



Issue Date December 18, 2009
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Audit Report Number 2010-DE-1001
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TO: Marcie D. LaPorte, Director, HUD Denver Multifamily Hub, 8AHML

//signed//

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

SUBJECT: Kier Paid or Recorded Ineligible Costs and Did Not Properly Compute Subsidies

## **HIGHLIGHTS**

### **What We Audited and Why**

We audited Kier Property Management and Real Estate, LLC (Kier), because it took over as the management agent for 17 multifamily properties in Colorado and one in Wyoming in July 2008. Kier had not managed properties in Colorado before, so there were concerns about Kier's administrative capacity to properly manage all of the properties. Our audit objective was to determine whether Kier properly accounted for property and management agent costs and properly accomplished its occupancy functions.

### **What We Found**

Kier recorded more than \$2 million in notes payable in the properties' books for notes that did not properly restrict repayment of the principal to surplus cash. Kier also used property funds for \$64,800 in ineligible setup fees. Additionally, Kier did not always correctly compute subsidies or determine tenant eligibility.

### **What We Recommend**

We recommend that HUD require Kier to work with the owner to ensure that the notes restrict principal payments to surplus cash and to repay the \$64,800 in setup fees from nonfederal funds. We also recommend that HUD require Kier to (1)

work with HUD to recover identified overpayments of Section 8 housing assistance subsidies, (2) correct the rent miscalculations identified in the report, and (3) develop procedures to consistently communicate changes to the policies and procedures to ensure accurate and consistent rent calculations and related occupancy procedures.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

### **Auditee's Response**

We provided the discussion draft of the audit report to Kier on September 16, 2009, and requested comments by September 26, 2009. After the exit conference on September 23, 2009, Kier officials provided additional documentation that we reviewed, and changed the audit report accordingly. We provided the final draft of the audit report to Kier on November 20, 2009, and requested comments by November 30, 2009. Kier requested an extension to December 2, 2009. Kier provided the written response on December 2, 2009. Kier officials generally disagreed with the findings because they did not think Kier should be responsible for the identified deficiencies. However, Kier officials basically agreed to cooperate with HUD in resolving the recommendations.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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## BACKGROUND AND OBJECTIVE

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The Kier family founded the Kier Company in 1957 as a single-family home construction company. In 2005, the family established Kier Property Management and Real Estate, LLC (Kier), to manage multifamily properties and to conduct real estate business.

The owner for each of the 18 properties managed by Kier is a partnership consisting of a general partner and two limited partners. For all of the properties, the general partner is American Housing Preservation Corporation, and one of the limited partners is Boston Capital Tax Credit Fund XVIII, LP. The second limited partner is a unique entity for each of the properties. The name of each entity is based on the initials of the property name. For example, the partnership entity for Halcyon House Apartments is HH Housing, LP. This term is used as the owner name on the contracts with the U.S. Department of Housing and Urban Development (HUD) and Kier.

On July 1, 2008, Kier contracted with the owner to be the management agent for the 18 properties included in this audit. The owner of the properties dismissed the prior management agent, which was responsible for the properties for the first year and a half of the audit period. Kier had direct responsibility for only the last six months. However, as the management agent, Kier is responsible for correcting existing problems with the occupancy and accounting functions.

Kier and the owner signed form HUD-9839-B, “Project Owner’s/Management Agent’s Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents” (agreement), for each of the properties. The effective date of each agreement was July 1, 2008, and the term of each agreement was five years.

All of the Colorado properties’ mortgages are insured under Section 542(c) of the Housing and Community Development Act of 1992, which established a program of risk-sharing with qualified state and local housing finance agencies, and receive HUD Section 8 housing assistance.

Kier’s mission is to enhance the economic value of client assets through efficient and compliant operational processes; careful cost management control; and quality customer service to residents, tenants, and owners.

The objective of our audit was to determine whether Kier properly accounted for property and management agent costs and properly accomplished its occupancy functions.

## RESULTS OF AUDIT

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### Finding 1: Kier Recorded Notes Payable Based on Notes That Did Not Properly Restrict Principal Payments

Kier recorded notes payable in the properties’ books for notes that did not properly restrict payment of the principal to surplus cash. This condition occurred because Kier was required by the owner to record the notes payable in the properties' books even though the notes did not contain needed restrictions. As a result, the properties could lose the benefit of more than \$2 million.

