



# Buffalo Municipal Housing Authority Buffalo, NY

## Commodore Perry Homes Development

**Office of Audit  
New York, NY**

**Audit Report Number: 2022-NY-1001  
January 11, 2022**





**OFFICE OF INSPECTOR GENERAL**  
U.S. Department of Housing and Urban Development

**To:** Jacqueline Molinaro-Thompson  
Director, Office of Public Housing, Buffalo Field Office, 2CPH

**//SIGNED//**

**From:** Kilah S. White  
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**Subject:** The Buffalo Municipal Housing Authority, Buffalo, NY, Needs To Improve Its Management of the Commodore Perry Homes Development To Address Longstanding Concerns

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Buffalo Municipal Housing Authority's management of its Commodore Perry Homes development.

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, appendix 8M, requires that OIG post its 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 Kimberly Dahl, Audit Director, at (212) 264-4174.

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## Highlights

### What We Audited and Why

We audited the Buffalo Municipal Housing Authority's management of its Commodore Perry Homes development. We selected the Authority based on a congressional inquiry, which expressed concern about the conditions of vacant units at the development, the lack of redevelopment activity, and the impact on local residents and the neighborhood, including the vacant structures becoming a catalyst for crime. Half of the development's buildings were demolished more than 20 years ago, and the majority of the remaining buildings and units have been vacant for years without redevelopment activity. The objective of the audit was to determine whether the Authority properly managed its Commodore Perry Homes development. Our work focused on the period beginning in July 2013.

The Buffalo Municipal Housing Authority, Buffalo, NY, Needs To Improve Its Management of the Commodore Perry Homes Development To Address Longstanding Concerns

### What We Found

The Authority did not properly manage the Commodore Perry Homes development to address longstanding redevelopment needs and health and safety issues. While the Authority had made various redevelopment plans for the property since 2013, none fully materialized, and all dwelling units in the development are now vacant. Further, the Authority did not adequately address urgent, ongoing health and safety issues with the vacant development. These issues occurred for various reasons, including that the Authority did not consistently prioritize taking action at its Commodore Perry Homes development, lacked a cohesive redevelopment strategy over time, and lacked sufficient processes to address recurring issues. While HUD and the Authority had recently taken steps toward developing a plan forward, no redevelopment had occurred at the site. As a result, fewer low-rent units were available to families in need, the vacant development continued to deteriorate, and the surrounding residents and local community continued to be exposed to significant blight and health and safety issues.

### What We Recommend

We recommend that HUD determine (1) whether the development represents an imminent threat to public safety and activities to control the situation could be taken before the full environmental review process, and (2) which environmental review process would be most beneficial to ensure that it is completed as soon as possible. Further, we recommend that HUD continue to provide training and technical assistance to the Authority and require it to (1) identify and address urgent health and safety issues; (2) develop and implement a plan to routinely identify and address recurring urgent health and safety issues; and (3) develop and implement plans for the remaining public housing units at the development and for the original property related to the units converted during previous redevelopment efforts. Last, if the Authority does not follow through on its asset repositioning plans, misses deadlines, or the plan is no longer feasible, we recommend that HUD consider and use available remedies.

# Table of Contents

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<b>Background and Objective.....</b>	<b>3</b>
<b>Results of Audit .....</b>	<b>6</b>
<b>Finding: The Authority Failed To Address Longstanding Concerns .....</b>	<b>6</b>
<b>Scope and Methodology.....</b>	<b>15</b>
<b>Internal Controls.....</b>	<b>17</b>
<b>Appendixes.....</b>	<b>18</b>
<b>A. Auditee Comments and OIG’s Evaluation .....</b>	<b>18</b>
<b>B. Photographs of Site Conditions as of December 2020 .....</b>	<b>30</b>
<b>C. Photographs Showing Proximity to Local Community.....</b>	<b>39</b>

# Background and Objective

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## **Public Housing**

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. The U.S. Department of Housing and Urban Development (HUD) administers Federal aid to local public housing agencies that manage the housing, including operating funds and capital funds. Operating funds provide annual subsidies to assist in funding operating and maintenance expenses. Capital funds provide annual formula grants for the development, financing, and modernization of public housing developments and for management improvements.

Over the years, various efforts were made to address the aging condition of public housing and the need for revitalization, including the following key programs:

### HOPE VI Program

First funded in fiscal year 1993 and last awarded in fiscal year 2010, the HOPE VI program encouraged public housing agencies to seek new partnerships with private entities to create mixed-finance and mixed-income affordable housing. HOPE VI revitalization grants covered everything from major rehabilitation and new construction to the demolition of severely distressed public housing.

### Choice Neighborhoods Program

First funded in fiscal year 2010, the Choice Neighborhoods Program expanded on HOPE VI. The program leverages public and private dollars to support locally driven strategies that address struggling neighborhoods with distressed public or HUD-assisted housing through a comprehensive approach to neighborhood transformation. The program includes two competitive grant types.

- Planning grants support the development of comprehensive neighborhood revitalization strategies, known as a transformation plan. The plan becomes the guiding document for the revitalization of the public or assisted housing units while directing the transformation of the surrounding neighborhood and positive outcomes for families.
- Implementation grants support communities that have undergone the comprehensive local planning process and are ready to implement their transformation plan.

### Rental Assistance Demonstration Program

In 2012, Congress authorized the Rental Assistance Demonstration Program (RAD) as a tool to preserve and improve public housing properties and address deferred maintenance. RAD allows public housing agencies to convert public housing and other HUD-assisted properties into long-term project-based vouchers or rental assistance. It gives them access to private debt and equity to address immediate and long-term capital needs. RAD can involve rehabilitation, demolition and new construction, and even transferring the rental assistance to a different project rather than the parcel of land where the project was previously located.

## **Buffalo Municipal Housing Authority**

The Buffalo Municipal Housing Authority was established in 1934. The Authority is governed by a seven-member board, five of whom are appointed by the mayor and two of whom are elected at large from the resident population. The board elects a chairman and vice chairman each year and appoints an executive director<sup>1</sup> to manage the Authority's day-to-day operations. The Authority operates more than 4,000 public housing units. The Authority's mission is to assist residents in attaining and maintaining a high standard for their quality of life and provide services and opportunities associated with affordable, desirable, and secure housing to individuals and families. Its vision includes providing safe, clean, affordable housing that will be considered housing of choice; offering residents equal access to desirable housing and communities; and encouraging and participating in strategic redevelopment of the city's neighborhoods.

## **Commodore Perry Homes Development**

The Authority's Perry Homes site included the Commodore Perry Homes development as well as Commodore Perry Extension row-house and senior housing hi-rise buildings. The Commodore Perry Homes development is one of the oldest housing developments in Buffalo. It was constructed more than 80 years ago as a series of 634 units in 50 brick walkup row-house buildings over several city blocks. Below are photographs of the original development.



While the other two projects on the larger Perry Homes site continued to be mostly occupied, the condition of the Commodore Perry Homes development deteriorated and became vacant over the years.

In 1996, HUD awarded the Authority HOPE VI funds to demolish 304 units in 25 buildings due to high deferred maintenance and repair costs. The empty lots became green space, while the remaining 25 buildings consisted of 330 units, including 320 dwelling units and 10 nondwelling units, which were used by a local nonprofit organization to provide resident services.

