

**How Not to Create Affordable Housing:
A Cautionary Tale About
Disappointed Homeowners and
Lost Taxpayer Dollars**

April 27, 2018

Audit Team:

Charles Babcock, ODCA Journalist-in-Residence

A Report by the Office of the District of Columbia Auditor
Kathleen Patterson, District of Columbia Auditor

Background

Evelyn Cavness said she was so impressed by the new Woodson Heights condominium units she visited in the summer of 2008 that she made a down payment on the spot for a two-bedroom apartment, becoming the second buyer in the development in Southeast D.C.

“That was a big mistake,” she says now, citing her disappointment in rising condo fees and a lack of maintenance. On top of that, Cavness said she couldn’t refinance her mortgage in 2017 to buy new appliances and carpeting because of low property values in the development. At that time,

the assessed value of her apartment at 300 50th St. SE, for which she paid \$174,500, was just under \$100,000. In nine years, Cavness’s property lost \$74,500 in value.



Cavness is not alone. Many other Woodson Heights owners have had similar experiences in that their 2018 proposed assessed values are lower than their purchase prices. And some have had problems paying condominium fees and making payments on subsidized District loans that helped them become homeowners in the first place.

The Woodson Heights Project and AmeriDream Amber Overlook, LLC

In 2006, the D.C. Department of Housing and Community Development (DHCD) helped finance an affordable housing development in Ward 7 that became known as Woodson Heights. The goal was to help low- and moderate-income individuals buy condominiums and townhouses. The project had three phases and ultimately was to have 106 units; 80 of them would be designated as affordable.

Phase One of the plan was to renovate apartment buildings adjacent to 50th Street, SE, and structure them as condos. One building was at 300 50th Street, SE, on the corner of C Street, SE. The other was 5000 Call Place, SE, on the corner of Call Place.



Phase Two was to build new buildings across 50th Street, SE, containing townhouses and more apartment units. That part of the project was to be bordered by 50th Street, Call Street, C Street, and St. Louis Avenue, SE. Ultimately, there would be a Phase Three, during which more units would be built.

The financial plan was to provide assistance to low- and moderate-income, first-time buyers. The developer, AmeriDream, Inc., a 501(c)(3) established in 1999, set up a limited liability company (LLC) in 2002, called AmeriDream Amber Overlook, LLC, (AmeriDream) to build affordable housing in what became the Woodson Heights development. AmeriDream was to receive a combination of grants and loans from the federal and District governments to build and renovate the

buildings in the Woodson Heights development, so that the ultimate purchase prices of the apartments and townhouses would be affordable. The project began in 2006 and properties began selling in 2008.

AmeriDream finished renovating the first two apartment buildings at Woodson Heights, at 300 50th Pl. SE, and 5000 Call Pl. SE, and received District Certificates of Occupancy in April 2008. Mia Garrett bought the first unit, a \$178,000 apartment at 300 50th Street, SE, in July 2008. Ms. Cavness bought her apartment, one floor below Garrett, three weeks later. AmeriDream sold seven of the 30 apartment units in 2008 in the two buildings, the last in October 2008 just as housing prices were crashing in the Great Recession, which lasted from December 2007 to June 2009. It was more than a year before another sale was made at Woodson Heights.

District tax dollars in the project—invested and lost

AmeriDream, the developer the District picked in July 2006 to build the Woodson Heights project, never finished the job. The concrete slab on Call Place, SE, next to the apartment building at 4950 Call Place, SE, that was to be the foundation of one of the buildings, was poured in 2008. It is still there, as is the chain-link fence beside the vacant lots along St. Louis Ave., constant reminders for residents of the failure of the developer to finish the development.

At the time, AmeriDream had offices in suburban Maryland and operated nationally. Its main business was getting fees from sellers and builders for providing “down payment assistance” to homebuyers so they could



The Call Street slab: a monument to failure

qualify for federal loan guarantees. An analysis of AmeriDream’s revenues over the years of the Woodson Heights development project shows that building affordable housing was a sideline in that most of its funds came from its down-payment assistance program.

In 2002, AmeriDream beefed up that sideline and began buying property in the District for the Woodson Heights development. In 2003, it made a proposal to DHCD seeking financing.