**Kier Recorded Notes Payable in the Books of Account for Notes That Did Not Properly Restrict Principal Payments**

Kier management recorded notes payable in the books of 18 properties to reflect the amount of fees paid by the owner for terminating the management agreements with the previous management agent. The owner of the 18 properties entered into secondary management agreements with the prior management agent but terminated the agreements effective June 30, 2008. The agreements required the owner to pay buyout fees for early termination of each agreement. HUD requirements do not allow for buyout fees; therefore, HUD funds cannot be used for these amounts.

The general partner of the owner entity paid the fees, and then the owner instructed Kier to record “notes payable – general partner” in the books of account for each property for the amount of the buyout fee. The owner established promissory notes and allonges that restricted the payment of the interest accrued on the notes to surplus cash. However, these documents did not similarly restrict the payment of principal. These actions increased the potential of improper use of HUD funds to pay the principal amounts. The total amount of these notes payable for the 18 properties was more than \$2 million.

Property	Note payable	Property	Note payable
Aspen Meadows	\$206,092	Helios Station	\$63,632
Halcyon House	\$400,313	Asbury Park	\$92,124
Park Terrace	\$101,621	Squire Village	\$104,946
Hilltop Apartments	\$61,733	Tamarin Apartments	\$127,264
Kearney Plaza	\$112,069	Clifton Family Housing	\$100,672
Tiffany Square	\$66,956	Meadows Townhouses	\$99,247
Sheridan Gardens	\$75,029	Dawson Square	\$90,225
Courthouse Square	\$136,287	Sunrise Manor	\$78,828
Cheyenne Station	\$94,973	Canon Club	\$37,989
		<b>Total</b>	<b>\$2,050,000</b>

### **The Owner Required Kier to Record Notes Payable Based on Inadequate Promissory Notes**

Kier followed the owner's instructions to record the notes payable in the books of account for each of the properties. The promissory notes were inadequate because they did not restrict the payment of principal to surplus cash. The owner had the right to establish secondary agreements but had to pay unallowable costs from surplus cash or ownership funds.

### **The Properties May Lose the Full Benefit of the HUD Funds**

The 18 properties could lose the benefit of more than \$2 million if the agent pays off the notes payable with funds restricted by HUD. The funds should be used to make improvements on the properties and for other items that would improve the residents' living environment.

### **Recommendation**

We recommend that the Director of HUD's Denver Office of Multifamily Housing

- 1A. Require Kier to work with the owner to ensure that the promissory notes restrict principal payments to surplus cash.

## Finding 2: Kier Used Property Funds for Ineligible Costs

Kier used property funds for ineligible setup fees. Kier officials mistakenly believed that HUD had approved the fees. As a result, the properties lost the benefit of more than \$64,000.

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### **Kier Incurred Ineligible Setup Fees**

Kier and the owner of the properties negotiated, for each property, a management agreement in addition to the management agreement required by HUD. This agreement provided for a setup fee of \$50 per unit for all of the properties. HUD Handbook 4381.5, REV-2, The Management Agent Handbook, does not allow for setup fees. It allows for special management fees if a project has special needs or problems. The functions listed for the setup fee in Kier's management agreement do not meet the special fee requirements and are regular management activities that should be paid from the management fee.

The owner had the right to establish secondary agreements but should have paid the setup fees from ownership funds. For the 1,296 units included in the management agreements, Kier paid itself \$64,800 from property funds for the ineligible setup fees.

### **Kier Believed That HUD Had Approved the Setup Fees**

Kier believed that HUD had approved the secondary management agreements that contained the setup fees. However, a multifamily official stated that HUD was not a party to the additional management agreements and did not approve the fees.

### **The Properties Lost the Full Benefit of the HUD Funds**

The 18 properties lost the benefit of \$64,800 paid for the ineligible setup fees. The funds should have been available to make improvements on the properties and for other items that would improve the residents' living environment.