In 2010, HUD awarded the Authority a Choice Neighborhoods Planning Grant to create a transformation plan for the area, which included the Commodore Perry Homes development. The Authority worked on the planning initiative for two years with the City of Buffalo, the University at Buffalo Center for Urban Studies, consultants, developers, and other stakeholders.

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<sup>1</sup> The executive director at the start of our review period resigned on March 15, 2018 after almost 12 years in the position. Subsequently, the Authority was under the leadership of an interim executive director until this was made a permanent appointment by the Authority's board in October 2018.

In the resulting June 2013 Perry Choice Neighborhoods Transformation Plan,<sup>2</sup> the Authority explained that comprehensive physical needs assessments of the Commodore Perry Homes development and the site location concluded that the remaining buildings were severely distressed with substantial structural damage and unsafe conditions. It also stated that crime was a serious problem throughout the neighborhood and that the percentage of violent crimes was 44 percent greater in the neighborhood than in the City of Buffalo.

By late 2013, the Authority reported that 83 percent of the development's dwelling units were vacant. By August 2020, all dwelling units were vacant. No redevelopment had occurred at the Commodore Perry Homes development.

The objective of our audit was to determine whether the Authority properly managed its Commodore Perry Homes development. Our work focused on the period beginning in July 2013.

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<sup>2</sup> [https://ubwp.buffalo.edu/aps-cus/wp-content/uploads/sites/16/2015/04/BMHA\\_Buffalo\\_Perry\\_Choice\\_Transformation\\_Plan\\_FINAL-June-27-2013.pdf](https://ubwp.buffalo.edu/aps-cus/wp-content/uploads/sites/16/2015/04/BMHA_Buffalo_Perry_Choice_Transformation_Plan_FINAL-June-27-2013.pdf)

# Results of Audit

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## **Finding: The Authority Failed To Address Longstanding Concerns**

The Authority did not properly manage the Commodore Perry Homes development to address longstanding redevelopment needs and health and safety issues. While the Authority had made various redevelopment plans for the property since 2013, none fully materialized, and all dwelling units in the development are now vacant. Further, the Authority did not adequately address urgent, ongoing health and safety issues with the vacant development. These issues occurred for various reasons, including that the Authority did not consistently prioritize taking action at its Commodore Perry Homes development, lacked a cohesive redevelopment strategy over time, and lacked sufficient processes to address recurring issues. As a result, fewer low-rent units were available to families in need, the vacant development continued to deteriorate, and the surrounding residents and local community continued to be exposed to significant blight and health and safety issues. While HUD and the Authority had recently taken steps toward developing a plan forward, HUD needs to ensure that the Authority follows through and that it has adequate processes in place to ensure that the site remains safe and secure.

### **The Authority Did Not Adequately Manage Longstanding Redevelopment Needs**

The Authority did not adequately manage longstanding redevelopment needs at the Commodore Perry Homes development. While the Authority made various redevelopment plans for the development between July 2013 and June 2018, none fully materialized.

- September 2013: The Authority submitted a Choice Neighborhoods Implementation Grant application. In its transformation plan, the Authority proposed a multiphase redevelopment, including demolishing 222 public housing units in Commodore Perry Homes and replacing them with 50 new public housing units and 172 project-based voucher units, along with additional low-income and market-rate units.
- December 2013: The Authority submitted a RAD application to convert 172 units from public housing to project-based voucher units over three phases. The first phase included demolition and replacement of 46 units within the development.
- February 2014: A HUD contractor prepared an asset repositioning plan for the development to provide the Authority and HUD with repositioning options for two developments, including Commodore Perry Homes. The contractor reviewed a wide variety of information, such as physical needs assessments, occupancy and vacancy reports, resident characteristic reports, and financial documents, and conducted interviews with Authority executives, asset managers, and developers. The preferred revitalization option aligned with the plan submitted by the Authority with its Choice Neighborhoods Implementation Grant application.
- April 2014: The Authority learned that it was not selected for a Choice Neighborhoods Implementation Grant. There were 44 applicants for the fiscal year, but HUD only selected 4 grantees.

- June 2014: In response to the Authority’s December 2013 RAD application, HUD awarded the Authority a commitment to enter into a housing assistance payments contract (CHAP) for 46 units as part of phase one. It also issued a multiphase award letter for the second and third phases of the Authority’s plan, which covered 126 units.
- November 2014: The Authority’s board of commissioners approved a resolution designating its instrumentality as the developer of its RAD units.
- August 2015: The Authority entered into a \$500,000 grant agreement with its instrumentality developer to prepare all necessary applications and submissions associated with the development of RAD units at Commodore Perry Homes and handle predevelopment and development costs, such as loans to developers, project administration services, legal services, architectural plans, surveys, and appraisals.
- May 2016: The Authority requested to change the planned action for the 46 units in phase one of its RAD plan from demolition and redevelopment to a transfer of assistance, moving the rental assistance to an Authority-managed property that was State funded. HUD approved the Authority’s request.
- December 2017: The Authority’s RAD conversion closed for the 46 units.
- January 2018: The housing assistance payments contract was finalized for the 46 units transferred to a State-funded, Authority-managed property through RAD.

After the Authority was not selected for a Choice Neighborhoods Implementation Grant, it attempted to move forward with the RAD program. For the initial phase to demolish and replace 46 units, HUD set eight milestones that were required<sup>3</sup> to be met or the CHAP could be revoked. The Authority missed all milestones for the conversion, including the requirement that the RAD conversion be completed within 360 days of CHAP issuance. The CHAP was never revoked.

Shortly after the Authority missed the final milestone related to the initial phase of its RAD plan, it entered into an agreement with a developer, to which it paid \$333,000 for predevelopment costs. The following year, the Authority applied to change the plan for the 46 units from redevelopment to a transfer of rental assistance. Despite the Authority’s requesting this change nearly 2 years after the CHAP was issued,<sup>4</sup> HUD approved the Authority’s request. The assistance tied to the 46 units was transferred to a State-funded property managed by the Authority, which it rehabilitated before receiving monthly project-based voucher payments for the transferred units. The 46 units left behind at the Commodore Perry Homes development were not disposed of and remained vacant.

Further, the Authority did not take significant steps to address redevelopment needs for the other 274 dwelling units in Commodore Perry Homes, including the 126 units that were part of the

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<sup>3</sup> Notice PIH-2012-32, REV-1, section 1.12, which was in effect when the Authority missed its CHAP milestones, indicated that the CHAP may be revoked if milestones are not met.

<sup>4</sup> Notice PIH-2012-32, REV-2, section 1.4, A, 12a, which was in effect when the Authority requested and received its transfer of assistance, required public housing agencies to request the change to transfer of assistance within 3 months of the CHAP award.

multi-phase RAD award, which eventually expired. Other asset repositioning options that may have been available included voluntary conversion, through which distressed developments are voluntarily removed from public housing inventory and residents are provided other rental or relocation assistance, and Section 18 demolition or disposition, where proceeds are used for only approved purposes. The development also may have been subject to required conversion,<sup>5</sup> which would have resulted in any remaining residents receiving tenant-based assistance and the development being removed from the Authority's public housing inventory. The development's vacancy rate continued to rise until its dwelling units became fully vacant in August 2020.

#### The Authority Did Not Consistently Prioritize Action and Lacked a Cohesive Strategy Over Time

The failure of the Authority's redevelopment plans to fully materialize occurred for several reasons, including the Authority's not consistently prioritizing taking action and its lack of a cohesive strategy for the property over time. While some circumstances were outside the Authority's control, such as not being awarded Choice Neighborhoods grant funds, or predated our review period, such as the severely deteriorated state of the buildings as of June 2013, the Authority had some control over other factors, such as allowing long periods of inaction as shown above, making spending decisions, and prematurely vacating properties.

