



U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL

August 16, 2013

**MEMORANDUM NO:**  
2013-DE-1801

*Memorandum*

TO: Carol Galante  
FHA Commissioner-Assistant Secretary, Office of Housing, H

//signed//

FROM: Ronald J. Hosking  
Regional Inspector General for Audit, Denver Region, 8AGA

SUBJECT: Interim Memorandum Report on Wyoming Housing Opportunities Association's  
Village Creek Townhomes' 51 FHA Mortgage Defaults

**INTRODUCTION**

The purpose of this memorandum is to provide time-sensitive information regarding the pending foreclosures of the 51 Village Creek townhomes previously scheduled for August 5, 2013. On August 7, 2013 HUD informed us the foreclosure date was delayed another 60 days while HUD works with the servicing lender to reach a solution which includes offering the units to the tenants as recommended in recommendation 1A below. We are auditing the Wyoming Housing Opportunities Association based on information obtained during our audit of the Wyoming Community Development Authority that 51 Federal Housing Administration (FHA) mortgages by the same borrower had defaulted.

The audit objective is to determine whether Wyoming Housing developed, originated, and managed the 51 units of Village Creek in accordance with Federal regulations.

Our preliminary results identified significant conditions that we want to bring to your attention immediately. We have communicated the interim results to the Director, Office of Single Family Assets Management, and together determined that a report would be beneficial to address the foreclosure situation. See the interim recommendations below. Our audit work is ongoing; specifically, we are reviewing the (1) development of the Village Creek project, (2) legitimacy of the information in obtaining the FHA mortgages, (3) financial management of the project, and (4) implementation of the rent-to-own program. HUD chose not to provide written comments to this report.

## **SUMMARY**

We found that the Wyoming Housing board of directors voted to default on the Village Creek mortgages. Further, Wyoming Housing did not implement a binding home ownership agreement with its tenants and failed to market or attempt to sell the 51 individual Village Creek townhomes in accordance with the terms of the original agreement documents.

## **METHODOLOGY AND SCOPE**

We reviewed the predevelopment and development documentation for the Village Creek project. Specifically, we analyzed the financing for the Village Creek project and whether the project received other Federal funds. We reviewed the origination and servicing of the 51 FHA mortgages. Lastly, we looked at how Wyoming Housing managed and operated its home ownership conversion program, with the ultimate goal of home ownership for the Village Creek tenants. Specifically, we analyzed the current tenant files; reviewed the home ownership agreement; interviewed tenants; and interviewed Cheyenne Housing Authority, Wyoming Housing, and Development Authority personnel familiar with the Village Creek development.

## **BACKGROUND**

The key parties involved with the Village Creek development are as follows:

### **Wyoming Housing Opportunities Association, Inc., Cheyenne, WY**

Wyoming Housing is the general partner of Village Creek Limited Partnership, which has owned Village Creek townhomes from its start in 1995 to the present. Wyoming Housing took over as manager of Village Creek from 2003 to 2012. It is a nonprofit corporation formed to develop and manage affordable housing within the State of Wyoming. In 1993, the Cheyenne Housing Authority created Wyoming Housing. Volunteers direct the board. Wyoming Housing seeks a variety of creative financing packages and partnerships to create affordable housing.

### **Cheyenne Housing Authority, Cheyenne, WY**

Cheyenne Housing developed Village Creek, managed Village Creek from 1994 to 2003, has Section 8 voucher tenants living at Village Creek, and pursued a purchase of Village Creek after Wyoming Housing defaulted on the mortgages. Additionally, it created Wyoming Housing as a nonprofit for the main purpose of obtaining tax credits in the development of Village Creek. The State of Wyoming created Cheyenne Housing in 1971 to address the low-income housing needs of the community. A five-member board of commissioners appointed by the mayor and city council governs its activities. Cheyenne Housing contracts with HOM, Inc., to provide all of its management. The president of HOM, Inc., is also the executive director of Cheyenne Housing and the driving force in developing Village Creek, using a mix of tax credits, loans, and FHA mortgages.