### **Recommendation**

We recommend that the Director of HUD's Denver Office of Multifamily Housing

- 2A. Require Kier to repay the \$64,800 in setup fees from nonfederal funds.

### Finding 3: Kier Did Not Accurately or Consistently Complete Occupancy Functions

Kier did not always correctly compute subsidies, determine tenant eligibility, or correct deficiencies that existed when it became management agent. This condition occurred because Kier did not effectively communicate its policies and procedures to its site staff. Consequently, HUD paid excess subsidies on at least 13 units.

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#### **Kier Did Not Properly Complete Occupancy Procedures**

Kier did not always correctly compute subsidies or determine tenant eligibility as required by HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs. It also did not always correct deficiencies existing when it became the management agent.

We reviewed five tenant files for each of the eight properties reviewed. Of the 40 files reviewed, we identified 15 deficiencies in 13 tenant files. The problems identified included the following:

Deficiency	Number of occurrences	Impact
Cotenant counted as live-in aide	1	Potential of at least 11 years of unreported income
Income reported but not included in rent calculation	5	Overpayment of subsidies
Indications of unreported income	5	Overpayment of subsidies
Tenant eligibility not properly determined	3	Possibility of subsidies paid for ineligible tenants
Allowance given for which the tenant was not eligible	1	Overpayment of subsidies

(see appendix C for additional information)

Of the 13 tenant files

- three were for tenants that had moved in after Kier became management agent;
- three were existing tenants, but the deficiency occurred in a recertification done during Kier's management;



- six were for existing tenants for which a recertification was done during Kier's management, but the deficiency was not identified; and
- one was an existing tenant for which a recertification was not required between the time Kier became management agent and the end of our audit period.

The most significant deficiency was that a cotenant was inappropriately considered a live-in aide, resulting in the potential of at least 11 years of unreported income for this person and the corresponding overpayment of subsidies.

For five of the tenant files reviewed, we identified reported income that the site manager did not use in the rent calculations. For example, one resident's verification showed wages and tips. The site manager used both for the June 2008 interim recertification. However, for the September 2008 annual recertification, the site manager used only the wages. This error resulted in overpaid subsidies of \$326 per month.

Five tenant files contained indications of unreported income. For example, for the July 2008 move-in, one tenant reported only state assistance. For the 2009 interim recertification, the resident reported only Social Security income. The Social Security verification showed a payment summary for January 2007 through January 2009. There was no verification that the state assistance had been terminated. Therefore, there was the possibility of unreported income for two rent calculations.

Three tenant files contained indications that the residents may have been ineligible for Section 8 assistance. For example, one resident was determined to be ineligible but was allowed to move into the property. This error resulted in an overpayment of more than \$18,000 in subsidies from the August 2006 move-in until the end of our audit period in December 2008.

One resident was given an elderly/disabled allowance although he was 48 years old with no reported disability. This error resulted in a \$10 per month overpayment of subsidies since the October 2008 move-in.

### **Kier Did Not Consistently Communicate Changes to Policies and Procedures**

Kier corporate officials maintained one set of policies for all of their properties, which they posted on their Web site. They frequently made changes to these policies but did not effectively communicate the changes to the site staff. Additionally, Kier Denver regional office employees did not always provide consistent information to site employees. This condition led to site managers at

various properties using different procedures. Site managers said that they were not certain about the policies and procedures, which were constantly changing.

### **HUD Paid Excess Rent Subsidies**

HUD paid excess subsidies for at least 13 units. For some of the units, we were unable to compute the amounts of the overpayments because the tenant files did not contain sufficient information. For example, for one unit, the tenant file did not contain verifications of employment for the cotenant, which was inappropriately considered a live-in aide for at least 11 years.

### **Evaluation of Additional Documents**

After the September 23, 2009, exit conference with Kier officials, they provided a written response and documentation addressing the reported deficiencies. In their written response, Kier officials disagreed with 10 of the 13 units questioned in the report. Their main argument was that they should not be accountable for what happened under the prior management. However, we believe that while they were not responsible for the processes by which the prior recertifications were done, they were responsible for correcting deficiencies existing when Kier became the management agent. We added clarifying information to the finding.