An asset repositioning report completed by a HUD contractor in February 2014 stated that the Authority had prematurely vacated part of the development in preparation for redevelopment when it did not have a plan for the site or the necessary funding at the time. Prematurely vacating units had ripple effects, such as allowing units and buildings to further deteriorate and causing the Authority's annual operating funding to decrease.<sup>6</sup> In fiscal year 2013, the Authority received and allocated more than \$1.6 million in operating and capital funds to the development, but by fiscal year 2019, the amount allocated to the property had decreased to \$636,006.

In addition to decreased funding, while the Authority generally used funds for eligible expenses, some of the expenses became sunk costs. For example, the Authority used \$333,333 in capital funds for predevelopment activities conducted by its instrumentality related to redevelopment plans that did not fully materialize. This included preparing RAD documents, conducting resident engagement activities, researching funding strategies, and procuring professional services. The Authority also used funds for unit turnover, including painting in vacant units at least as late as May 2019, and utility costs when the units remained vacant. While these costs were not technically ineligible or clearly unreasonable, they showed the lack of a cohesive plan.

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<sup>5</sup> Public housing agencies are required to annually identify certain distressed developments (or parts of developments) with high vacancy rates to be considered for required conversion. When developments meet threshold criteria, HUD and the agency should assess their long-term viability and the cost to modernize and operate them as public housing compared to the cost of providing tenant-based rental assistance to remaining residents. The Authority's development may have been exempt from required conversion analysis while it was participating in RAD, but should have been subject to analysis and possible conversion before or after that time.

<sup>6</sup> The operating fund formula allows public housing agencies to receive operating subsidies for a limited number of vacancies. Beyond this, vacant units are only eligible for operating subsidies if they are approved by HUD and fall into certain categories, such as units undergoing modernization and units that are vacant due to litigation, disasters, casualty losses, and changing market conditions. Units that are vacant due to deterioration that do not fall into one of the categories are not eligible for operating funds. Accordingly, as vacancy increased at the development, the Authority's operating funding decreased.

According to the Authority, some of its delays in taking action were also influenced by its concern about external stakeholder discussions<sup>7</sup> regarding the future of the Perry Homes site.

#### Fewer Units Were Available to Families in Need, and the Development Continued To Deteriorate

As a result of the conditions described above, fewer low-rent units were available to families in need, and the vacant development continued to deteriorate, exposing the surrounding residents and local community to significant blight and health and safety issues.

#### **The Authority Did Not Adequately Manage Health and Safety Issues**

The Authority did not adequately address urgent, ongoing health and safety issues related to Commodore Perry Homes. As outlined in the background section, the development had been severely distressed for years with substantial structural damage and unsafe conditions. While the general condition of the development's buildings predated our review period, the Authority's actions allowed poor conditions in occupied units and allowed the vacant development to present an ongoing risk that could be prevented or mitigated.

A May 2019 site visit to the seven occupied dwelling units found peeling and blistering ceilings and walls, a broken bedroom door, a stove that did not function, toilets that did not work properly, possible mold, and complaints from residents regarding bedbugs and roaches. The Authority decided that the buildings should no longer be occupied and began relocating the remaining residents in September 2019.

May 2019 and December 2020 visits to the vacant Commodore Perry Homes buildings found widespread health and safety issues, such as unsecured windows and doors, flooded stairwells filled with trash and debris, and accessible crawlspaces. Appendix B contains photographs taken during our December 2020 site visit. Below are examples of the issues identified.



Example of unsecured 1<sup>st</sup> floor window (left) and the unsafe space accessible through it (right)

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<sup>7</sup> Beginning in 2014, the larger Perry Homes site was being discussed as a potential location for a football stadium. While the Authority indicated that it had not been involved in discussions related to the potential stadium, it expressed concerns with the opinions of stakeholders, which would include City, County, and State officials, and said that it sometimes delayed making decisions about the future of the development due to those opinions and the ongoing stadium discussions. The Authority also acknowledged that it was a HUD-funded agency and had a responsibility to move forward with necessary work and to fulfill its mission.



Example of unsecured 1<sup>st</sup> floor window (left) and the unsafe space accessible through it (right)



Examples of flooded stairwells with open doors leading into flooded crawlspaces

The health and safety issues noted during the site visits were contrary to various HUD<sup>8</sup> and local requirements.<sup>9</sup> For example, local requirements state that surface and subsurface water must be appropriately drained to protect buildings and prevent the development of stagnant ponds. Further, for unoccupied buildings that have openings, such as windows and doors, through which children, trespassers, or other unauthorized persons may enter the building, such openings must be enclosed with ½-inch or thicker weatherproof plywood or other weatherproof material, which will secure the building to prevent removal by unauthorized persons. In addition, due to the age of the buildings, there were lead and asbestos concerns, including ground contamination.

#### The Authority Did Not Consistently Prioritize Action and Lacked Sufficient Processes

The continuing health and safety issues occurred because the Authority did not consistently prioritize taking action and did not have sufficient processes in place to quickly handle recurring

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<sup>8</sup> Regulations at 24 CFR 5.703 require that HUD housing be decent, safe, sanitary, and in good repair and that public housing agencies owning housing must maintain it in a manner that meets the physical condition standards set forth in the requirements to be considered decent, safe, sanitary, and in good repair. These standards include requirements regarding the site and building exterior.

<sup>9</sup> Chapters 113 and 341 of the City of Buffalo's code contain requirements for unsafe buildings and property maintenance.

issues, such as plywood removal or dumping, to keep the Commodore Perry Homes site safe and secure. While the Authority installed concrete barriers and “no trespassing” signs at the development, and stated that it walked or drove through the development daily, replaced or repaired boarded doors and windows as needed, and regularly cleared the site of trash and debris, the issues found during our site visits were widespread. Further, a 2017 physical needs assessment cited flooded stairwells, and photographs taken during our May 2019 and December 2020 site visits showed instances in which accessible stairwells were filled with some of the same trash and debris after nearly 19 months. This evidence showed that the Authority’s process for managing health and safety issues at the development was not sufficient.



Example of trash and debris present in an accessible stairwell in both May 2019 and December 2020

#### The Development Continued To Present Urgent, Ongoing Health and Safety Concerns

As a result of the conditions described above, the surrounding residents and local community continued to be exposed to significant health and safety issues. For example, the flooded stairwells and crawlspaces presented a drowning risk, and the unsecured windows and doors created a risk of injury for children and trespassers who may enter the building. In addition to the conditions noted above, research<sup>10</sup> links vacant and abandoned properties with increased crime and increased risk to public health and welfare. While the development’s dwelling units are now all vacant, they were located in the vicinity of two occupied public housing developments, including one with an adjacent playground and splash pad; a school with grades 7 through 12; residential homes; an adult daycare facility; and multiple businesses. See appendix C for photographs. In addition, the development contained 10 nondwelling units, which continue to be used by a local nonprofit organization to provide resident services, including operation of a food pantry, which would attract residents and the local community to the area.

