



Lake View Towers Apartments, Chicago, IL

Section 8 Housing Assistance Payments Program

**Office of Audit, Region 5
Chicago, IL**

**Audit Report Number: 2019-CH-1003
September 3, 2019**



To: Daniel J. Burke, Director of Multifamily Midwest Region, 5AHMLA

From: //signed//
Kelly Anderson, Regional Inspector General for Audit, Chicago Region, 5AGA

Subject: The Management Agent for Lake View Towers Apartments, Chicago, IL, Did Not Always Comply With HUD's Section 8 HAP Program Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Lake View Towers Apartments' Section 8 housing assistance payments program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (312) 353-7832.



Audit Report Number: 2019-CH-1003

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The Management Agent for Lake View Towers Apartments, Chicago, IL, Did Not Always Comply With HUD's Section 8 HAP Program Requirements

Highlights

What We Audited and Why

We audited the Lake View Towers Apartments' Section 8 housing assistance payments program based on our analysis of risk factors related to multifamily projects in Region 5's jurisdiction¹ and the activities included in our fiscal year 2019 annual audit plan. Our audit objective was to determine whether the management agent administered the project's program in accordance with the owner's contract with the U.S. Department of Housing and Urban Development (HUD) and its own requirements.

What We Found

The management agent did not always administer the project's program in accordance with HUD's and its own requirements. Specifically, it did not always correctly calculate and support housing assistance payments for its program households, obtain and maintain required eligibility documentation, and maintain appropriate waiting lists for the project. As a result, HUD inappropriately paid nearly \$57,000 in ineligible and more than \$399,000 in unsupported housing assistance. If the management agent does not correct its tenant certification process, HUD could overpay more than \$54,000 in housing assistance over the next year. In addition, housing assistance may have been unjustly denied or delayed for eligible applicants on the project's waiting lists.

What We Recommend

We recommend that the Director of HUD's Chicago Office of Multifamily Housing Programs require the project owner to (1) reimburse HUD for the ineligible housing assistance payments; (2) reimburse the appropriate household for the underpaid housing assistance; (3) support or reimburse HUD for the unsupported housing assistance payments; (4) conduct criminal record background checks; (5) update its waiting lists to include applicable notations; and (6) implement adequate policies, procedures, and controls to address the issues cited in this report.

¹ The Region contains six States: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Table of Contents

Background and Objective.....	3
Results of Audit	4
Finding 1: The Management Agent Did Not Always Administer the Project’s Program in Accordance With HUD’s and Its Own Requirements	4
Scope and Methodology.....	9
Internal Controls.....	11
Appendixes.....	12
A. Schedule of Questioned Costs and Funds To Be Put to Better Use.....	12
B. Auditee Comments and OIG’s Evaluation	13
C. Federal and Project Requirements.....	25

Background and Objective

Lake View Towers Residents Associations, Inc., is the owner of Lake View Towers Apartments, a 500-unit multifamily apartment complex in Chicago, IL. The Corporation is a not-for-profit corporation formed under the laws of the State of Illinois on July 9, 1992. The Corporation is organized and operated exclusively to improve the living and economic conditions of the residents of Lake View Towers Apartments. Leasing and Management Company, Inc., has been the management agent for the project since 2001.

National Housing Compliance, the U.S. Department of Housing and Urban Development's (HUD) contract administrator for the project, renewed its project-based Section 8 housing assistance payments preservation contract with the owner of the project under Section 8 of the United States Housing Act of 1937 and section 524(e)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997, effective September 1, 2010. HUD made housing assistance payments for the project under the Section 8 contract, which covered 395 of the 500 units. During our audit period, HUD provided the Corporation nearly \$8.5 million in Section 8 housing assistance payments.

The multifamily Section 8 housing assistance payments program provides rental assistance to low-income individuals and families, enabling them to live in affordable, decent, safe, and sanitary housing. HUD makes the assistance payment to the owner of an assisted unit on behalf of an eligible family, defined as having income at or below 80 percent of the area median income adjusted for family size. The family pays the higher of (1) 30 percent of its monthly adjusted income, (2) 10 percent of its monthly income, (3) welfare rent (if applicable), and (4) \$25 minimum rent. The project owner is responsible for reexamining the family's income and composition at least once each year and adjusting the amount of assistance payments accordingly. However, the owner delegated those responsibilities to the management agent. As part of the tenant certification process, the management agent calculates the amount of the assistance payment, which is the difference between the contract rent and the family's share of the rent.