The response to the deficiency noted for one unit was sufficient to resolve the deficiency and we have adjusted the report accordingly. Responses to two other deficiencies indicated they were taking corrective actions. Finally, the responses to the remaining deficiencies did not sufficiently address the issues and we continue to question those deficiencies.

### **Recommendations**

We recommend that the Director of HUD's Denver Office of Multifamily Housing

- 3A. Require Kier to work with HUD to recover the \$19,710 identified above for overpayment of Section 8 housing assistance subsidies.
- 3B. Require Kier to correct the other rent miscalculations identified in the report and recover any additional overpayment of Section 8 housing assistance subsidies that cannot be supported.

- 3C. Require Kier to develop procedures to consistently communicate changes to the policies and procedures to ensure accurate and consistent rent calculations and related occupancy procedures.
- 3D. Provide technical assistance to Kier to ensure that its management and staff comply with the occupancy requirements.

## SCOPE AND METHODOLOGY

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Our review period covered January 1, 2007, through December 31, 2008. We expanded this period as necessary. We performed our on-site review at the Kier regional and corporate offices from February through June 2009.

To accomplish our audit objective, we reviewed Kier and HUD criteria. We selected 8 of 18 properties for review. We selected properties throughout the Denver area that provided a cross-section of property sizes and locations. We reviewed five tenant files from each of eight properties to establish the effectiveness of the occupancy procedures. We selected tenant files that provided a cross-section of the units in each property. The selected sample was not intended to be representative of all properties' units. We visited the eight properties to gain an understanding of the occupancy operations and general physical condition. We reviewed accounting records for all 18 properties maintained by Kier to gain an understanding of the control structure and for indications of inappropriate costs. We interviewed Kier and HUD personnel.

We used computer-generated data and lists only to obtain background information on the entity and the HUD-assisted multifamily properties but did not rely on the data.

The Kier corporate headquarters is located at 3710 Quincy Avenue, Ogden, Utah. The Kier Denver regional office is located at 7950 East Prentice Avenue, Suite 102, Greenwood Village, Colorado.

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. 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 an integral component of an organization's management that provides reasonable assurance that the following controls are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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.

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## Relevant Internal Controls

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

- Controls over recording of property financial transactions.
- Controls over the disbursement of property funds.
- Controls over the occupancy functions.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

## Significant Weaknesses

Based on our review, we believe that the following items are significant weaknesses:

- Kier did not have adequate controls to ensure that only eligible notes payable were recorded in the properties' books (finding 1).
- Kier did not have adequate controls to ensure that property funds were used only for eligible expenses (finding 2).
- Kier did not have adequate controls to ensure correct computations of subsidies or determination of tenant eligibility (finding 3).

**Separate Communication of  
Minor Deficiencies**

Minor internal control and compliance issues were reported to the auditee in a separate memorandum, dated December 18, 2009.

## APPENDIXES

### Appendix A

#### SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A		\$2,050,000
2A	\$64,800	
3A	\$19,710	

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or federal, state, or local policies or regulations. In this instance, Kier received \$64,800 in ineligible setup fees and \$19,710 in overpayment of Section 8 housing assistance subsidies.

2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, the owner paid \$2,050,000 to buy out the prior management agent's contracts. The owner then required Kier to record these costs as notes payable. The buyouts were ineligible costs. The notes payable need to be removed from the books of account to ensure that the properties' funds are not used for ineligible costs and to ensure that the residents realize the benefits that can be provided with these funds.

## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments

**NIXON PEABODY**  
ATTORNEYS AT LAW

401 9th Street N.W.  
Suite 900  
Washington, DC 20004-2128  
(202) 585-8000  
Fax: (202) 535-8089

Richard Michael Price  
Direct Dial: (202) 585-6716  
E-Mail: rprice@nixonpeabody.com

December 1, 2009

Mr. Ronald J. Hosking  
Regional Inspector General for Audit  
U.S. Department of Housing and Urban Development  
Office of Inspector General  
Region 7 Office of HUD Audits  
UMB Plaza  
24th Floor  
1670 Broadway  
Denver, CO 80202-4801

RE: Kier Property Management and Real Estate LLC

Dear Mr. Hosking:

We are special counsel to Kier Property Management and Real Estate LLC ("Kier"), and our client has engaged us to respond to the draft Office of Inspector General audit transmitted to our client by letter dated November 20, 2009.