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<sup>10</sup> HUD’s Office of Policy Development and Research published an article discussing the link between vacant and abandoned properties and increased rates of crime. See “Vacant and Abandoned Properties: Turning Liabilities Into Assets.” [https://www.huduser.gov/portal/periodicals/em/EM\\_Newsletter\\_winter\\_2014.pdf](https://www.huduser.gov/portal/periodicals/em/EM_Newsletter_winter_2014.pdf)

## HUD and the Authority Had Recently Taken Steps Forward

In May 2019, HUD's Public Housing Agency Recovery and Sustainability (PHARS) Initiative team conducted an onsite review of the Authority to assess its overall operations, including financial management, occupancy, physical condition, and procedures after the Authority was designated as troubled.<sup>11</sup> The PHARS team recognized that until the Authority successfully repositions the Commodore Perry Homes development, it would be difficult for the Authority to improve its overall financial position and occupancy level. The local HUD office then worked with the Authority to execute a recovery agreement and action plan in November 2019, and began providing training and technical assistance to it related to available repositioning options. The action plan included 19 goals to help the Authority remove its troubled status, 2 of which were directly related to the Commodore Perry Homes development. The first goal required it to undertake an environmental review<sup>12</sup> of the development and obtain an appraisal for the highest and best use to help determine which repositioning platform would be best suited to its interests. The second goal required the Authority to submit RAD<sup>13</sup> applications for the remaining units at the development. While HUD indicated that the Authority has been making progress on the action plan to address its overall operations, it had not fully completed the two goals related to Commodore Perry Homes as of November 30, 2021.

Since the recovery agreement and action plan were executed, the Authority had taken several steps forward. It contracted with a firm to appraise the development, which estimated an "as is" market value of (\$10,000) based on a value of \$1,395,000 and demolition costs of \$1,405,000. The Authority also issued a request for qualifications to identify an Authority-wide developer partner to assist with asset repositioning and redevelopment of distressed properties to help accomplish the goals set out in the action plan. In November 2020, the Authority selected a developer partner. It then procured outside counsel to assist with legal matters related to redevelopment efforts, including the negotiation and execution of a contract with the selected developer partner. The Authority planned to finalize an agreement with the selected developer partner and submit a RAD application for consideration by HUD<sup>14</sup> in October 2021. As of November 30, 2021, the Authority had not yet submitted the RAD application.

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<sup>11</sup> Public housing agencies receive regular Public Housing Assessment System (PHAS) scores based on four indicators: physical condition, financial condition, management operations, and the Capital Fund program. An overall PHAS score of less than 60 out of 100 points results in a troubled designation and triggers the PHARS review discussed above. The Authority scored a 55 in September 2018 for the fiscal year ending June 30, 2017.

<sup>12</sup> An environmental review is the process of reviewing a project and its potential environmental impacts on the environment, project, site, and end users to determine whether it complies with the National Environmental Policy Act and related laws and authorities. All HUD-assisted projects are required to undergo this review to evaluate environmental impacts before any funds are committed. HUD regulations at 24 CFR Parts 50 and 58 implement these requirements. Part 50 applies when HUD performs the environmental review, and Part 58 applies when the responsible entity performs the environmental review.

<sup>13</sup> PIH-2019-23 stated that public housing agencies classified as troubled may still be eligible for RAD if they are making substantial progress under a recovery agreement, action plan, or agreement, or propose a revision to such agreement or plan that incorporates conversion under RAD and is acceptable to HUD.

<sup>14</sup> The Office of Recapitalization within HUD's Office of Multifamily Housing generally oversees the RAD conversion process. The Special Applications Center within HUD's Office of Public and Indian Housing also provides specialized review and approval of RAD applications involving demolition or disposition of property and other asset repositioning options.

In February 2021, the Authority indicated that it was considering contracting to have stairwell covers installed to address some of the issues identified. However, it had not provided evidence showing actions taken to do so.

### **Conclusion**

The Authority's Commodore Perry Homes development has been largely vacant with substantial structural damage and unsafe conditions since at least 2013. The 25 buildings covering 7 blocks continue to deteriorate and present urgent ongoing health and safety concerns for the surrounding residents and local community, including the potential for increased crime. Further, because the development is uninhabitable, fewer units are available for families in need. Because the Authority did not consistently prioritize taking action at its development, lacked a cohesive redevelopment strategy over time, and lacked sufficient processes to address recurring issues, it had not adequately addressed longstanding concerns. While HUD and the Authority entered into an action plan in 2019, and both acknowledge that the development needs to be demolished, the Authority has not yet started the environmental review or applied to participate in the RAD program as required by the plan. HUD needs to ensure that the Authority continues to move forward and has adequate processes in place to ensure that the site is safe and secure. If the Authority continues to move forward and makes significant progress with the site, it will help ensure that the surrounding residents and local community are not exposed to blight and health and safety issues in the future, and ensure that the Authority can more effectively achieve its mission and vision going forward.

### **Recommendations**

We recommend that the Director of HUD's Buffalo Office of Public Housing

- 1A. Work with the Authority to determine whether the buildings represent an imminent threat to public safety from physical deterioration and whether activities to control<sup>15</sup> the situation would be exempt under the Part 58 environmental review process or excluded under the Part 50 environmental review process. If it qualifies, require the Authority to immediately take actions necessary to control the imminent threat to public safety before the full environmental review is done.
- 1B. Determine whether it would be beneficial for HUD to conduct a Part 50 environmental review of the development or if the Authority should conduct a Part 58 environmental review, and implement the decision to ensure that the environmental review is conducted as soon as possible as required under the action plan.
- 1C. Continue to provide training and technical assistance to ensure that the Authority understands relevant requirements for the various asset repositioning options, including milestone and disposition requirements.

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<sup>15</sup> 24 CFR 58.34(a)(10) and 24 CFR 50.19(b)(10) discuss activities that are exempt or excluded from environmental review requirements, including activities to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration.

We further recommend that the Director of HUD's Buffalo Office of Public Housing direct the Authority to

- 1D. Provide certifications and supporting documentation to show that it has identified and addressed urgent health and safety issues at the development, such as flooded stairwells, accessible crawlspaces, and unsecured windows and doors.
- 1E. Develop and implement a plan to routinely identify and address recurring urgent health and safety issues such as flooded stairwells, accessible crawlspaces, and unsecured windows and doors while the property remains vacant and throughout future asset repositioning efforts.
- 1F. Develop and implement a plan to use available asset repositioning options for the remaining 284 public housing units at the Commodore Perry Homes development, including 274 dwelling units and 10 nondwelling units.
- 1G. Develop and implement a plan for the original property related to the 46 units converted under the RAD transfer of assistance option to ensure that the property and proceeds from its disposition are used in accordance with requirements.

Last, we recommend that the Director of HUD's Buffalo Office of Public Housing

- 1H. If the Authority does not follow through on its asset repositioning plans, misses deadlines, or it otherwise becomes clear that the plan is no longer feasible, work with the HUD's Special Applications Center, Office of Recapitalization, and other offices as appropriate, to consider and use available remedies such as revoking approval and enforcing required conversion.

# Scope and Methodology

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We conducted our audit from November 2018 through June 2021 at the Authority's administrative offices at 300 Perry Street in Buffalo, NY, and the HUD Office of Inspector General (OIG) office in Buffalo, NY. The initial audit covered the period July 2013 through June 2018 and was expanded to review the physical condition of the development as of December 2020 and recovery actions taken by HUD and the Authority through September 2021.

