



**U. S. Department of Housing and Urban Development**  
Office of Ins. Inspector General for Audit, Region I  
Thomas P. O'Neill, Jr. Federal Building  
10 Causeway Street, Room 370  
Boston, Massachusetts 02222-1092

Phone (617 7 ) 994-8380 Fax (617) 565-6878  
Internet <http://www.hud.gov/offices/oig/>

January 27, 2009  
Audit Memorandum No: 2009-BO-1801

MEMORANDUM FOR: Robert P. Cwieka, Acting Director, Office of Public and Indian Housing, Boston Hub, 1APH

FROM:   
John A. Dvorak, Regional Inspector General for Audit, 1AGA

SUBJECT: Housing Authorities at Bath and Brunswick, Maine, Overpaid Basic Rent and Housing Assistance Payments for Section 8 Tenants in a Subsidized Multifamily Project (Orchard Court)

### **INTRODUCTION**

We performed an audit of the Orchard Court project, a Section 236 multifamily property, located in Bath, Maine. As part of our audit, we reviewed subsidy payments made to Orchard Court from Bath and Brunswick, Maine, Housing Authorities (Authorities). Our objective was to determine whether Section 8 voucher program subsidies paid to Orchard Court from the Authorities were for basic rent,<sup>1</sup> rather than market rent. The Authorities did not always pay basic rents failing to follow applicable U.S. Department of Housing and Urban Development (HUD) requirements in determining Section 8 rental subsidies for the tenants housed at the Orchard Court project.

For each recommendation in the body of the report without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. If you agree with our recommendations, please describe what actions you plan to take to correct the deficiencies. If you disagree, your response should fully explain the reasons for the disagreement. In addition, please furnish us copies of any correspondence or directives issued because of the recommendations.

---

<sup>1</sup> Basic rent is the minimum rent a tenant would pay under the Section 236 HUD-subsidized housing program, and market rent is the rent a property would obtain from any tenant if the rental unit was free of income restrictions and available for leasing.

## **METHODOLOGY AND SCOPE**

Our audit of the Orchard Court project generally covered the period October 1, 2004, through September 30, 2007, and was expanded to cover other periods as needed. From October 1, 2004, through September 30, 2007, the project's financial records coincide with the federal fiscal year.

The Orchard Court project is a landlord common to both the Bath and Brunswick Housing Authorities. We reviewed payments made by the Authorities to the project under four different management agents that managed Orchard Court from October 2004 to February 2008. We reviewed the tenant files at the project, interviewed management agent personnel, and obtained supporting documents from the management agents and from Section 8 voucher program representatives at both the Bath and Brunswick Housing Authorities. We also reviewed applicable laws, regulations, and other requirements relating to control weaknesses and our audit objective.

During our review, we selected sample tenant files from the period October 2004 to February 2008 and reviewed the file documentation and supporting data for new and recertified tenants. The information we developed pertaining to the Bath and Brunswick Housing Authorities was obtained in regard to their overpayment of subsidies for units at Orchard Court. We also interviewed Authority officials regarding their policies and procedures for leasing and compared their statements to the information contained in the project's applicant/tenant files.

Generally accepted government auditing standards<sup>2</sup> were not fully followed for the review of the overpayment of subsidies, since we did not initially plan to review this subject area and our primary audit scope and focus of the assignment was limited to Orchard Court's project administration. Also, we did not communicate with the HUD Office of Public and Indian Housing or with the Authorities in advance of reviewing this area. When we obtained the data from the Authorities on the overpayments made to the project, we did not fully assess the internal control processes of the Authorities as they pertained to these payments. However, the fact that we did not fully comply with the audit standards did not have a material effect on our audit results. The issue of overpayments by the Authorities was reportable but not materially significant.

## **BACKGROUND**

Orchard Court is a scattered-site duplex project with 70 two-bedroom units located in Bath, Maine. One of the units is used as an on-site office. In 1994, HUD provided a flexible subsidy residual receipts loan to the project for \$3.2 million. All of the project's units operate under the provisions of Section 236 of the National Housing Act. For projects assisted under Section 236, HUD provides mortgage insurance and a monthly interest reduction payment subsidy to reduce the effective mortgage interest rate paid by the project to 1 percent. This subsidy helps the owner maintain the rental affordability of the project. In addition to Section 236, the project receives financial assistance for eight units under a rent supplement contract. Several tenants also receive subsidies, as Section 8 voucher holders, from the Bath or Brunswick Housing

---

<sup>2</sup> The specific standards not followed include planning, internal controls and communications.