The objective of our audit was to determine whether the project's management agent administered the project's program in accordance with the owner's contract with HUD and its own requirements. Specifically, we wanted to determine whether the project's management agent (1) correctly calculated and paid housing assistance, (2) obtained and maintained required eligibility documentation, and (3) administered the project's waiting lists in accordance with HUD's and its own requirements.

Results of Audit

Finding: The Management Agent Did Not Always Administer the Project's Program in Accordance With HUD's and Its Own Requirements

The management agent did not always administer the project's program in accordance with HUD's and its own requirements. Specifically, it did not always correctly calculate and support housing assistance payments for its program households, obtain and maintain required eligibility documentation, and maintain appropriate waiting lists for the project. The weaknesses occurred because the owner and management agent lacked adequate oversight of the project's housing assistance payments program and disregarded HUD's and the project's program requirements. As a result, HUD inappropriately paid nearly \$57,000 in ineligible and more than \$399,000 in unsupported housing assistance. If the management agent does not correct its tenant certification process, HUD could overpay more than \$54,000 in housing assistance over the next year. In addition, housing assistance may have been unjustly denied or delayed for eligible applicants on the project's waiting lists.

Miscalculated and Unsupported Housing Assistance Payments

We reviewed 120 certifications to determine whether the management agent correctly calculated housing assistance payments for the period November 2016 through October 2018. Our review was limited to the information maintained by the management agent in its household files.

For the 120 certifications,² 66 (55 percent) had unsupported or incorrectly calculated housing assistance. The 66 certifications contained 1 or more of the following errors:

- 31 had incorrect income calculations due to miscalculations or lack of support,
- 30 had unsupported income calculations due to missing or inadequate income documentation,
- 11 had incorrect contract rents and utility allowances, and
- 8 had incorrect dependent allowances due to an incorrect or unsupported student status.

For the households associated with the 66 certifications, HUD overpaid \$30,037 and underpaid \$144 in housing assistance. Further, HUD paid \$159,938 in unsupported housing assistance.

In addition, 4 of the 50 household files contained documentation showing that the households had unreported or underreported income. However, the management agent did not make

² Our methodology for the selection of the 120 certifications representing 50 households is explained in the Scope and Methodology section of this audit report.

adjustments to the housing assistance payments and execute repayment agreements with the households to recapture \$26,915 in overpaid subsidies.

The management agent also did not obtain Enterprise Income Verification (EIV) system income reports for five interim certifications associated with four households reviewed. More current EIV income reports did not show any unreported income for the five interim certifications.

The deficiencies occurred because the owner and management agent lacked adequate oversight of the administration of the project's program to ensure compliance with HUD's requirements. Representatives for the owner and management agent did not (1) monitor the management agent's staff for compliance with HUD's requirements; (2) establish procedures and controls, such as a quality control process, to detect and mitigate errors; (3) and ensure that the management agent's staff was properly trained. For instance, the assistant manager and the occupancy specialist for the project were responsible for completing the housing assistance payments calculations; however, they lacked adequate knowledge and understanding of HUD's requirements.³ Specifically, they were not aware that

- annual income is the amount of income anticipated to be received by the household from all outside sources during the 12-month period following admission or annual recertification, which includes tips and overtime income;
- all adult tenants with zero income must self-certify that they do not have income;
- tenants must provide the most recent four to six consecutive paystubs to support income;
- EIV income reports must be checked during recertifications for unreported or underreported income;
- tax returns used to support income must be complete and final; and
- EIV income reports should be used to identify underreported income, etc.

According to the project's assistant manager and occupancy specialist, although they were responsible for performing household certifications, they did not receive training on HUD's program requirements until 2017. However, the recertifications completed by the project's assistant manager and occupancy specialist after the training occurred still had errors. The management agent's contract with the owner requires the management agent to prepare and verify eligibility certifications and recertifications in accordance with the HUD's requirements.

For the households associated with the 11 certifications that had incorrect contract rents and utility allowances, the housing assistance paid on behalf of the households was not accurate because the households were overhoused. Although, the project's tenant selection plan stated that the occupancy standards for the project were that there could be no more than two or fewer than one person per bedroom in a unit at the time of initial occupancy, it did not address situations in which the household would become overhoused as required by HUD.⁴ The

³ See appendix C for criteria.