We appreciate the opportunity to review the draft audit, participate in the exit conference call, and to review additional information with your staff. While we believe this draft of the audit is more accurate than the last, we have comments.

Under the "Background and Objective" section page 4, the draft audit notes that "Kier had direct responsibility for only the six months." However, the draft audit holds Kier accountable for resolving matters that existed before that time, as well as matters more properly addressed to the owner. The draft audit should be substantially revised to understand that a management agent is a lower-tier non-procurement government contractor, and agent of the owner. While the current management agent is responsible for complying with HUD requirements for its own actions, where it discovers past inaccuracies, its only responsibility is to take steps to not continue those inaccuracies, and is not responsible for prior acts by other parties.

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**Comment 1**



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The properties at issue (the "Portfolio") consists of 18 Properties, involving 1,267 units. 17 of these Properties, involving 1,195 units, are located in Colorado and 1, involving 72 units, is located in Wyoming. The permanent mortgage loans on all of the Properties were originally insured under HUD's Section 221(d)(4) mortgage insurance program. All of the Properties are assisted by either under Section 8 New Construction or Substantial Rehabilitation Program Housing Assistance Payments Contracts ("HAPs"). All of the HAPs are known as "old reg" in that they were executed prior to the imposition of distribution limitations under applicable program regulations. See, eg, 24 CFR Parts 880 and 881. Indeed, the HAPs themselves do not even limit distributions to surplus cash and audits were not even historically required by these programs.

In 2003, the current owners applied for and obtained a combination of taxable and tax-exempt bond financing for all but one property from the Colorado Housing Finance Authority ("CHFA"). CHFA refinanced all of the then HUD-insured permanent mortgage loans on the CO Properties and insured their new permanent loans by using HUD-FHA's Risk-Sharing Program. CHFA is also the HAP contract administrator. In 2008, the owners sought to replace Urban, Inc. as management agent and contacted Kier, who on July 1, 2008 contracted with the owners to manage the properties.

## Comment 2

Finding 1 of the draft audit contains a misleading title, that Kier recorded notes payable that did not properly restrict principal payments. Kier's actions were at most ministerial. As the management agent, Kier merely followed instructions. We appreciate this version of the draft audit contains some clarification that Kier recorded notes payable in the properties' books as instructed by the owners' accountant.

It also appears this version of the draft audit notes that the properties could loose benefit of \$2 million, which appears to be more conditional than in the last draft. While we appreciate the concern expressed, it is misplaced. The partners loaned the partnership monies in order to buy-out a contract with Urban, Inc, paid directly to Urban, Inc. This was a transaction unrelated to project operations and not made known to Kier. The accountant did not question the payment in any way other than the owner should more timely notify the management agent of such activity. The funds advanced were not project funds and the properties at no time had access to them. Moreover, to the extent that the obligation to Urban, Inc. may have been a property obligation the advance benefitted the properties by not having to pay those sums.

We appreciate the concerns expressed by your staff about the clarity of the notes, but the owner's representatives and accountant confirmed that the sums advanced by the partners both principal and interest are due to be repaid from surplus cash notes. Only surplus cash and distributable cash are at issue.

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The draft audit's recommendation to require Kier to work with the owner about restricting the notes is misplaced. Kier will cooperate with the owner, its accountant and HUD, but Kier is not a party to the notes in question and has no control over the notes. Kier is merely a contractor for one of the parties at issue. As such Kier has no contractual, legal or other authority in which to implement Finding 1, but will cooperate with those parties that have such authority.