Authority. Residents of Bath, Maine, can qualify for Section 8 vouchers from either Authority since the Authorities share jurisdiction.

The Section 236 program was established to facilitate the construction and substantial rehabilitation of affordable multifamily rental housing for lower income households. In return for this preferential treatment, Orchard Court agreed to maintain the rental affordability of the project according to program regulations and criteria, which include 24 CFR (*Code of Federal Regulations*) Part 982.

Regulations at 24 CFR 982.521 address Section 8 tenant-based assistance under the Housing Choice Voucher program. Subpart K (Rent to Owner in Subsidized Project) states: “(a) This regulation is applicable to subsidized projects which include tenancy in both insured and non-insured Section 236 projects; and (b) Rent to owner is the subsidized rent as determined in accordance with these regulations.” It is under these regulations that the owner and the management agents of Orchard Court (and all Section 236, 202, 221(d)(3) below market interest rate, and Section 515 projects) agree to lease their units to low-income tenants at the basic rent. Project tenant files and records are located in the offices of the management agent, C&C Realty Management, in Augusta, Maine.

Four different management agents managed the Orchard Court project, from October 2004 to November 2008: Avesta Housing Management Corporation (October 1, 2004-March 31, 2006), Chartwell Management Corporation (April 1, 2006-September 30, 2007), Affordable Housing of New England (October 1, 2007-March 15, 2008), and C and C Realty Management (March 16, 2008-present).

## **RESULTS OF REVIEW**

The audit included a review of a sample of eight tenant files for the Section 236 project; four of the eight were under a project rent supplement, and the remaining four were under the Section 8 program. These four tenants were Section 8 voucher holders from the Bath and Brunswick Housing Authorities. Of these four tenants, three were charged market rent instead of basic rents. As a result, the Authorities overpaid the project when making the subsidy payments for these three tenants. We made this determination from our review of the rent rolls at the Orchard Court project. It had been determined that the tenants were eligible Housing Choice Voucher program participants; however, the payments made by the Authorities were based on the incorrect rent.

The Authorities substantially overpaid Orchard Court for subsidized housing assistance because they were unaware of multifamily program regulations for subsidized projects. Because the Authorities were unaware of the requirements, there was a lack of control in determining rent reasonableness at the time of lease-up of the units and a lack of procedures for obtaining the basic rents established for landlords who have subsidized mortgages through any of the multifamily programs (identified in 24 CFR 982.521K). Regulations at 24 CFR Part 982 limit low-income tenant rents and the Section 8 subsidies paid to the basic rent established for

subsidized multifamily projects. During the period July 2005 to February 2008, these overpayments to Orchard Court totaled \$26,574 from the Bath Housing Authority and \$5,725 from the Brunswick Housing Authority.

In addition, there was a potential weakness in all of the rent reasonableness determinations performed by the Authorities in relation to these subsidy payments. The Authorities did not use basic rents to determine rent reasonableness and calculate subsidy amounts for multifamily developments. The Bath and Brunswick Housing Authorities should obtain from the Orchard Court project and repay their Section 8 program the amount identified as overpayments to project totaling \$32,299 (projected annual cost) from nonfederal funds.<sup>3</sup>

### **RECOMMENDATIONS**

We recommend that the Director of the Office of Public Housing require the Bath and Brunswick Housing Authorities to

- 1A. Recover from the Orchard Court project and reimburse \$32,299 to the Section 8 program from nonfederal funds.
- 1B. Develop and implement controls and procedures to ensure that future subsidy payments made for Section 8 unit leases at multifamily developments do not exceed basic rents authorized under 24 CFR 982.521K.

---

<sup>3</sup> \$26,574 for the Bath Housing Authority and \$5,725 for the Brunswick Housing Authority.

## APPENDIXES

---

### Appendix A

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

---

Recommendation number	Funds to be put to better use <sup>1/</sup>
1A	\$32,299

<sup>1/</sup> 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 subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified.

# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments

Comment 1

Comment 2

 New England	<b>U.S. Department of Housing and Urban Development</b> Office of Public Housing Boston Hub Thomas P. O'Neill, Jr. Federal Building 13 Causeway Street Boston, Massachusetts 02222-1092
JAN 23 2009	
Memorandum For: John A. Dvorak, Regional Inspector General for Audit, IAGTA	
From: Robert P. Cwieka, Deputy Director, Office of Public and Indian Housing, Boston Hub, IAPII	
Subject: Bath/Brunswick Rental Overpayment; Draft Memorandum No: 2008-BO-1802	
This is in response to your revised draft memorandum dated January 15, 2009 that addresses the overpayment of Housing Assistance Payments to a Section 236 Subsidized Multifamily Project (Orchard Court) in Bath, Maine. The following are the actions we plan to take to correct the deficiencies:	
<b>Recommendation 1A:</b> Recover from the Orchard Court project and reimburse \$32,299 to the Section 8 program from nonfederal funds.	
<b>PIH Response:</b> This office concurs with Recommendation 1A.	
<b>Action Planned/Completed:</b> The amount to be recovered, \$32,299 is comprised of the overpayment of \$26,574 by the Bath Housing Authority and \$5,725 by the Brunswick Housing Authority. We will direct both PHAs to create a receivable on their books to collect the amounts due them from Orchard Court. The receivable will be supported by a bilateral written agreement with Orchard Court that will support the receivable on the books of both PHAs. With your assistance and facilitation we have already met with personnel from the Office of Housing who will require that Orchard Court make restitution upon reaching the financial capability to do so. Based on the attached letters, directing both PHAs to create a receivable and collect the excess payments from Orchard Court, we request final action on this recommendation.	
Phone: (617) 994-8400    www.hud.gov    eportal.hud.gov    Fax: (617) 565-7305	

# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

---

### Ref to OIG Evaluation

### Auditee Comments

### Comment 2

Recommendation 1B:

Develop and implement controls and procedures to ensure that future subsidy payments made for Section 8 unit leases at multifamily developments do not exceed basic rents authorized under 24 CFR 982.521.

PHH Response:

This office concurs with Recommendation 1B.

Action Planned/Completed:

We will require that the Bath and Brunswick PHAs implement controls and procedures to ensure that future payments made for Section 8 units at multifamily developments do not exceed the basic rents authorized under 24 CFR 982.521. Additionally, we will publish an advisory letter to all PHAs in our region advising them of the proper procedures to calculate rents to owners of subsidized projects that are covered under 24 CFR 982.521. Based on our proposed actions and the attached letters, directing the PHAs to implement controls and procedures to ensure the accuracy of future subsidy payments, we request final action on this recommendation.

Should you have any questions or require further information regarding this memo, please Contact Alan Ramos at (617) 994-8439.

Attachments

# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments



New England

**U.S. Department of Housing and Urban Development**  
Office of Public Housing  
Boston, MA  
Thomas P. O'Neill, Jr. Federal Building  
10 Chesebrough Street  
Boston, Massachusetts 02222-1092

RECEIVED  
OFFICE OF PUBLIC HOUSING  
BOSTON, MASSACHUSETTS  
JAN 22 PM 3:20

Ms. Joanne Marco  
Executive Director  
Bath Housing Authority  
80 Congress Avenue  
Bath, ME 04530

JAN 22 2009

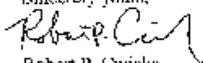
Dear Ms. Marco:

This letter is in connection with an Audit Memorandum Report that was issued on January 15, 2009 by the HUD Office of Inspector General. The Report was the result of an audit that was done at Orchard Court, a Section 236 project which revealed the overpayment of \$26,574 in Section 8 program funds by the Bath Housing Authority (BHA). The overpayment resulted because the BHA paid market rents as opposed to basic rents that should have been charged. The report has two recommendations that we have concurred with that require corrective actions. The Findings and the corrective actions are as follows:

**Finding 1A:** Requires that the BHA recover from Orchard Court \$26,574 in program funds that were inaccurately paid to Orchard Court. The BHA must create an account receivable (supported by a bilateral written agreement) from Orchard Court and when Orchard Court has the capability to make the payment, the BHA must return the funds for use as program funds to assist its Section 8 tenants. The BHA must also send a letter to Orchard Court advising them of the amount owed to the BHA and requesting the funds. We request that you send our office a copy of your correspondence to Orchard Court as supporting documentation of the actions you have taken to collect excess Section 8 payments within 30 days from the date of this letter.