In 2006, the District awarded AmeriDream a \$1.2 million interest-free loan from its Housing Production Trust Fund (HPTF) and \$6.8 million in federal housing

money. AmeriDream, however, finished only 74 units, and sold just 52 before breaching and defaulting on \$2.8 million of the taxpayer funding in late 2011.

DHCD emails from before the contract was signed in July 2006 show that the agency was trying to find more federal money to fund the AmeriDream project. Jalal Greene, who was the director of DHCD in 2006, told ODCA, “At the time my job was not to kill the deal, but to get the best deal possible.”

Years later, AmeriDream blamed “circumstances beyond its control—namely the collapse of the housing market and the worst recession in the United States since the Great Depression,” according to the Forbearance and Property Transfer Agreement it signed with the District in early 2013.

That document didn't mention that the nonprofit's chief source of revenue--fees from seller-financed down-payment assistance for loans backed by the Federal Housing Administration--was outlawed by the FHA Modernization Act of 2008 (part of the larger Housing and Economic Recovery Act of 2008), a federal housing law enacted in 2008.

AmeriDream's revenues, almost all from home sellers' fees, hit a record \$384 million in 2008. Those sellers' fees, and accordingly, AmeriDream's revenue, collapsed to just \$1 million in 2009.

District officials negotiated the Forbearance and Property Transfer Agreement in 2012-2013 and that document in essence was a settlement that let AmeriDream Amber Overlook LLC walk away from its government debt on Woodson Heights in return for the empty lots. The District dipped into the HPTF once again in May 2012, this time to repay the \$2,478,412 share of federal grant money the U.S. Department of Housing and Urban Development (HUD) demanded to cover the unbuilt and unsold units. This action released AmeriDream of its obligation to repay HUD. (For more information on HPTF funds being used to repay HUD, see the ODCA report, [Stronger Management of the Housing Production Trust Fund Could Build More Affordable Housing.](#))

In January 2018, DHCD proposed giving a new developer another \$5,588,431 from the HPTF "to finance the construction hard and soft costs associated with the development of 32 units of affordable housing located at 304 St. Louis Street, 320 St. Louis Street, 4915 C Street and 4920 Call Place in S.E., Washington, D.C. in Ward 7." The loan agreement was submitted to the Council by the Mayor and approved.

This new financing comes to \$174,638 per unit, more than 11 times the \$15,000 per unit in the original 2006 HPTF loan agreement, during a period in which the cost of living rose 22 percent. So, in an extreme case of paying twice for the same thing, the District is now paying millions more to a new developer to build buildings AmeriDream should have completed, bringing the District's total investment in the Woodson Heights development from the HPTF to \$6,788,431.

What happened?

A review of the District's oversight of the Woodson Heights development reveals a series of missteps and unnoticed or unheeded warning signs. DHCD has not responded to an ODCA request made in February 2017 for any records that constitute a due diligence policy in effect in 2006 and documentation of steps taken to vet AmeriDream. An ODCA search of the DHCD case file of documents on the project found no paperwork showing that District officials researched AmeriDream's background, its finances, or whether it had the experience to build a 106-unit project.

"It was a pretty ambitious development for an inexperienced developer," said Greene, who signed off on the initial 2006 loan and grant as DHCD Director.

AmeriDream's point person on the Woodson Heights development project was Executive Vice President Robert Newman, who had served as director of the D.C. Department of Parks and Recreation in the administration of Mayor Anthony Williams.

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According to the project files, the District did not seem to be aware of some warning signs that existed at the time, including:

- AmeriDream said in its publicly available 2002 and 2003 tax returns it was conducting an “excess benefits” investigation to determine if company officials had profited from transactions with AmeriDream.
- In 2005 and 2006, federal housing officials, the U.S. Government Accountability Office (GAO), and the Internal Revenue Service (IRS) were questioning the validity of AmeriDream’s main business, the fees from home sellers and builders for “down payment assistance.”

Instead of vetting AmeriDream to be sure that it would be able to complete the project, DHCD seemed focused on financing the project. DCHD officials, for example, contacted AmeriDream a number of times in 2004 and 2005 to obtain more details about the financing arrangements and construction costs. In particular, DHCD was concerned about a large increase in expected construction costs and why acquisition costs once listed at \$3.4 million were up to \$4.7 million.