To accomplish our audit objective, we interviewed applicable HUD and Authority officials. We also reviewed

- Relevant background information.
- Applicable laws, regulations, and HUD guidance.
- The Authority's policies and procedures, 5-year and annual plans, and annual contributions contract.
- Audited financial statements and other reports provided by the Authority.
- Invoices, receipts, voucher disbursements, contracts, and other records related to the Authority's operating and capital funds.
- Documentation related to the Authority's Choice Neighborhoods and RAD applications.
- The Authority's PHARS team independent assessment report, corresponding recovery agreement and action plan, and other documents supporting any related actions it had taken.

We performed site visits to 100 percent of the units occupied as of May 2019, as well as to the exterior of the development in May 2019 and December 2020. The May 2019 unit site visits included the 7 dwelling units occupied by residents and the 10 nondwelling units occupied by a nonprofit organization performing resident services. We observed the physical condition of the 17 units and discussed potential concerns with the residents. Between September 2019 and August 2020, all seven occupied dwelling units were vacated. Therefore, we limited our December 2020 site visit to the overall site and exteriors of buildings, which were accessible to the local community.

We also selected Public Housing Operating and Capital Fund expenditures for review as follows:

- Operating Fund expenditures: We selected for review a nonrepresentative sample of Operating Fund expenditures charged to the Commodore Perry Homes asset management project during our review period. We chose to use a nonrepresentative sample because we knew enough about the population to select operating fund expenditures related to our objective and the congressional inquiry. We obtained our universe from the Authority's financial systems, which included 62 Operating Fund expense accounts totaling approximately \$12.3 million. We identified three nonaccrual Operating Fund expense

accounts for review based on our knowledge of the population and their relevance to our objective. We then selected the largest expense from each, resulting in three expenditures totaling \$15,716.

- Capital Fund expenditures: We selected for review a nonrepresentative sample of Capital Fund expenditures charged to the Commodore Perry Homes asset management project during our review period. We chose to use a nonrepresentative sample because we knew enough about the population to select capital fund expenditures related to our objective and the congressional inquiry. We obtained our universe from the Authority's financial systems, which included contracts awarded to 18 different vendors totaling approximately \$5.2 million. We identified three vendors for review based on the total amount of contracts, our knowledge of the population, and their relevance to our objective. Specifically, we selected the two vendors that had the largest total contract amounts during the period and one other due to its involvement in the Authority's Commodore Perry Homes RAD conversion. We then selected the largest contract payment for each, resulting in three expenditures totaling \$465,257.

In addition, we analyzed the three largest expenditure categories for the development's asset management project during our review period (salaries, utilities, and rehabilitation) to determine reasonableness. Although we did not identify costs that were technically ineligible or clearly unreasonable, they showed the lack of a cohesive plan as discussed in the finding.

Although our sampling methods did not allow us to project to the universes from which our samples were drawn, they were sufficient to meet our objective to evaluate the Authority's management of the Commodore Perry Homes development.

To achieve our objective, we relied in part on computer-processed data from HUD's Financial Assessment Submission – Public Housing System and Inventory Management System-Public and Indian Housing Information Center and the Authority's accounting system, such as expenditure reports. We used the data as background information and to select expenditures for review. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequate for our purposes. The testing included comparing information from these systems for the sampled items to the Authority's records. We based our conclusions on source documentation obtained from HUD and the Authority.

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

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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.
- Safeguarding of assets - Policies and procedures that management has implemented to reasonably ensure that assets are safeguarded against waste, loss, and misuse.

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:

- The Authority did not implement adequate controls to ensure that it consistently prioritized taking action to address longstanding redevelopment concerns and ongoing health and safety issues (finding).

# Appendixes

## Appendix A

### Auditee Comments and OIG's Evaluation

#### Ref to OIG Evaluation

#### Auditee Comments

#### Comment 1



Gillian D. Brown, Esq.  
Executive Director

Modesto Candelario  
Assistant Executive Director

Roslyn L. McLin, Esq.  
General Counsel

### Buffalo Municipal Housing Authority

300 Perry Street | Buffalo | New York | 14204-2299

November 30, 2021

Kimberly Dahl, Audit Director  
US Department of Housing and  
Urban Development  
Office of Inspector General

BY EMAIL TRANSMISSION ONLY

Re: Auditee Comments regarding your HUD OIG's Review of the Commodore Perry Homes

Dear Ms. Dahl,

Please accept this letter as the Buffalo Municipal Housing Authority's comments regarding the recent draft of your office's proposed audit report concerning our Commodore Perry Homes development.

The draft report contains one Finding, accompanied by eight (8) Recommendations.

**Finding One: The Authority Failed To Address Longstanding Concerns**

BMHA's Response: HUD OIG's conclusion fails to recognize the difficulty of managing hundreds of obsolete and vacant public housing units targeted for redevelopment without adequate funding sources, in an area undergoing major public and private investment from other stakeholders.

BMHA has been working diligently to implement its revitalization plan for the Perry Homes. However, plans such as these require multiple sources of funding, involving Federal, State and local resources. This means that a plan which can be agreed upon by all of the various government stakeholders is necessary before any implementation can begin.

We recognize that the physical condition of the vacant portion of the Commodore Perry community is unacceptable. However, it is our opinion that we have acted, and continue to act, as expeditiously as possible under the circumstances to address the long-standing problems.

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**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 2

Comment 3

Comment 4

Ms. Kimberly Dahl  
November 30, 2021  
2

At the outset, we note that the report gives the impression that nothing at all was done during the period of June, 2014 – May, 2016. A more realistic assessment of that period would address the following facts and circumstances:

- In 2011, the BMHA applied for and was awarded a Choice Neighborhood Planning Grant.
- From 2011 – 2013, we were actively engaged in preparing a transformation plan for the Perry community. This process included multiple meetings with residents and community stakeholders, conducting feasibility studies (housing market study, commercial development study, supportive services, coordination with other government agencies, etc.), neighborhood assessment, preparation of a site plan in accordance with the Choice Neighborhoods principles (Housing, People and Neighborhood) and a financing plan.
- In April, 2014, we learned that our grant application would not be funded, and we then began the implementation of the first phase (off-site development) of the transformation plan by building 55 public housing units off-site. This required us to begin addressing the fact that the existing Perry Homes Development site was in a transitioning neighborhood and that the full vision for the whole neighborhood had not yet been established. The BMHA continued to explore other avenues for addressing the long-standing systemic problems with the Perry Homes development. That planning occurred through 2016.
- Beginning in 2014, New York State Governor Andrew Cuomo commissioned a study to evaluate various locations for a future stadium venue for the NFL’s Buffalo Bills, where the Perry Site was identified. Various local news sources and other reputable sources began indicating that the entire Perry community was being considered as a possible site for a new football stadium. It was thought that the safest course was not to take any “big steps” until the Authority had a better sense of how realistic a scenario this was.
- To this very day, the so-called “South Park” site (the footprint of which encompasses virtually all of the Perry community, both vacant and occupied) is still being actively discussed and urged forward by various groups in Buffalo. As unrealistic as we know this scenario is, we believe it would have been irresponsible for us to move forward with redevelopment plans before we had a clearer sense of what, if any, steps would be taken with regard to this site.

We note the discussions concerning the proposed site of an arena not as an excuse, but as an explanation for certain delays. We are aware that BMHA has a responsibility to move forward with necessary work, and that as a HUD-funded public housing authority we are responsible to fulfill our mission. However, we cannot “plan in a silo;” we have to be aware of the realities of the community we serve and the city in which we are located. Now that the stadium/arena discussion appears to be reaching a final resolution, we feel more comfortable allocating scarce resources towards the planning and development of the Perry site. Our objection in this context focuses on the fact that this issue was not even addressed in a meaningful way in your report.

