the files (an "external file audit clarification record" completed by the property manager) for two tenants showed that their disabilities were readily apparent. The property manager's written statements on the external file audit clarification records generally stating that a verification of disability was not placed in the file because

the tenant has a readily apparent disability was not sufficient documentation of the disability. Paragraph 3-26 of HUD Handbook 4350.3, REV-1, states that owners must verify all income, expenses, assets, family characteristics, and circumstances that affect family eligibility. In addition, paragraph 3-28 of the handbook states that eligibility for certain projects, certain income deductions, and preferences are based upon whether the family is identified as elderly or disabled, or whether a family has any individual members who are elderly or disabled. Therefore, verifications of age and disability status are very important issues in determining eligibility and rent. Paragraph 3-28 also states that an owner may verify disability to determine whether a family or person meets the definition of disability used to determine eligibility for a project, preferences, or an allowance, or to identify applicant needs for features of accessible units or reasonable accommodations. The owner may not specifically ask for or verify the nature and extent of the disability. There are ways to verify disability status without obtaining detailed information or information that must not be collected. Verification of disability may be obtained through the following methods: either a third-party verification form sent by the owner to an appropriate source of information, or receipt of Social Security disability payments. An independent third party would include a licensed medical professional, such as a physician, psychologist, clinical social worker, or other licensed health care worker. PK Management did not verify the disability according to the handbook. The requirements do not suggest that the owner or property manager can determine a person's disability by the standard of being "readily apparent."

We also disagree with PK Management's quote from the HUD information page. The information PK Management quoted was taken out of context. The information page stated that when a reasonable accommodation or modification is requested by the tenant, a provider is entitled to obtain information that is necessary to evaluate whether a requested reasonable accommodation or modification may be necessary because of a disability. If a person's disability is obvious, readily apparent, or otherwise known to the provider, and if the need for the requested accommodation or modification is also readily apparent or known, then the provider may not request additional information. PK Management had an obligation to ensure that the tenant's disability status was verified by an appropriate source. Lastly, we disagree with PK Management's statements that the third tenant did not reside in an Americans with Disabilities Act-accessible unit; therefore that tenant's disability status was irrelevant and there was no verification obligation. We did not determine whether or not the tenants resided in Americans with Disabilities Act-accessible units. Regardless, the tenant claimed a disability and PK Management granted the tenant a disability deduction in the rent calculations. Because the tenant claimed the disability deduction and PK Management granted it, it was responsible for verifying the tenant's disability.

Comment 9 PK Management stated that it was unable to verify the unsupported housing assistance payment amounts for 35 tenants shown in appendix C of the draft report. It disputes our recommendation that HUD seek reimbursement of

\$497,762 in housing assistance payments if it cannot provide further documentation to support tenant eligibility and compliance. It disputes our payment amounts because they are inconsistent with the actual housing assistance payments made on behalf of the residents. We disagree that the payment amounts are inconsistent with the actual housing assistance payments made on behalf of the residents. The source of our payment information was the approved forms HUD-52670 that PK Management submitted to HUD for reimbursement.

- Comment 10 PK Management disputes the presumption that every document called out in HUD handbooks and guidance are unique and that all files must contain all of them at all times. It stated that HUD forms and procedures are duplicative and contain overlapping information. It also stated that the forms had been reviewed and tested by HUD field staff through Management Occupancy Reviews, and, in most cases, through annual audits. To subject the documentation to those review procedures a third time makes the paperwork as more important the residents. We do not agree with PK Management's position. It asserts that the files we reviewed had previously been reviewed and tested, but it provided no Management Occupancy Reviews and annual audits to show that the files we reviewed were also reviewed by HUD or during any annual audits. The owners' contracts with HUD provide that the owner shall permit access to any books, documents, papers and records of the owner that are pertinent to compliance with this contract, including the verification of information pertinent to the housing assistance payments. Therefore, all documentation must be maintained and is relevant to determining compliance with the contract and regulations set forth by HUD.
- Comment 11 PK Management stated that the purpose of record-keeping requirements is to verify that quality affordable housing is available to qualified low-income residents. It stated that, in this case, there was no allegation that any resident was ineligible for housing assistance made to it on their behalf. It also asserted that many residents were longtime tenants for whom eligibility and program compliance was long ago established by prior owners. We agree that verifying that quality affordable housing is available to qualified low-income residents are primary purposes of record-keeping requirements. However, record-keeping requirements provide evidence of compliance with all other applicable requirements as well. It is true that we did not initiate the audit because of an allegation that a resident was ineligible for housing assistance. As stated in the audit report, we audited PK Management based on media coverage of problems at an apartment complex that it managed and issues identified in our prior audit of PK Management in Birmingham, AL. However, our audit showed that PK Management did not always maintain documentation to show that it assisted eligible tenants and supported the housing assistance payments it received for residents in accordance with HUD requirements. As a result, we reported \$497,762 of unsupported costs. Unsupported costs, by definition, are costs charged to a HUD program for which we cannot determine eligibility at the time of the audit. The lack of documentation in the tenant files challenges PK Management's assertion that eligibility and program compliance was long ago

established for many residents by prior owners.

Appendix C

Documentation Missing From Tenant Files

Tenant	Background checks	Citizenship declaration form	Authorization for release of information	Social Security number	Third-party verification - EIV, income, or assets	Disability	Family composition	Evidence of proper selection from waiting list	Lead-based paint certificate	Annual unit inspections	Unsupported housing assistance payments
1					X			X	X		\$17,584
2					X			X		X	966
3					X			X			8,044
4					X			X		X	5,790
5					X			X		X	9,056
6								X		X	4,356
7								X	X		1,173
8					X			X		X	9,552
9					X			X	X	X	26,457
10					X						1,257
11					X			X		X	12,943
12					X			X			19,989
13					X						23,669
14					X			X			4,425
15					X						6,308
16	X				X	X		X			20,857
17			X		X			X		X	13,081
18		X		X	X			X			22,936
19								X			15,889
20						X					9,213
21			X								6,224
22						X					4,665
23								X			12,897
24						X					11,630
25	X		X							X	7,232
26								X			39,694
27	X		X							X	20,528
28								X		X	29,608
29								X		X	21,650
30							X				4,041

Tenant	Background checks	Citizenship declaration form	Authorization for release of information	Social Security number	Third-party verification - EIV, income, or assets	Disability	Family composition	Evidence of proper selection from waiting list	Lead-based paint certificate	Annual unit inspections	Unsupported housing assistance payments
31										X	10,837
32								X			44,907
33				X							17,808
34								X			15,159
35								X			17,337
Totals	3	1	4	2	16	4	1	23	3	13	497,762