Drafts of documents from 2005 show a proposed District loan of \$775,000 from the HPTF and a \$1.8 million federal loan, much less than the ultimate \$8 million total, from local and federal sources.

Another 2005 draft document shows the District was demanding that AmeriDream sign a “Corporate Guarantee” in case AmeriDream couldn’t repay the HPTF loan. There was no corporate guarantee, though, in the final loan agreement. The next year, the deed of trust accompanying a \$7.5 million loan from Provident Bank of Baltimore to AmeriDream said that the bank loan “is guaranteed by” AmeriDream Inc. This means that Provident Bank obtained a guarantee while the District failed to do so.

Down payment assistance programs go down the tubes

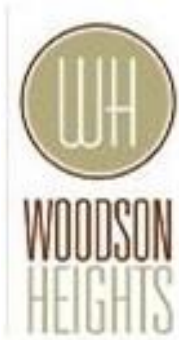
During the same period, the down payment assistance industry faced criticism from federal agencies. In November 2005, a GAO report found that almost half of the homes purchased with Federal Housing Administration (FHA) insurance in 2004 used down payment assistance, and that those loans had higher delinquency and claim rates than similar loans without assistance. In addition, the “GAO analysis indicated that FHA-insured homes bought with seller-funded nonprofit assistance were appraised at and sold for about 2 to 3 percent more than comparable homes bought without such assistance.”

A few months before the District government signed the loan agreement with AmeriDream in July 2006, AmeriDream faced a potential challenge to its chief business. That May, the IRS issued a press release with a headline saying the agency was targeting down payment assistance “scams.” The release went on to say that the “IRS has found that organizations claiming to be charities are being used to funnel down-payment-assistance from sellers to buyers through self-serving, circular-financing arrangements,” adding that the IRS “is examining 185 organizations that operate down-payment-assistance programs.”

Instead of vetting AmeriDream to be sure that it would be able to complete the project, DHCD seemed focused on financing the project.

An accompanying revenue-ruling said a nonprofit that engages in down payment assistance activities doesn't qualify as a charity because "it relies on sellers and other real-estate related businesses that stand to benefit from the transactions."

AmeriDream's CEO Ann Ashburn led an alliance of nonprofits criticizing "the negative impact" of the IRS ruling and urging it be suspended to give the public a chance to comment. Despite this, the District did not seem to be aware of or consider taking any action regarding IRS concerns about the source of AmeriDream's down payment assistance funding. An ODCA review of DHCD's paper files on the AmeriDream/Woodson Heights development uncovered no documents on the subject.



Instead, the District provided AmeriDream a total of \$8 million in District and HUD funding in the summer of 2006.

While AmeriDream's LLC was completing work on the first two Woodson Heights buildings in 2008, it had other urgent concerns. The parent nonprofit was in the midst of a record financial year but was also facing the loss of its main source of income.

The same month Garrett and Cavness bought the first two Woodson Heights units, the new federal housing law banning seller-financed down payment assistance was passed.

In 2008 and 2009, while still working on Woodson Heights, AmeriDream spent \$400,000 and \$360,000, respectively, on lobbying, a jump from its previous high of about \$250,000 and average of \$100,000 per year. It also issued press releases urging that seller-financed down payments be reauthorized.

Carol Parker-Perez, who was AmeriDream's chief financial officer, said in an interview with ODCA that an IRS audit of AmeriDream was still going on when she left in 2008. "I think they dropped it when HUD regulated them [seller-financed Down Payment Assistance (DPA) charities] out of business," she said.

In fact, in response to a 2009 DHCD request for updated financial information, AmeriDream sent the District a 2009 audit conducted by BDO Seidman. The audit of the nonprofit's 2007 and 2008 financial statements disclosed that AmeriDream's Form 990—the informational federal tax forms filed by most non-profit organizations and publicly available on request—for the year 2000 and later are "currently under examination by the IRS."

Executive salaries grew while financial troubles brewed

In 2008, AmeriDream reported record revenue of \$384 million, more than double any other year, and again almost all from fees from home sellers and builders. It made nearly \$12 million in payments that year to affiliates and reported year-end cash at \$9.6 million. In addition, AmeriDream and its affiliates rewarded Ashburn and Newman with \$50,000 bonuses that year, on top of their respective salaries of \$294,612 and \$278,562.