## Wyoming Community Development Authority, Casper, WY

The Development Authority is the servicer of the 51 FHA loans, provided development loans for Village Creek, and manages Village Creek. It raises capital by selling tax-exempt mortgage revenue bonds to investors and receives no State funding. A State statute created the Development Authority in 1975 as an instrumentality of the State for the purpose of raising capital to finance affordable housing.

### Village Creek

In 1993, Cheyenne Housing created Wyoming Housing for the purpose of developing a 51-unit affordable housing project called Village Creek (see attachment A for current photos). The concept for the project was to provide low- to moderate-income home buyers the opportunity to rent the units for 15 years and then offer them the opportunity to purchase the units at an affordable price. To comply with the nonprofit regulations that allowed Wyoming Housing to receive tax credits, Cheyenne Housing could not have a controlling interest in Wyoming Housing. Originally, two of the five board members of Wyoming Housing were also board members of Cheyenne Housing. Currently one of the five board members serves both entities.

Wyoming Housing built and financed Village Creek in 1995 with low-income housing tax credits; loans from the Development Authority, Mercy Housing, and Cheyenne Housing; and 51 single-family FHA-insured loans from the Development Authority (see chart below). The legal owner of Village Creek is Village Creek Limited Partnership, with Wyoming Housing as the general partner and the Federal National Mortgage Association (Fannie Mae) as the investor-limited partner (Fannie Mae purchased the tax credits).

Source of funding	Dollar amount	Outstanding balance (as of December 2012)	Maturity date
Development Authority construction loan	\$4,000,000	\$0	18 months from closing
Mercy Housing bridge loan	\$2,155,000	\$0	October 1, 2000
Cheyenne Housing development fee	\$1,000,000	\$300,000	Deferred
Cheyenne Housing second mortgage	\$1,419,000	\$843,950	17 years from closing

Development Authority permanent loan (FHA mortgages)	\$2,050,000	\$1,439,792	25 years from closing
Internal Revenue Service tax credits	\$3,670,000	\$0	15 years from closing

FHA shows the lender as American National Bank of Cheyenne (no longer in business) for the 51 FHA loans; however, after closing, the loans transferred immediately to the Development Authority for servicing. Documentation we reviewed showed that the Development Authority provided direction and guidance to American National Bank loan officers during the origination of the loans. The former HUD Wyoming field director, improperly underwrote all 51 loans and gave final FHA approval.

Village Creek was developed and marketed as a home ownership conversion project. The intent was to sell the 51 units to the tenants at the end of the 15-year tax-credit compliance period. Wyoming Housing must rent or sell the 51 units to individuals at or below 60 percent of the area median income according to the tax-credit land use restriction agreement. The 15-year tax-credit compliance period ended in 2010. As of June 2013, there were 46 occupied units, 1 caretaker unit, and 4 vacant units, with 27 units having tenant-based Section 8 voucher recipients administered by Cheyenne Housing.

Wyoming Housing contracted with Cheyenne Housing to manage Village Creek from 1995 to 2003. In 2003, Wyoming Housing terminated its contract with Cheyenne Housing and assumed full management responsibilities for the project. In 2012, the Wyoming Housing board decided it did not have sufficient cash flow to keep the project viable, so the board voted to stop making its mortgage payments and let all 51 FHA mortgages go into default. On November 27, 2012, the Development Authority received a letter informing it of the board's decision.

The unpaid principal balance on the loans is more than \$1.4 million. After the loans defaulted, the Development Authority exercised its right to the assignment of rents on the townhomes. Also, it received from HUD an extension of 3 additional months to commence the foreclosure process (through June 2013). It is working with Wyoming Housing to turn over all the Village Creek funds. The townhomes have deferred maintenance and need repairs due to hail damage.

### **RESULTS OF REVIEW**

The audit is ongoing; therefore, we have not analyzed all the financial documentation to determine the condition and capacity of Wyoming Housing regarding its Village Creek development. We will provide an audit report addressing the finances and any other information discovered throughout the audit.