⁴ Paragraph 4-19 of HUD's Handbook 4350.3, REV-1 (Occupancy Handbook)

president of the management agent said that its staff was aware of HUD's regulations; however, it did not monitor for households that were overhoused because it focused on relocating households that were underhoused.

Regarding dependent allowances, according to the project's assistant manager, errors were made during the certification process. In addition, the president of the management agent acknowledged that the management agent did not have a quality control or monitoring process to ensure compliance with HUD's requirements.

As a result of the calculation errors and unreported income, HUD overpaid \$56,952 (\$30,037 + \$26,915) and underpaid \$144 in housing assistance. Further, HUD paid \$159,938 in unsupported housing assistance. If the management agent does not correct its certification process, we estimate that HUD could overpay \$54,257 in housing assistance over the next year.

Missing Criminal Background Checks

For the 20 program household files reviewed, the management agent generally maintained required eligibility documentation, with the exception of documentation showing that criminal background checks had been performed for 11 households. Specifically, for 13 adults in these 11 households, the management agent did not either obtain or maintain evidence that a criminal background check had been performed for at least one adult in the household as required by HUD⁵ and the project's tenant selection plan.⁶

According to the vice president of the project's management agent, the management agent was not aware that evidence of criminal background checks was missing for six households as the households had moved into the project before the management began managing the project. For the remaining five households, the management agent did not complete the process for four, and for the remaining household, the management agent provided documentation of the criminal background check; however, the Social Security number on the report for the adult household member was not valid. The vice president could not explain why the management agent's staff either did not perform a criminal background check or performed an inadequate background check for a least one adult member associated with the nine households; therefore, he believed it was an oversight.

Because the 11 household files were missing required evidence that criminal background checks had been performed, HUD and the owner lacked assurance that the households were eligible for the program, thus \$239,500 in housing assistance provided for the households during the audit period was unsupported.

Improperly Administered Waiting Lists

The management agent did not maintain appropriate waiting lists. Specifically, the project's internal transfer and external waiting lists did not always include an application date; unit size;

⁵ Paragraph 8-14(C)(14) of HUD's Occupancy Handbook

⁶ Paragraph V(a)(3) of the project's tenant selection plan

number of people in the household; preference type; or notations of changes, actions taken, or activities specific to a particular applicant as required.⁷

Further, 52 of the 85 families that had moved into a housing unit in the project from November 1, 2016, through October 31, 2018, were not on either the project's internal transfer or external waiting lists.

The owner and management agent disregarded HUD's and its own requirements. According to the president of the management agent, the project's waiting lists were not always properly maintained because applicants were not always accepted in the order in which they applied. He said that sometimes representatives of the owner recommended applicants for the project. In addition, the president of the project's board of directors said that he sometimes benevolently recommended people to the management agent who had been referred by his church pastor, which was not consistent with HUD's requirements. As a result of the owner's and management agent's disregard of HUD's and the project's requirements, housing assistance may have been unjustly denied or delayed for eligible applicants on the project's waiting lists.

On February 20, 2017, HUD's contractor, National Housing Compliance, conducted a management occupancy review of the project, which included a review of the external waiting list. The review identified similar deficiencies. On April 18, 2017, the management agent certified that it would adjust its waiting list to meet all HUD requirements. However, as of June 2019, the project's external waiting list was still missing required information.

Conclusion

The owner and management agent lacked adequate oversight of the project's housing assistance payments program and disregarded HUD's and the project's program requirements. As a result, HUD overpaid \$56,952 and underpaid \$144 in housing assistance. The management agent also lacked support for housing assistance payments totaling \$399,438⁸ due to unsupported housing assistance calculations and missing required criminal background checks. If the management agent does not correct its certification process, we estimate that HUD could overpay \$54,257 in housing assistance over the next year. In addition, housing assistance may have been unjustly denied or delayed for eligible applicants on the project's waiting lists.

Recommendations

We recommend that the Director of HUD's Chicago Office of Multifamily Housing Programs require the project's owner to

- 1A. Reimburse HUD \$30,037 from nonproject funds for the overpayment of housing assistance and utility allowances due to incorrect calculations.