Meanwhile, AmeriDream completed the second phase of Woodson Heights during 2009, making 36 more units available for sale. AmeriDream sold twelve units at Woodson Heights in 2009, all in the last five weeks of the year.

AmeriDream reported on its tax return that its 2009 revenue plunged to about \$1 million. Still it transferred another \$1.9 million in payments to affiliates and spent about 98 percent of its \$9.6 million in cash.

The charity's executives, though, fared well in terms of compensation that year. AmeriDream paid Ashburn \$469,445, including a bonus of \$218,000. An affiliate paid Newman \$436,349, including a \$202,200 bonus.

Newman wrote the Woodson Heights general contractor a letter dated January 26, 2009, saying "as you have known since last summer," AmeriDream is unable to proceed with the third phase of the project "based on matters of financing until sales pick up in Phases One and Two." The letter references previous discussions about this in late November and early December.

It is unclear when Newman told DHCD about this change of plans, though, and DHCD was proceeding with business as usual. Emails among District personnel in April and October 2009 refer to funding for the project as well as a Woodson Heights ribbon cutting ceremony.

Despite the recession, sales boomed at Woodson Heights in 2010, with 26 new buyers joining the Woodson Heights development. That year, AmeriDream reported no revenue from its banned down payment assistance program, but did report nearly \$1.8 million in government grants and \$6.3 million from the sale of unidentified assets. It reported a loss of \$1.5 million on those unidentified sales, reducing its overall revenue to \$265,436. AmeriDream's executives continued to prosper. The nonprofit reported paying Ashburn and Newman \$303,610 and \$287,387, respectively, in 2010.

Overall, AmeriDream and its affiliates paid Newman more than \$2.3 million in salary and bonuses between 2003 and 2011, according to the nonprofits' publicly available tax returns. It paid Ashburn, the charity's chief executive officer, more than \$2.8 million. She received more than \$1 million of that in the last three years, even as AmeriDream's revenue dropped dramatically and it defaulted on its District contract to build the Woodson Heights development.

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AmeriDream's default, material breach and other problems

In November of 2011, DHCD sent AmeriDream a letter that it was in material breach of the HPTF loan and in default and material failure of the federally-funded HOME grant because it had completed only 74 of the required 80 affordable units.

In a follow-up letter to AmeriDream in February 2012, DHCD said that AmeriDream had to pay back \$2,480,159 of the \$6.837 million federal grant. Three days later, the District's loan servicer sent AmeriDream a letter asking for another \$435,000 to cover the subsidy from the HPTF on all 29 units that remained either unbuilt or unsold.



Email exchanges among District officials make clear that at this late date in the project attorneys, at least, were aware of the shortcomings in the original loan agreement including the lack of construction deadlines and guarantees of repayment. The two sides discussed a forbearance agreement designed to head off foreclosure. It was signed in February 2013, with an effective date retroactive to Aug. 15, 2012.

As part of the agreement, AmeriDream turned four lots back to the city from the unbuilt Phase III of the Woodson Heights Development. They were valued at a total of \$533,000. The document also gave AmeriDream and AmeriDream Amber Overlook LLC two years to sell

the remaining Woodson Heights units. The companies collected \$3.1 million from those sales.

Nathan Simms, DHCD's chief program officer in 2013, said that AmeriDream was allowed to keep the money from those sales in part because AmeriDream still owed the bank money; he said he didn't recall how much. Property records show that AmeriDream LLC sold more than \$14 million in condominium apartments and townhouses at Woodson Heights through 2013. Provident Bank signed a Certification of Release for multiple properties in August 2013 saying that the 2006 loan for \$7.5 million was fully paid and the mortgage/deed of trust was released.

Newman said in a brief telephone interview on November 8, 2017, that he had left the company before AmeriDream made \$2.8 million in sales in 2013, but deeds for the Woodson Heights properties sold in 2013 show that Newman signed the documents on behalf of AmeriDream Amber Overlook, LLC. Newman didn't respond to a December 2017 ODCA email request asking for a further explanation for the salary and bonuses that included large payments after AmeriDream lost its main funding source. Ashburn could not be reached for comment.

AmeriDream's demise

AmeriDream dissolved its corporate charter in Maryland in October 2014. The document said the corporation "has no known creditors."