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**Ref to OIG  
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**Auditee Comments**

Comment 5

Ms. Kimberly Dahl  
November 30, 2021  
3

Contrary to your conclusion, we did have a “cohesive strategy,” and have consistently attempted to implement the Choice Neighborhood plan approved by HUD. That plan continues to be the basis for our revitalization plans, for which we have recently completed a lengthy selection process of a developer-partner.

Comment 6

We also note that although the Asset Repositioning Plan prepared by a HUD-retained contractor in January 2014, may have concluded that the Authority “prematurely vacated” the development, we vehemently disagreed with that conclusion then, and we still do. Even before the buildings fell into widespread disrepair, a significant number of the units at Perry were long-term vacant, and unable to be rented. In the market at that time (and continuing to this day) the third-story walk-ups were considered extremely undesirable, and even people who wanted to stay within the community would not accept them when offered. The units, all constructed many decades ago, were extremely small, and had little closet or storage space. As far back as the early 1990s, the vacancy rate at Perry was a significant problem for the BMHA. Given that the units were difficult and in some instances impossible to rent, we disagree with your conclusion that as a result of vacating the units, “fewer low-rent units were available to families in need.”

Comment 7

Comment 8

With regard to your conclusion that the Authority did not “adequately manage health and safety issues,” we note the following. Your report fails to address the extraordinary amount of work the BMHA has done with regard to attempting to keep the site secured.

Comment 9

- Faced with a persistent problem of squatters breaking into the boarded and vacant units, in or about 2015 the BMHA separated the “continuous loop” heating system in place at Commodore Perry Homes. This costly project was deemed necessary to ensure the continued safety of the rest of the community, including the hundreds of occupied units in the Commodore Perry Extension, row houses and high-rises immediately next to the vacant buildings.
- Between 1/1/2013 – 12/31/2018, BMHA completed **nearly 5000** work orders at the Commodore Perry Homes. Many of these work orders involved boarding (and re-boarding on multiple occasions) the windows and doors of numerous buildings.
- Faced with a continuous problem of individuals from outside of this community using the various courtyards for illegal dumping, BMHA purchased and installed numerous concrete barriers for all of the courtyards, preventing trucks from entering and leaving behind loads of construction waste. At the same time, we installed “No Trespassing” signs, thus making it easier for police to enforce City ordinances when people were found in the vacant areas of the development. Although OIG was told of these efforts, they are not meaningfully recognized in your report.
- We have consistently attempted to comply with all regulations regarding the maintenance of boards on vacant units’ doors and windows. However, it is extremely challenging to replace all boards the moment they are ripped down, without incurring enormous expense.
- Finally, we note that notwithstanding your characterization of the conditions as representing a danger to “children, trespassers, or other unauthorized persons,” since

Comment 10

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**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 10

Comment 11

Comment 12

Comment 13

Comment 13

Comment 14

Comment 15

Ms. Kimberly Dahl  
November 30, 2021  
4

2018 we are not aware of any member of this community being injured on the site of the vacant buildings. There is no pending litigation, nor any incident reports.

- The notion that “research links vacant and abandoned properties with increased crime and increased risk to public health and welfare,” while perhaps technically accurate, is not relevant where, as here, actual crime and other public safety statistics were readily available, and were not made a part of the report.

We very much appreciate the mention in the report of our – and HUD’s – continuing efforts to address the problems at the vacant Perry Homes. You note that BMHA has not met the two goals from our PHARS Recovery Plan “directly related” to the Perry development, but you make this conclusion in a vacuum, lacking in any context. You write that, “The first goal required [BMHA] to undertake an environmental review of the development and obtain an appraisal for the highest and best use to help determine which repositioning platform would be best suited to its interests.” You then fail to note that there was no realistic mechanism for us to complete such a review, in the face of the rejection of our Choice Neighborhood application. After the conclusory statement that we did not meet the first goal, the report then specifically notes that BMHA did contract for and obtain an appraisal of the site, which valued it at (\$10,000.00) based on the extremely high demolition costs involved.

The second goal, requiring the Authority to submit RAD applications for the remaining units at the development, is also described as not having been accomplished. Yet you then acknowledge that we have procured outside counsel and selected a developer-partner for the entire site, and that we are in the process of finalizing a RAD application.

With regard to the report’s recommendations, we note as follows.

1A: Work with the Authority to determine whether the buildings represent an imminent threat to public safety from physical deterioration and whether activities to control the situation would be exempt under the Part 58 environmental review process or excluded under the Part 50 environmental review process. If it qualifies, require the Authority to immediately take actions necessary to control the imminent threat to public safety before the full environmental review is done.

*We do not believe that the buildings represent an imminent threat to public safety, however we are more than willing to work with our local HUD office to accomplish this recommendation.*

1B: Determine whether it would be beneficial for HUD to conduct a Part 50 environmental review of the development or if the Authority should conduct a Part 58 environmental review, and implement the decision to ensure that the environmental review is conducted as soon as possible as required under the action plan.

*The BMHA will comply with the environmental review requirements under 24 CFR Part 58 and will request the Responsible Entity to conduct an environmental review for the activities that will*

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**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 16

Ms. Kimberly Dahl  
November 30, 2021  
5

*be taken on the site that will be funded with any HUD funds (Operating Subsidy or Capital Fund Grant).*

1C: Continue to provide training and technical assistance to ensure that the Authority understands relevant requirements for the various asset repositioning options, including milestone and disposition requirements.

*The BMHA is committed to availing itself of any training which will enhance staff knowledge of all Asset Repositioning regulations. We have already participated in several Asset Repositioning trainings sponsored by HUD, some of which have been individual to our Agency, in the last two years.*

Comment 17

1D: Provide certifications and supporting documentation to show that it has identified and addressed urgent health and safety issues at the development, such as flooded stairwells, accessible crawlspaces, and unsecured windows and doors.

*We will work with the HUD local Field Office to come up with a mechanism to provide assurances that any urgent health and safety issues at the development are addressed as soon as we become aware of them.*

Comment 16

1E: Develop and implement a plan to routinely identify and address recurring urgent health and safety issues such as flooded stairwells, accessible crawlspaces, and unsecured windows and doors while the property remains vacant and throughout future asset repositioning efforts.

*We will work with the HUD local Field Office to come up with a mechanism to provide assurances that recurring health and safety issues at the development are addressed as soon as we become aware of them.*

Comment 16

1F: Develop and implement a plan to use available asset repositioning options for the remaining 284 public housing units at the Commodore Perry Homes development, including 274 dwelling units and 10 nondwelling units.

*This process has already begun, with the selection of a developer-partner and the asset repositioning training in which BMHA staff have participated.*

Comment 16

1G: Develop and implement a plan for the original property related to the 46 units converted under the RAD transfer of assistance option to ensure that the property and proceeds from its disposition are used in accordance with requirements.

*The overall revitalization plan will address the use of the property where the transfer of assistance occurred in addition to the appropriate use of any proceeds.*

1H: If the Authority does not follow through on its asset repositioning plans, misses deadlines, or it otherwise becomes clear that the plan is no longer feasible, work with the HUD's Special

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**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 18

Comment 19

Ms. Kimberly Dahl  
November 30, 2021  
6

Applications Center, Office of Recapitalization, and other offices as appropriate, to consider and use available remedies such as revoking approval and enforcing required conversion.