**Comment 3**

In response to Finding 2, we note Kier and the owner of the properties negotiated, for each property, a management agreement as contemplated under HUD Handbook 4381.5 Rev-2. Each management agreement provided at Section 7 for one-time set-up fees of \$50.00 per unit, property management fees at 5% of the property's gross receipts and bookkeeping fees of \$5 per unit per month. The draft audit notes that the owner had the right to establish secondary agreements but should pay set-up fees from ownership funds. Kier had understood HUD had approved the set-up fees, and one-time, specific fees are permissible under HUD Handbook 4381.5 Rev-3, sections 3.6 and 3.7 as either special fees or add on fees. However, the HUD Form 5839-B management certification mistakenly did not provide for the set-up fee. Therefore, Kier will repay the \$64,800 as noted in the draft audit, and will arrange with the owners to repay Kier from surplus cash funds as an additional expense under the management agreements payable from other than project funds. We must state, however, that at no time did the properties at issue lose the benefit of the \$64,800 or were harmed in any way as the draft audit alleges.

**Comment 4**

Finding 3 was revised to more accurately note Kier's limited participation in files that existed before its tenure. We appreciate this recognition, but we believe it would be far more accurate to note that it is not reasonable to assume that Kier had performed a top down review of files as it had only relatively recently assumed management. The appropriate time for a holistic review of tenant income, subsidy and eligibility re-determination is at interim of annual income certification. Appendix C to the draft audit lists 13 files where deficiencies are alleged to exist. Kier reviewed the 13 files and provided your office with a schedule of its analysis and supporting documentation. Kier found that all but one of the files provide proper documentation and there was no excess subsidy payment. One remaining unit received excess subsidies and that resident will be asked to repay \$1,920 for the failure to include child support over 2008-2009. Kier will provide its analysis to the owners and will cooperate with HUD and the owners in their efforts to recover any funds substantiated as overpayment. Kier will change any rent calculations as HUD instructs.

Finding 3 also states that Kier did not consistently communicate changes in policies and procedures to staff. We believe that this finding is based on statements by site employees who used to work for Urban, Inc., and were resistant to or frustrated with a new way of documenting work, which Kier required. Kier provides frequent training for site employees, including monthly training calls, training on the Yardi electronic system, CHFA trainings, regional Assisted Housing Management Association training, and recently held training classes for two days for computer training. Kier also employs regular supervision by regional supervisors as

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well as corporate supervisors. Notwithstanding all of these efforts, Kier will develop further plans to communicate changes to policies and procedures to ensure accurate and consistent rent calculations and related occupancy procedures.

If you have any questions, please call me at 202-585-8716.

Sincerely,



Richard Michael Price

RMP:bg

cc: Ms. Bonnie Kier  
Ms. Monica Filton Sussman

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## OIG Evaluation of Auditee Comments

- Comment 1** The audit report does not hold Kier responsible for the acts of the prior management agent, but it does assert that Kier should have corrected problems created by the prior management agent. In the Property Management Agreement between Kier and the owner for each property, Kier's obligations include renting, leasing, operating, and managing the project in compliance with HUD requirements. Nothing in the Agreement absolved Kier from the responsibility of correcting existing problems. Therefore, it remains our position that Kier should have resolved all existing problems.
- Comment 2** In the Property Management Agreement between Kier and the owner for each property, Kier's obligations included collecting and disbursing all funds and maintaining accurate accounting records in compliance with HUD requirements. The owner gave Kier full authority over the control of funds. Therefore, Kier is responsible to ensure that all disbursements, including the disbursements to the owner to clear notes payable, are in compliance with HUD requirements.
- Comment 3** As stated in Finding 2, the set up fee, as defined in the Property Management Agreement between the Kier and the owner for each property, does not meet the HUD Handbook requirements for special or add on fees. Therefore, the set up fee is not an eligible HUD expense and consequently should not have been included on the form HUD-9839-B Project Owner's/Management Agent's Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents. The accounting records clearly show that Kier received \$64,800 in ineligible fees, so these funds were not available to the properties for operating expenses.
- Comment 4** Finding 3 addresses 13 deficiencies we found in the 40 tenant files we reviewed. We reviewed the additional documentation provided by Kier and still consider these to be valid deficiencies. Kier recognized that site employees were resistant and frustrated, and therefore, should have made more efforts to ensure that all tenant certifications were accurate.