It reported nearly \$5.3 million in liabilities on its tax return for 2011, the last one it filed, including \$4,758,462 for "DHCD Grant/Loan." It reported \$8.8 million in assets, almost all in real estate.

That 2011 filing did not include an indication that this would be the last filing and did not include a required IRS schedule designed to disclose how a terminated nonprofit disposed of its assets. And because AmeriDream didn't file any subsequent returns, it didn't disclose what happened to the \$3.1 million it received for Woodson Heights sales under the Forbearance Agreement in late 2012 and 2013.

In early 2016, the IRS published a list of revocations, which showed that AmeriDream's tax exemption had been revoked, with an effective date of February 5, 1999. In April 2017, the IRS filed a \$14 million tax lien against AmeriDream covering the tax years 2000, 2001, and 2008.

Jaime Brown, the Woodson Heights condominium association vice president, said the board recently learned that two units AmeriDream transferred to the association as community rooms were sold last summer at a tax sale, in part “because Newman hadn’t been paying property taxes.”

Plummeting property values and owners’ financial difficulties

As AmeriDream struggled to complete Woodson Heights in the face of the recession and the loss of its main revenue stream, some of the new homeowners were facing financial challenges of their own.

The D.C. Office of Tax and Revenue’s proposed assessment records for 2018 show that all but two of the buyers who purchased their properties between 2008 and 2011, including Cavness, have a 2018 proposed total assessed value that is less than their purchase price.

Of the 74 people who purchased a Woodson Heights property between July 2008 and October 2013, the property values of 48 of them, or 65%, went down between the time of purchase and the time of OTR’s 2018 proposed assessed value.

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In addition, a total of 25 owners, more than one-third of those who purchased apartments and townhouses in the Woodson Heights development, have had documented financial difficulties, including:

- 4 bankruptcies.
- 18 condo liens.
- 13 District of Columbia Home Purchase Assistance Program (HPAP) loan delinquencies.

The District’s HPAP loans provide down payment and closing cost help to District homebuyers. Of the 74 owners who purchased an apartment or townhouse in the Woodson Heights development between July 2008 and October 2013, 42 received HPAP loans. These loans varied in amounts, but generally were obtained on or close to the sale date. The 42 HPAP loans totaled more than \$1.5 million. Thirteen owners who had received a total of just over \$500,000 in HPAP loans from the District, were listed as delinquent in late 2016. Four Woodson Heights owners filed for bankruptcy protection between 2014 and 2016.

In addition, the condominium association filed liens against 18 owners for failing to pay monthly condo fees, and on Jan. 31, 2018, it filed notice of a “foreclosure sale” against an owner who owed more than \$17,500 in unpaid and late assessments, along with attorney’s fees, interest and collection costs.

These factors mean that after receiving assistance to purchase their properties, these owners have had trouble paying the ongoing monthly condominium fees or making on-time payments on the interest-free HPAP loans they received.

In early 2012, *The Washington Post* reported that the delinquency rate among HPAP loans was 18 percent—three times higher than the overall rate in the region.

That May, a DHCD presentation prepared for a meeting with the Deputy Mayor for Planning and Economic Development cited the HPAP loan program's high delinquency rate, high administrative and counseling costs, and a lack of program monitoring. Since then, the District has renewed the grant to run the program.

During the summer of 2014, DCHD sought proposals for a new developer to complete the Woodson Heights project, and selected one in March of 2015. The "conditional letter of commitment" from DHCD to the borrower was accepted on November 7, 2017. This January the proposed new contract was submitted to the Council for approval – including a \$5,588,431 loan from the HPTF to a new Amber Overlook LLC, described as a joint venture between Horizon Hill Ventures LLC and Century Associates.

The DHCD loan would be used "to finance the construction hard and soft costs associated with the development of 32 units of affordable housing" at the S.E. location. According to the Council contract summary, "the project is consistent with the Department's goal of increasing affordable housing, especially among low-to-moderate income residents and preserving existing affordable housing." The draft loan agreement provided to ODCA this month describes the borrower's agreement "to develop the Property into 32 for sale housing units for occupancy by households with incomes at or below 80% of Area Median Income." The loan, with zero per cent interest, is due for repayment in 48 months," with the affordability requirement required to be adhered to for 15 years.