*This recommendation was directed solely to the Acting Director of HUD's Buffalo Office of Public Housing, and we have no comment.*

While we acknowledge that the current state of the vacant portion of Commodore Perry Homes is unsatisfactory, we wish that your report had contained more context, and a more realistic appraisal of the work that has been and is still being done. You have failed to address the fact that Commodore Perry Homes is next to (and an integral part of) the larger Perry community which also includes the occupied row houses and the occupied towers. You have failed to acknowledge the millions of dollars in rehabilitation work we have done since 2018, including new front steps, masonry repairs, new roofs, a new playground, newly-paved parking lots, and hundreds of thousands of dollars in common-area interior and exterior site work at the occupied portion of the development. The Perry Homes, constructed more than eighty years ago, could not have remained occupied. BMHA's current administration has done everything we could have done to find funding for the necessary work of revitalizing this obsolete development. We are now on the cusp of submitting RAD applications and beginning the planning process with all the relevant stakeholders to remake this entire community. We look forward to working with our partners at the Office of Public Housing to make our plans a reality.

Very truly yours,



Gillian D. Brown  
Executive Director

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## OIG Evaluation of Auditee Comments

- Comment 1 The Authority acknowledged that the physical condition of the vacant portion of the Commodore Perry community is unacceptable, but contended that our conclusion failed to recognize the difficulty of managing hundreds of obsolete and vacant public housing units when plans require multiple sources of funding and agreement from various stakeholders. Because the objective of our review was to review the Authority's management of the development, our draft audit report focused primarily on the concerns identified with the Authority's management and how it could improve. However, we acknowledge that the management and redevelopment of deteriorated developments is inherently complex and involves many parties.
- Comment 2 The Authority detailed information it felt provided a more realistic assessment of its actions, including its application and receipt of a Choice Neighborhoods Planning Grant and extensive work to develop a transformation plan for the area. This work occurred over 2 years and resulted in a 183-page Perry Choice Neighborhoods Transformation Plan in June 2013. While our draft report previously contained some information on the grant and plan, we added more details on the planning initiative, along with a link to the plan, on pages 4 and 5.
- Comment 3 The Authority stated that in April 2014, it began the implementation of the first phase of its transformation plan by building 55 public housing units off-site. The Authority also contended that it recognized that the development was in a transitioning neighborhood and continued to explore other avenues to address systemic problems with the development through 2016. Our draft report acknowledged the additional planning work related to the development in the timeline outlined in the finding. However, it did not discuss the 55 off-site units because they were not tied to the Commodore Perry Homes development, but were part of the larger Perry Choice Neighborhood area outlined in yellow below.



Figure from page 15 of the transformation plan

This audit focused only on the Commodore Perry Homes development, which is part of the smaller Perry Homes site outlined in red. Accordingly, we did not review the Authority's work at other sites, nor did the Authority provide information on this work when we requested documentation related to its management of the Commodore Perry Homes development.

Comment 4 The Authority stated that beginning in 2014, the Perry Homes site was being considered as a potential location for a future National Football League stadium so it did not take any big steps before it had a better sense of how realistic a scenario this was. The Authority also acknowledged that it was a HUD-funded agency and had a responsibility to move forward with necessary work and to fulfill its mission. While the Authority previously disclosed that it had not been involved in any discussions related to the potential football stadium, it expressed concerns with the opinions of stakeholders and said that it sometimes delayed making decisions about the future of the development due to those opinions and the ongoing stadium discussions. We added some context on the Authority's concerns on page 9 of the finding.

Comment 5 The Authority contended that it had a cohesive strategy and consistently attempted to implement the Choice Neighborhood plan. It stated that the transformation plan continued to be the basis for its revitalization plans, and that it had recently selected a developer-partner. Our draft report focused only on the Commodore Perry Homes development and identified multiple instances when the Authority's plans changed or were not consistent over the audit period, including after the Authority allowed its multiphase RAD award to expire, missed milestones for the RAD conversion of 46 Commodore Perry Homes units, changed its plan for the 46 units from demolition and redevelopment to transfer of assistance, etc. The Authority also continued to use funds for sunk costs such as painting vacant units at least as late as May 2019.

Comment 6 The Authority contended that it did not prematurely vacate the Commodore Perry Homes development as concluded by a HUD contractor. This statement was the conclusion of a report performed by a HUD-contracted real estate consulting firm to provide the Authority and HUD with repositioning options for the Commodore Perry Homes development. HUD has not expressed any concern about the contractor's report or conclusions. The contractor found that the Authority had vacated units before learning whether it would receive Choice Neighborhoods funding. Further, it stated that the Authority had not replaced various building components, such as roofs, because it believed it was on the verge of a more comprehensive plan. While the Authority disagrees that it prematurely vacated some of the units, its decision to vacate units before knowing whether it would receive a Choice Neighborhoods Implementation Grant had ripple effects, such as allowing units and buildings to further deteriorate and causing the Authority's annual operating funding to decrease.

- Comment 7 The Authority contended that the vacancy rate at the development had been a significant problem since the early 1990s due to the units being three story walk-ups, extremely small, and having little closet or storage space and thus, they were difficult and sometimes impossible to rent. The Authority stated that it disagreed that as a result of vacating the units, fewer low-rent units were available to families in need. Our conclusion that fewer low-rent units were available to families in need was about the effect of the Authority not adequately managing longstanding redevelopment needs at the Commodore Perry Homes development. If the Authority had used available asset repositioning options to redevelop or transfer the vacant units, more low-rent units would have been available to families in need and the Authority would have received operating funds or rental subsidies to help continue to fund those units.
- Comment 8 The Authority contended that the report failed to address the extraordinary amount of work it had done attempting to keep the Commodore Perry Homes development secured. Our draft report acknowledged that the Authority stated that it walked or drove through the development daily, replaced or repaired boarded doors and windows as needed, and regularly cleared the site of trash and debris. However, the issues found during our site visits were widespread. We based our conclusion that the Authority did not adequately address urgent, ongoing health and safety issues on the state of the site throughout our review. As seen in the site visit photographs located in Appendix B and in the finding, the Authority did take some steps, such as boarding windows and doors, but the vacant development continued to present an ongoing risk that could have been prevented or mitigated.
- Comment 9 The Authority contended that the report did not meaningfully recognize that it installed concrete barriers and “no trespassing” signs at the development. It further contended that it consistently attempted to comply with all regulations regarding the maintenance of boards on windows and doors. We added language on page 11 of the finding to more clearly acknowledge these efforts. However, as discussed in our draft report, we concluded that the Authority’s actions had not adequately addressed the urgent, ongoing health and safety issues. For example, photographs taken during our May 2019 and December 2020 site visits showed instances in which accessible stairwells were filled with some of the same trash and debris after nearly 19 months, and identified multiple boards that had been removed from the windows and doors. Local code required such openings be enclosed with ½-inch or thicker weatherproof plywood or other weatherproof material, which will secure the building to prevent removal by unauthorized persons. Local code also required such materials to be painted and neither unsightly nor materially detract from the general appearance of the building and neighborhood. The photographs in Appendix B show that the Authority’s coverings did not meet those standards.
- Comment 10 The Authority stated that it was not aware of any member of the community being injured on the site of the vacant buildings since 2018. While we are not aware of

any recent injuries, we stand by our conclusion that the conditions at the development created a risk of drowning or injury. To mitigate this risk, the Authority needs to develop and implement a plan to routinely identify and address recurring urgent health and safety issues such as flooded stairwells, accessible crawlspaces, and unsecured windows and doors.

