



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

March 17, 2016

MEMORANDUM NO:
2016-DE-1801

Memorandum

TO: Craig T. Clemmensen
Director, Departmental Enforcement Center, CACB

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

SUBJECT: Final Action Memo: The Owner of a HUD-Insured Multifamily Property Settled Proposed Debarment From Participating in All Procurement and Nonprocurement Transactions With the Executive Branch of the Federal Government for a 5-Year Period

INTRODUCTION

We reviewed subpoenaed bank records based on our audit of The Retreat at Church Ranch (Office of Inspector General audit report number 2013-DE-1003). The audit found indications that the owner used project funds for ineligible and questionable costs.

BACKGROUND

The former managing member of a Colorado limited liability company, Signature – The Retreat, LLC, is the owner of The Retreat at Church Ranch, a 47-unit assisted-living facility located in Westminster, CO. The owner refinanced the project's mortgage with a U.S. Department of Housing and Urban Development (HUD)-insured mortgage under the National Housing Act. On September 26, 2007, the owner and HUD signed a regulatory agreement, in which the owner agreed to operate the project in accordance with HUD requirements. This agreement prohibits Signature from paying out any funds except for reasonable operating expenses or necessary repairs or from surplus cash without prior written approval from HUD. The agreement defines surplus cash as cash remaining after the payments required under the mortgage terms, amounts are deposited in the reserve fund for replacements, project obligations are met, and funds are segregated for tenant security deposits and special funds required to be maintained by the project.

RESULTS OF REVIEW

The owner allegedly made payments for personal expenses from the project's bank account that were not reasonable operating expenses, necessary repairs, or from surplus cash and without HUD's prior written approval. Based on our review, HUD alleged that the owner violated the regulatory agreement. Although the owner denied HUD's allegations, the parties negotiated a settlement in which the owner agreed to pay HUD \$500,000 over a 5-year period. We reported this settlement in final action memorandum 2015-DE-1802.

We also requested that HUD pursue administrative actions, including debarment, against the owner under 2 CFR (Code of Federal Regulations) Parts 180 and 2424 due to the allegations that the owner violated the regulatory agreement. HUD notified the owner on July 22, 2015, of his proposed debarment from future participation in procurement and nonprocurement transactions, as a participant or principal, with HUD and throughout the Executive Branch of the Federal Government for an indefinite period.

The owner denied HUD's allegations. However, to avoid the uncertainty of litigation and to arrive at a settlement that was satisfactory to both parties, the parties negotiated in good faith and reached a settlement in which the owner will be debarred from participating in any procurement and nonprocurement transactions with the Executive Branch of the Federal Government for a 5-year period.

RECOMMENDATION

We recommend that HUD's Departmental Enforcement Center

- 1A. Ensure that HUD completes the debarment process and appropriately notifies the property owner of the debarment decision.

HUD implemented the recommendation, and the final action will be recorded in HUD's Audit Resolution and Corrective Actions Tracking System. Therefore, the recommendation will be closed upon issuance of this memorandum.