Unlike the original Amber Overlook project, the new project also includes in the draft loan agreement the provision that "the construction contract shall also stipulate a date, acceptable to Lender, for the completion of the Project." According to DHCD's Property Acquisition and Disposition Division database the project will be completed by the second quarter of 2019.

ODCA Recommendations

1. District leaders should implement a transparent, online, and searchable selection process of developers receiving HPTF loans, including making public the evaluation scores of those entities submitting proposals for development projects.
2. DHCD should use a standard loan agreement that includes requirements for completion dates, and provides for reviews of audited financial statements.
3. The District should consider demanding corporate guarantees from the many entities, including limited liability companies and nonprofits that do business with the District.
4. District officials should do more to counsel and assist new homeowners in making and meeting budgets so they can maintain their investment and make timely repayments to District loan programs.

Conclusion

Based on ODCA’s extensive research and analysis, the District government’s failure to adequately manage the Woodson Heights project between 2006 and 2013—encompassing the Williams, Fenty, and Gray administrations—resulted in wasted taxpayer dollars and failure to meet the clear objectives of providing affordable housing to lower-income District residents. That failure began with the lack of due diligence in vetting the developer and carried through the lack of monitoring the project’s progress and paying the developer for work that was never completed

In the comments that follow, DHCD makes clear the agency’s intent to complete what they refer to as the “long-stalled project.” The response notes, “DHCD expects to close and transfer the property to the new partner in the next 30 days. This will advance a long-stalled project into new affordable homeownership opportunities for residents of the District of Columbia.”

Agency Comments

On March 15, 2018, we sent a draft copy of this report to DHCD for review and written comment. DHCD responded with comments on April 6, 2018. Agency comments are included below in their entirety, followed by ODCA's response.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT



April 6, 2018

Ms. Kathleen Patterson, Auditor
Office of the District of Columbia Auditor
717 14th St, N.W., Suite 900
Washington, DC 20005

Re: DHCD Response to draft report entitled "How Not to Create Affordable Housing: A Cautionary Tale about Disappointed Homeowners and Lost Taxpayer Dollars"

Dear Ms. Patterson,

The Department of Housing and Community Development ("DHCD") is in receipt of the draft letter report from the **Office of the District of Columbia Auditor ("ODCA")** entitled "How Not to Create Affordable Housing: A Cautionary Tale about Disappointed Homeowners and Lost Taxpayer Dollars". Attached is DHCD response to each specific recommendation.

Since January 1, 2015, DHCD has been focused on transforming the infrastructure of the Department to ensure efficient program delivery, excellent customer service, improve transparency to the stakeholders and community, and create pathways to the middle class for the District. DHCD embarked on this transformation immediately upon Mayor Bowser appointing me as the Director of DHCD. I have challenged the senior leadership, the managers and the team at DHCD to meet and/or exceed our expectations and to be laser focused on delivering services more efficiently and effectively.

During the last three years, DHCD advanced the use of automation to improve our transparency to the stakeholders and the community. Specifically related to this draft report, DHCD created a new, online database for the Property Acquisition and Disposition Division (PADD). The online database launched in the 1st quarter of FY18 and provides the public with real time information about the disposition of the properties in PADD inventory. In addition, the database provides the address, square and lot, ward and photo of the site. This new, online database will improve the transparency of how DHCD is transforming vacant and blighted properties into affordable housing, workforce homeownership and/or conservation efforts.

In addition and as you may know, in December 2017, Mayor Bowser and DHCD launched a new initiative called Vacant to Vibrant DC that included an online auction that was available to the public to bid on the properties. Each of the sites that will be disposed of via the auction will be required to meet affordable

housing covenants for families at 80-120% Area Median Income (AMI). In addition, all of sites that will be disposed via the Vacant to Vibrant DC initiative, including the sites sold by the auction will comply with the statute that requires a public hearing and a 60 day Council passive approval period. Additional Vacant to Vibrant DC efforts include the renovation of homes with Certified Business Enterprises (CBE), partnership with the DC Housing Finance Agency Housing Investment Platform program, conservation and a tiny house demonstration project.