## Appendix C

### SCHEDULE OF OCCUPANCY DEFICIENCIES

Property	Unit number	Deficiency	Impact	Determined amount
Halcyon House	1508	Cotenant as live-in aide. The cotenant was listed as a live-in aide for at least 11 years. He did not meet the live-in aide requirement that he would not live in the unit if he did not provide care.	Potential of at least 11 years of unreported income and overpaid subsidies. His 1999 income was \$12,000. Annual income data were not obtained.	(1)
Hilltop Apts.	L-105	Ineligible tenant. The tenant selection criteria form indicated that the applicant did not have enough points to be eligible. Someone other than the site manager decided that she could move in.	Inappropriate subsidy payments of more than \$18,119 from Sept. 2006 through Dec. 2008.	\$18,199
Hilltop Apts.	L-203	Indications of unreported income. Some Feb. 2008 interim recertification documents showed employment, but others showed zero income. Documents showed change of employment, but employment termination was not verified.	Possible unreported income with the corresponding subsidy overpayments.	(1)
Tiffany Square	4	Indications of unreported income and ineligible tenant. Family composition changed several times with no indication that eligibility was determined when the head of household changed. Income changed from one recertification to the next without adequate documentation of the various changes.	Overpayment of subsidies.	(1)
Tiffany Square	7	Income reported but not used. At the Aug. 15, 2008, move-in, child support was reported by the resident but was not included in the income calculation.	Overpayment of subsidy of \$39 per month. First month prorated overpayment \$21, plus 4 months at \$39 per month = \$177	\$177
Tiffany Square	19	Income reported but not used. Income verification included tips, which were not used in the rent calculation.	Overpaid subsidies were \$1,304 for Sept. 2008 through Dec. 2008.	\$1,304

(1) File data insufficient to determine amount

<b>Property</b>	<b>Unit number</b>	<b>Deficiency</b>	<b>Impact</b>	<b>Determined amount</b>
Tiffany Square	43	Income reported but not used. Different income was reported in each certification/recertification packet. Income termination was not verified. Documentation was insufficient to determine what income should be included in each rent calculation.	Overpayment of subsidies.	(1)
Tiffany Square	51	Income reported but not used. Child support was reported by the resident at move-in, but a dollar amount was not given, and it was not included in the income calculation. One document showed employment income, but there was no documentation to verify this.	Overpayment of subsidies.	(1)
Sheridan Gardens	A206	Indications of unreported income. Supplemental Security Income was deleted from the Sept. 2008 recertification, but there was no explanation for the deletion or verification that the income source had been discontinued. Therefore, there was not sufficient documentation to determine whether the income source had been terminated.	Overpayment of subsidies.	(1)
Park Terrace	A101	Indications of unreported income. At the July 2008 move-in, state assistance was the only income reported. At the Feb. 2009 interim recertification, Social Security was reported. The Social Security statement showed a total for Jan. 2007 through Jan. 2009 but lacked sufficient information to determine how much applied to the occupancy period. The Social Security was used as income but not the state assistance. There was no verification that the state assistance had been terminated.	Potential overpayment of subsidies.	(1)

(1) File data insufficient to determine amount

<b>Property</b>	<b>Unit number</b>	<b>Deficiency</b>	<b>Impact</b>	<b>Determined amount</b>
Park Terrace	B203	Indications of unreported income. A tenant file document showed \$12,000 in income, but it was not shown in any rent calculation or explained. Another document stated that a family member was also listed as a family member for an Adams County Housing Authority unit but did not determine where the family member actually resided.	Potential overpayment for subsidies for income reported but not included in the rent calculation and possible overstatement of family members.	(1)
Park Terrace	DG04	Income reported but not used and potential ineligible resident. The head of household changed without evidence of eligibility determination on new head. Divorce documents showed that the first head started employment in May 2007, but move-in documents showed the head unemployed as of June 2007. Employment termination was not verified. The July 2008 recertification did not include the \$800 per month child support used in other recertifications but did not include verification that the payments had been terminated.	Potential overpayment for subsidies for income reported but not used, potential unreported income, and possible ineligible family members.	(1)
Park Terrace	E102	Inappropriate allowance. An elderly/disabled allowance was given, but the resident was 48 years old and not disabled.	Overpayment of subsidies of \$10 per month since Oct. 2008 for the amount of the allowance.	\$30
Total				\$19,710

(1) File data insufficient to determine amount