⁷ Paragraph 4-18 of HUD's Occupancy Handbook and paragraph IV(a) of the project's tenant selection plan

⁸ \$159,938 in unsupported housing assistance + \$239,500 in housing assistance provided for the households with missing background checks

- 1B. Reimburse the appropriate households \$144 from nonproject funds for the underpayment of housing assistance due to incorrect calculations.
- 1C. Support or reimburse HUD \$159,938 from nonproject funds for the unsupported payments of housing assistance cited in the finding.
- 1D. Pursue collection from the applicable household or reimburse HUD \$26,915 from nonproject funds for the overpayment of housing assistance due to unreported income.
- 1E. Implement adequate quality control procedures to ensure that housing assistance payments are appropriately calculated and supported. These procedures and controls should ensure that \$54,257 in program funds is appropriately used for future payments.
- 1F. Ensure that third-party verifications, such as tax returns provided by the applicant, are from the source by obtaining certified tax returns from the Internal Revenue Service.
- 1G. Revise its occupancy standards to include policies and procedures to prevent underutilization of the project's units.
- 1H. Ensure that the management agent's staff is properly trained and familiar with HUD's and the project's requirements regarding housing assistance payments calculations.
- 1I. Conduct criminal record background checks in accordance with the project's policies and procedures to ensure that adult members of all households, including the 11 households for which HUD made housing assistance payments totaling \$239,500, were eligible to participate in the program. If the participants are deemed ineligible, the owner should follow applicable regulations to terminate or modify assistance and reimburse HUD from nonproject funds for those housing assistance payments deemed ineligible.
- 1J. Review and update the project's waiting lists to include the missing dates and required notations.
- 1K. Develop and implement adequate procedures and controls to ensure that the project complies with HUD's requirements and its own policies regarding the management of its waiting lists.

We also recommend that the Director of HUD's Chicago Office of Multifamily Housing Programs

- 1L. Determine whether the households residing in the project's assisted units received housing in accordance with the program's requirements and if not, consider a referral to HUD's Office of Fair Housing and Equal Opportunity.

Scope and Methodology

We performed our onsite audit work between November 2018 and May 2019 at the management agent's office at the project located at 4550 North Clarendon Avenue, Chicago, IL. The audit covered the period November 1, 2016, through October 31, 2018.

To accomplish our audit objective, we interviewed HUD program staff, the project owner's board of directors' president, and the management agent's employees. In addition, we obtained and reviewed the following:

- Applicable laws, HUD's regulations at 24 CFR (Code of Federal Regulations) Parts 5 and 886, and HUD Handbook 4350.3, REV-1.
- The project's regulatory agreement, housing assistance payments contract, management agreement, tenant selection plans, bank statements, waiting lists, organizational chart, contract rents, housing assistance payments receipt report, and household files.

We statistically selected a systematic random sample of 60 housing assistance payments from a universe of 9,240 payments totaling nearly \$8.5 million received by the project during the audit period, November 1, 2016, through October 31, 2018 (24 months). We used a statistical sample so the audit results could be projected to the universe. The 60 assistance payments were made on behalf of 50 households and totaled nearly \$59,000 in housing assistance payments. We reviewed the recertifications or unit transfers effective the month of the selected assistance payment and all gross rent changes following those effective recertifications up to the next recertification or the end of our audit period in October 2018 for the 50 households. Therefore, we reviewed a total of 120 certifications.⁹ Based on the review results, average dollar amounts were estimated and projected to the universe as a whole. Applied to the universe of 9,240 housing assistance payments, we can say with a one-sided confidence of 95 percent that HUD overpaid at least \$108,514 during the sample period. Applying our 24-month sample period to a typical 1-year period, we can say that these findings represent \$54,257 per year in funds that could be put to better use by properly administering the program.

We also reviewed the management agent's internal controls over the selection of tenants on the project's in-house and external waiting lists.

⁹ The 120 certifications included move-ins, initial certifications (when an in-place tenant begins receiving Section 8 assistance), annual and interim recertifications, unit transfers, and gross rent changes.

Data, Review Results, and Generally Accepted Government Auditing Standards

We relied in part on data maintained by the management agent in its systems. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequately reliable for our purposes.

We provided our review results and supporting schedules to the Director of HUD's Chicago Office of Multifamily Housing Programs and the management agent's president during the audit.

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(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls 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.