In addition to the Vacant to Vibrant DC initiative, DHCD also disposes of sites by solicitation. Solicitations are now administered electronically through an online application portal. The online application portal helped enhance the infrastructure needed to ensure that applicants and applications were compliant with all laws and regulations during the review process and that the applicants were also "good actors". Having a more rigorous application protocol assists DHCD in ensuring the compliance of the applicant and the application on the front end. Upon selection, DHCD will then manage short and long term compliance that will ensure that the asset is transformed into productive use and properly redeveloped, as required by the laws and regulations.

Specifically related to the project referenced in the draft report, upon review and acknowledgement that a portion of the site was not going to be transformed into affordable housing as planned, DHCD took action. DHCD did not let the market conditions impact the progress of the site nor did DHCD allow a partner that could not complete the project to hold onto the DHCD asset, but rather had the property returned to DHCD, as allowable under the agreement, laws and regulations. As a note, the original partner to DHCD, Ameridream completed the construction of 74 affordable housing units, prior to the remainder of the site being returned to DHCD.

Upon DHCD resuming ownership of a portion of the site, DHCD released a solicitation to competitively select a new development partner. Today, DHCD is advancing the redevelopment of the site into 32 new, affordable homeownership for families in the Marshall Heights neighborhood with a partner selected under competitive solicitation, Horizon Hill Ventures, LLC and Century Associates. Upon completion of construction, the new homes will be sold at approximate sales prices between \$138,000 - \$301,000 and assist families at 50% and 80% AMI. DHCD expects to close and transfer the property to the new partner in the next 30 days. This will advance a long stalled project into new affordable homeownership opportunities for residents of the District of Columbia.

Finally, DHCD funds nonprofit housing counseling agencies who guide future and potential homeowners through the purchasing process. Our partner network provides counseling services and training to tenants, potential homeowners, and current homeowners. Specific topics include foreclosure prevention or mitigation, credit counseling, home/budget management, homebuyers clubs and relocation, applying for program assistance, managing the home purchase process, homeowner training, apartment locating, and other services that assist residents with housing needs. DHCD requires all homebuyers who participate in homeownership programs administered by DHCD to receive housing counseling from certified housing counseling agencies to ensure that we are aiding the families as they decide to invest upon their future by purchasing their first home.

In conclusion, DHCD prides itself on advancing the transformation of vacant and blighted properties into productive use. Furthermore, DHCD has taken action to improve the infrastructure of the Department to become more transparent and compliant with the laws and regulations that govern PADD and other programs/services administered by DHCD. Were the project bid competitively and transparently as projects are today, and were prospective buyers counseled as they are today, the problems identified in how Amber Overlook was handled during 2008-2012 timeframe likely would not have occurred. To be fair as well, the cataclysmic 2008 recession negatively impacted not only our partners on Amber Overlook and prospective buyers, but the entire real estate and financing markets across the country. The recession in 2008 caused devastating financial losses for market players, nonprofits and individuals nationally and the losses could have only partially been avoided through better contracting and management practices, as suggested in the report. DHCD appreciates the review of its operations and will continue to improve our transparency to the stakeholders and the community.

Please do not hesitate to contact Allison Ladd, Deputy Director, at 202-316-7583 if you have questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Polly Donaldson', written over a white background.

Polly Donaldson
Director

cc: Allison Ladd, Deputy Director, DHCD
Betsy Cavendish, Mayor's General Counsel
Brian Kenner, Deputy Mayor, Planning and Economic Development

DHCD Response to ODCA Recommendations – April 6, 2018

RECOMMENDATION # 1:

District leaders should implement a transparent, online, and searchable selection process of developers receiving HPTF loans, including making public the evaluation scores of those entities submitting proposals for development projects.

DHCD RESPONSE:

On DHCD's website, DHCD has a real time, public database of projects financed by DHCD and by the HPTF. The database includes information about projects under construction, completed, pipeline and 9% LIHTC projects. The public dashboard contains information by project name and project address including but not limited to developer, funding source, amount of funding, number of units, units by affordability, type of project, and a map. In addition, immediately upon request, DHCD can provide a report of projects by ward, by affordability, by permanent supportive housing units, or other fields included within the robust DHCD database. Furthermore, DHCD created the online application in 2015 to better track and capture data such as the information requested in the HPTF annual and quarterly reports. DHCD is in a far better position today to provide the HPTF reports to the public, DC Council or other stakeholders than prior January 1, 2015.