In November 2012, the board of directors for Wyoming Housing voted to default on the Village Creek mortgages. We interviewed the board president, board secretary, and business manager and confirmed that the board voted to default on the mortgages because it was no longer in a positive cash-flow situation and could not afford to maintain the property. However, the Village

Creek bank accounts had and currently have a balance of more than \$100,000. Further, when we interviewed the former executive director of Wyoming Housing, his assessment indicated that there was adequate cash flow to continue paying the mortgage and there were ways to make the Village Creek project work. He asserted that the board needed to reassess its charging of management fees.

Wyoming Housing did not establish a home ownership conversion program as outlined in its original concept. No contracts were set up with the tenants. Below are excerpts from its various documents:

- The ownership agreement states: “The purchase price per unit under such purchase agreement shall not exceed the then remaining balance of the first mortgage for the unit plus a proportionate part of the balance of any second mortgage loan held by CHA [Cheyenne Housing] or its successor, provided that only such portion of the second mortgage may be included as will not make a unit unaffordable by a person or persons with the same income as a qualified low income tenant under the LIHTC [low-income housing tax credit] program.” The Development Authority and Cheyenne Housing signed the agreement.
- The John J. Gunther Blue Ribbon Practices in Community Development package submitted to HUD states: “At the end of 15 years, the tenants will be able to purchase the units, with new 30 year mortgages for the remaining principal balance. The lower mortgage amount will keep the homes affordable.” Additionally, in the same award package it states: “The project is up and running with 51 townhouse units of affordable rental housing. At the end of 15 years, the units will be sold as affordable homes, with the first right to purchase afforded to the current tenants.” Later, Wyoming Housing won the award based on the package write-up.
- The fact sheet provided to all financing participants included the following: “The units will be leased to the families for fifteen years, after which they will be sold to the families for approximately \$ 35,000 per unit. The Development Authority has arranged financing for the families at 6.5% interest, which equates to a family housing payment of approximately \$250 per month when the units are sold to the families.”
- The Village Creek home ownership agreement states: “CHA [Cheyenne Housing] has been granted a Right of First Refusal to Purchase the Townhouses (and options to purchase the partnership interests of the Partners in the Village Creek Limited Partnership) at the end of the compliance period and CHA will exercise its right to purchase the Townhouses (or partnership interests) at the first available opportunity after the compliance period.”

Before Wyoming Housing defaulted on the mortgages, it failed to market or attempt to sell the 51 individual Village Creek townhomes to current tenants or other individuals who meet the 60 percent area median income requirement. It did not give the current tenants an opportunity to purchase the townhomes as outlined in its initial rent-to-own concept because it emphasized that it was “too expensive.” The projected sales price on the townhomes was close to \$100,000 according to the analysis it presented to Cheyenne Housing, not the remaining principal balance on the loans as agreed to, approximately \$30,000 at the time of default.

We interviewed four long-term tenants who had lived in Village Creek between 15 and 18 years. All of the tenants said they would purchase their townhomes for the remaining balance on the FHA loans if given the opportunity. The tenants stressed that they were not given the opportunity to purchase the units. However, each said Wyoming Housing marketed the units as a rent-to-own home ownership opportunity when they moved in. The current tenants could face forced eviction within 3 years if the scheduled foreclosure sale takes place.

### **INTERIM REPORT RECOMMENDATIONS**

We recommend that the FHA Commissioner-Assistant Secretary, Office of Housing:

- 1A. Develop and implement a plan to resolve the current situation with the least amount of negative impact on the insurance fund. The plan should include any possible options to offer the current tenants the option to purchase their townhome at the remaining principal balance in accordance with the Village Creek home ownership agreement and the original documents presented to HUD during underwriting.
- 1B. Assess administrative sanctions against Wyoming Housing Opportunities Association for failing to establish the home ownership conversion plan and subsequent default of Village Creek Townhomes.

**ATTACHMENT A**



Front view of townhome



Basketball courts in townhomes



Local park near townhomes



Sound wall in back of townhomes