**Finding 1B:** Requires that the BHA implement controls and procedures to ensure that future subsidy payments made for Section 8 unit leases at other subsidized developments do not exceed basic rents authorized under 24 CFR 982.521. Our office requests that you create controls and procedures to prevent any future Section 8 overpayments. Please send this office a copy of your procedures within 30 days from the date of this letter. If the procedures require board approval, please send this office a copy of the board resolution that implements the new policy.

Should you have any questions or need further clarification regarding this letter, please contact Al Ramos at (617) 994-5439.

Sincerely yours,  
  
Robert P. Cwajka  
Deputy Director

---

Phone: (617) 994-8400    www.hud.gov    eportal.hud.gov    Fax: (617) 994-7305

# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments



New England

**U.S. Department of Housing and Urban Development**  
Office of Public Housing  
Boston Mail  
Thomas P. O'Neill, Jr. Federal Building  
10 Causeway Street  
Boston, Massachusetts 02223-1092

JAN 22 2009  
MAIL ROOM  
RECEIVED  
2009 JAN 22 PM 4:28

Ms. John A. Dodge  
Executive Director  
Brunswick Housing Authority  
12 Stone Street  
Brunswick, ME 04011

JAN 22 2009

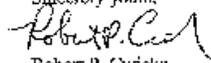
Dear Mr. Dodge:

This letter is in connection with an Audit Memorandum Report that was issued on January 15, 2009 by the HUD Office of Inspector General. The Report was the result of an audit that was done at Orchard Court, a Section 236 project located in Bath, Maine. The audit revealed the overpayment of \$5,725 in Section 8 program funds by the Brunswick Housing Authority (BHA). The overpayment resulted because the BHA paid market rents as opposed to basic rents that should have been charged. The report has two recommendations that we have concurred with that require corrective actions. The findings and the corrective actions are as follows:

**Finding 1A:** Requires that the BHA recover from Orchard Court \$5,725 in program funds that were inaccurately paid to Orchard Court. The BHA must create an account receivable (supported by a bilateral written agreement) from Orchard Court and when Orchard Court has the capability to make the payment, the BHA must return the funds for use as program funds to assist its Section 8 tenants. The BHA must also send a letter to Orchard Court advising them of the amount owed to the BHA and requesting the funds. We request that you send our office a copy of your correspondence to Orchard Court as supporting documentation of the actions you have taken to collect excess Section 8 payments within 30 days from the date of this letter.

**Finding 1B:** Requires that the BHA implement controls and procedures to ensure that future subsidy payments made for Section 8 unit leases at other subsidized developments do not exceed basic rents authorized under 24 CFR 982.521. Our office requests that you create controls and procedures to prevent any future Section 8 overpayments. Please send this office a copy of your procedures within 30 days from the date of this letter. If the procedures require board approval, please send this office a copy of the board resolution that implements the new policy.

Should you have any questions or need further clarification regarding this letter, please contact Al Ramos at (617) 994-8439.

Sincerely yours,  
  
Robert P. Cwicka  
Deputy Director

---

Phone (617) 994-8400    www.hud.gov    eopanel@hud.gov    Fax (617) 994-6366

## **OIG Evaluation of Auditee Comments**

- Comment 1** The HUD-PIH response to the OIG Draft Memo dated January 15, 2009 identified the memorandum number as 2008-BO-1802. This memo number changed to 2009-BO-1801 on the final memorandum report.
- Comment 2** The planned actions satisfy the recommendations. The final action target dates for the first recommendation will be recorded when the HUD's Office of Housing and the Office of Public and Indian Housing reach an agreement on when the Orchard Court project can make restitution. Also, the closure of the second recommendation will occur when the Office of Public and Indian Housing has published the advisory letter to all public housing authorities in the Region.