In addition, and specifically related to this draft report, DHCD created a new, online database for the Property Acquisition and Disposition Division (PADD). The online database launched in the 1st quarter of FY18 and provides the public with real time information about the disposition of the properties in PADD inventory. In addition, the database provides the address, square and lot, ward and photo of the site. This new, online database will improve the transparency of how DHCD is transforming vacant and blighted properties into affordable housing, workforce homeownership and/or conservation efforts.

RECOMMENDATION # 2:

DHCD should then use a standard contract that includes requirements for completion dates, and provides for reviews of audited financial statements.

DHCD RESPONSE:

As of January 1, 2015, DHCD utilizes a standard Property Disposition Agreement (PDA) for all properties disposed of regardless of disposition method. The standard PDA may be modified for specific project details such as affordability covenants (if DHCD is not funding the project); completion dates depending upon the type of project (new construction, substantial renovation, moderate rehabilitation, etc.) or other project details specific to the application or disposition method. For example, for the Vacant to Vibrant DC Auction, all of the 33 sites and bidders executed the same PDA and the draft PDA was made available on the online auction website for review during the time of the auction.

RECOMMENDATION # 3:

The District should consider demanding corporate guarantees from the many entities, including limited liability companies and nonprofits that do business with the District.

DHCD RESPONSE:

Currently, DHCD's recourse for partners that do not meet the requirements under Property Disposition Agreement or a DHCD funding agreement (HPTF, Federal Funds or other) is 1) foreclose and recapture the property; 2) demand repayment of the funds; 3) forgive the funds and recapture the property; and 4) other legally prescribed options available under the laws and regulations that govern the disposition or funding of the site/project.

RECOMMENDATION # 4:

District officials should do more to counsel and assist new homeowners in making and meeting budgets so they can maintain their investment and make timely repayments to District loan programs.

DHCD RESPONSE:

DHCD funds nonprofit housing counseling agencies who guide future and potential homeowners through the purchasing process. The funding source is federal Community Development Block Grant (CDBG) dollars. Our partner network provides counseling services and training to tenants, potential homeowners, and current homeowners. Specific topics include foreclosure prevention or mitigation, credit counseling, home/budget management, homebuyers clubs and relocation, applying for program assistance, managing the home purchase process, homeowner training, apartment locating, and other services that assist residents with housing needs. DHCD requires all homebuyers who participate in homeownership programs administered by DHCD to receive housing counseling from certified housing counseling agencies to ensure that we are aiding the families as they decide to invest upon their future by purchasing their first home.

ODCA Response to Agency Comments

The Office of the D.C. Auditor appreciates the detailed comments provided by DHCD on the draft report and the four recommendations.

ODCA commends DHCD for the considerable efforts to improve transparency. The new PADD database includes information on the new Woodson Heights project. The information is useful and the database is readily accessible by searching for PADD on the DHCD database: <https://octo.quickbase.com/db/bmnu25bzt>.

The agency response also mentions the “public database of projects financed by DHCD and the HPTF.” The public-facing version of that searchable database including HPTF projects from 2013 to date is available on the DHCD homepage under “DHCD Popular Links” and “Projects” and the link is <https://octo.quickbase.com/db/bit4kvfmq>

Our first recommendation spoke to the selection process for developers for HPTF projects and the transparency of that process, including making public the evaluation of those seeking HPTF financing.

Our second recommendation called for a standard including completion dates and we commend DHCD for its use of a standard Property Disposition Agreement (PDA). We have revised the recommendation to more accurately reflect our intention of calling for a standard Loan Agreement (rather than contract) that includes specifying the completion date for the project. On reviewing the draft loan agreement for the new Woodson Heights project, we are pleased that it requires that the construction contract “stipulate a date, acceptable to Lender, for the completion of the project.” And, as noted in the Conclusion, the PADD database indicates the completion is expected in the second quarter of 2019.

DHCD did not respond directly to our third recommendation to consider requiring corporate guarantees as was required by the bank lender on the original Amber Overlook development. And the DHCD response to our fourth recommendation on working with new homeowners provided useful information on services provided to prospective homeowners. The experience cited in this report makes the case for working with those who have purchased HPTF properties and we are hopeful that DHCD services will be broadened to include such counseling.