- Comment 11 The Authority contended that while our statement that “research links vacant and abandoned properties with increased crime and increased risk to public health and welfare” may be technically accurate, it is not relevant to our report because actual crime and other public safety statistics were readily available and not made a part of the report. The Background and Objective section of our draft report cited crime statistics from the Authority’s 2013 transformation plan, which stated that crime was a serious problem throughout the neighborhood and that the percentage of violent crimes was 44 percent greater in the neighborhood than in the City of Buffalo. Based on the conclusions drawn in the Authority’s plan, we did not perform detailed work in this area.
- Comment 12 The Authority contended that we failed to note that there was no “realistic mechanism” for it to complete the environmental review required by its first Recovery Agreement goal since its Choice Neighborhoods application was rejected. It has been more than 5 years since the Authority found out that it would not receive the Choice Neighborhoods Implementation Grant. The goal to complete the environmental review was part of a November 2019 Recovery Agreement between HUD and the Authority and was not contingent on Choice Neighborhoods funding. During our audit, the Authority stated that it had not completed the environmental review due to it being too early in the redevelopment and planning process. Further, the Authority did not identify funding as the reason why it had not started the environmental review process nor did it indicate that it made an effort to identify Federal or non-Federal funding to pay for the environmental review process.
- Comment 13 The Authority questioned that the report included that it did not meet its first Recovery Agreement goal, but then noted that it did contract for and obtain an appraisal of the Commodore Perry Homes site. It also questioned the report describing the second Recovery Agreement goal as not having been accomplished. The first Recovery Agreement goal required the Authority to both undertake an environmental review and get an appraisal. Our draft report acknowledged that the Authority obtained the appraisal, but did not undertake the environmental review. The second goal required the Authority to submit RAD applications for the remaining units at the development. Our draft report acknowledged that the Authority procured outside counsel, selected a developer partner, and was in the process of finalizing a RAD application. To better recognize the progress made toward the goals, we updated page 12 of the finding to say that the Authority had not fully completed the goals.

- Comment 14 In response to recommendation 1A, the Authority stated that it did not believe the buildings represent an imminent threat to public safety, but agreed to work with HUD to accomplish the recommendation. As part of the normal audit resolution process, HUD will work with the Authority to make this determination and if it qualifies as an imminent threat, require the Authority to take actions to control the threat before the full environmental review process is done.
- Comment 15 In response to recommendation 1B, the Authority stated that it would comply with the environmental review requirements under 24 CFR Part 58. Because the Authority had not yet taken action to begin the environmental review process, we recommended that HUD determine whether it would be beneficial for it to conduct a 24 CFR Part 50 environmental review instead of the Authority conducting a 24 CFR Part 58 environmental review. As part of the normal audit resolution process, HUD will determine which course of action is more beneficial.
- Comment 16 In response to recommendations 1C, 1E, 1F, and 1G, the Authority agreed to take the recommended action or provided an update on its progress toward the action. As part of the normal audit resolution process, HUD will work with the Authority to ensure progress toward and completion of the recommendations.
- Comment 17 In response to recommendation 1D, the Authority stated that it would work with HUD to come up with a mechanism to provide assurances that any urgent health and safety issues at the development are addressed as soon as the Authority becomes aware of them. The Authority's comment was responsive to recommendation 1E, which is about identifying health and safety issues in the future. However, recommendation 1D required that the Authority address the current urgent health and safety issues identified in the report. As part of the normal audit resolution process for recommendation 1D, HUD will propose how the Authority can show that it has identified and addressed current urgent health and safety issues, such as flooded stairwells, accessible crawlspaces, and unsecured windows and doors.
- Comment 18 The Authority acknowledged that the current state of the vacant Commodore Perry Homes development was unsatisfactory, but wished that the report contained more context. Specifically, the Authority stated that the report failed to address that Commodore Perry Homes is next to and an integral part of the larger Perry community, which includes occupied row-house and hi-rise buildings. The Authority further noted that the report failed to acknowledge the millions of dollars in rehabilitation work done since 2018. To acknowledge that the development is part of the larger Perry Homes site, we added information on the other Authority properties on page 4. Based on the information provided and discussions during the audit, we believe the rehabilitation work referred to by the Authority was related to surrounding Authority properties which were not the focus of this audit.
- Comment 19 The Authority contended that its current administration had done everything it could do to find funding for the necessary work of revitalizing this obsolete

development. It was in the process of submitting RAD applications and beginning the planning process with relevant stakeholders to remake the entire community. We acknowledge the ongoing work of the Authority's current administration. We also added a footnote on page 4 of the report to acknowledge that the Authority experienced a change in leadership during our audit period.

## Appendix B

### Photographs of Site Conditions as of December 2020

Photos showing outdoor stairwells filled with water, trash, debris, and electronics and the unsafe flooded areas accessible through them



Stairwell filled with water, debris, and electronics



Accessible stairwell doorway from previous photo



Stairwell filled with standing water and trash



Accessible stairwell doorway from previous photo

Photos showing unsecured windows and the unsafe spaces accessible through them



Unsecured 1<sup>st</sup> floor window



Unsafe space that can be accessed through unsecured 1<sup>st</sup> floor window shown in photo to the left. This photo was taken through the window.



Unsecured 1<sup>st</sup> floor window



Unsafe space that can be accessed through unsecured 1<sup>st</sup> floor window shown in photo to the left. This photo was taken through the window.

Additional photos of accessible outdoor stairwells filled with standing water, trash, and debris



Stairwell filled with standing water and trash



Stairwell filled with standing water



Stairwell filled with standing water and debris



Stairwell flooded and with door open



Stairwell filled with standing water and debris



Stairwell filled with standing water and trash



Stairwell filled with trash



Stairwell filled with trash



Stairwell filled with trash



Stairwell filled with trash



Stairwell filled with trash



Stairwell filled with water, debris, and trash

Additional photos of unsecured windows and doors, allowing entry to unsafe spaces



Unsecured 1<sup>st</sup> and 2<sup>nd</sup> floor windows



Unsecured door with broken board and graffiti



Unsecured door cracked open with board on ground



Unsecured door with boarding removed



Open and unsecured 1<sup>st</sup> floor windows



Open and unsecured 1<sup>st</sup> floor windows with boarding removed



Unsecured 1<sup>st</sup> and 2<sup>nd</sup> floor windows

Photos showing overall blight and deterioration



Deteriorated awning and broken glass on 1<sup>st</sup> floor window



Deteriorated awning and open 2<sup>nd</sup> floor window



Deteriorated building with open windows on 1<sup>st</sup> and 2<sup>nd</sup> floors



Deteriorated building with open 2<sup>nd</sup> floor windows and graffiti on boarded up door



Deteriorated building with boarded windows and unkempt landscaping



Deteriorated building with open and unsecured windows



Deteriorated buildings at the development

## Appendix C

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### Photographs Showing Proximity to Local Community



Commodore Perry Homes (right) is near several other Authority developments, including the one shown to the left.



Commodore Perry Homes (left) is across the street from the Schofield Adult Day Health Care Program (right).



Commodore Perry Homes (right) is near many residential homes, including the homes shown to the left.



Commodore Perry Homes can be seen in the background of this photo of an Authority playground and splash pad.