Relevant Internal Controls

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

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial reporting – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- The owner and management agent lacked adequate oversight of the project's housing assistance payments program and disregarded HUD's and the project's program requirements (finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A	\$30,037		
1B			\$144
1C		\$159,938	
1D	26,915		
1E			54,257
1I		239,500	
Total	\$56,952	\$399,438	\$54,401

- 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.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 3/ 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, if the project owner implements our recommendations, it will stop incurring program costs for the overpayment and underpayment of housing assistance and, instead, will spend those funds in accordance with HUD's requirements. Once the management agent improves its controls, this will be a recurring benefit. Our estimate reflects only the initial year of this benefit.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

**Leasing &
Management Company Inc.**

5618 N. Milwaukee Avenue
Chicago, Illinois 60646
773.286.5400
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July 24, 2019

VIA EMAIL – kanderson@hudoig.gov

Ms. Kelly Anderson
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General
77 W. Jackson Boulevard, Room 2201
Chicago, Illinois 60604

Dear Ms. Anderson:

Re: Response to Discussion Draft Audit Report
Regarding Lake View Towers Apartments

We appreciate you providing us with a copy of HUD OIG's discussion draft audit report relating to the recently completed audit of Lake View Towers Apartments. Our firm is the management agent for Lake View Towers Residents Association, Inc. (LVTRA), a 501(c)(3) corporation that acquired Lake View Towers Apartments on September 27, 2001.

Our goal, when notified about the audit, was to cooperate fully with any requests by the auditors to provide documents and to be open and forthcoming about any shortcomings found during the audit process. Although we acknowledge that there were issues with the administration of the project's Section 8 program, we have responses to the audit findings and report recommendations that provide relevant information and corrections. In addition to the comments given in this response letter, we also provide responses to the "HAP Calculations Analysis" and "Missing Criminal Background Checks Analysis" spreadsheets prepared by the auditor and relied upon by the OIG in making its conclusions. These two spreadsheets and our responses thereto are an integral part of our response to the audit report. Our comments to the spreadsheets are included with and should be considered a part of our written response to the discussion draft.

We make two general comments relating to our response:

- I. In many instances, the auditor's computations of overpayments did not comport with our projections. Our spreadsheet comments are an important part of our response to the discussion draft and our comments were made to the best of our understanding of the auditor's calculations and methodology.
- II. OIG recommends that HUD be reimbursed for any Section 8 overpayments from non-project funds. As a single purpose, not-for-profit corporation, Lake View Towers Residents Association, Inc. does not have non-project funds. We feel

Comment 1

Comment 2

Comment 3

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Leasing &
Management Company Inc.

Ms. Kelly Anderson
July 24, 2019
Page 2 of 8

the best mechanism to reimburse HUD, to the extent there were overpayments of housing assistance, is to submit retroactive certifications, which will reduce future Section 8 housing assistance payments to the owner.

Response to Results of Audit

Miscalculated and Unsupported Housing Assistance Payments

Comment 4

- After receiving the OIG's findings and our subsequent review of the files, it is our position that only 12 annual recertifications, one interim recertification, one move-in certification, and one initial certification had unsupported or incorrectly calculated housing assistance. This represents 12.5% of the total certifications cited by the auditor.

Comment 5

- We believe there to be only 8 certifications with incorrect income calculations as documented in the annotated spreadsheets submitted as part of our response. These incorrect income calculations represent \$21,725 in HAP overpayments.

Comments 6
and 7

- We disagree that there were 30 unsupported income calculations. Per the auditor's report, the unsupported income calculations are primarily based on not having Zero-Income Certifications in the file. While the Zero-Income Certifications were not found in the files, many of the EIV reports supported our income calculations. Therefore, we believe there are only 4 annual recertifications, one initial certification and one interim recertification with unsupported income calculations as documented in the annotated spreadsheets submitted as part of our response representing \$18,262 in HAP overpayments.

Comment 8

- We disagree that there were 11 incorrect contract rents and utility allowances. The 11 incorrect contract rents and utility allowances are based on households being overhoused. As mentioned in our interviews, management primarily focused on households that were underhoused while maintaining high occupancy. Management will work to find a balance of transferring both overhoused and underhoused households while maintaining high occupancy. There are internal waiting lists in place documenting overhoused and underhoused households. These waiting lists, along with the revised Tenant Selection Plan, will provide the basis, going forward, to ensure all households are in the appropriately sized apartments.

Comment 9

- We disagree that there are 8 incorrect dependent allowances. There were clerical errors where supporting documents were not included in the files. After further review of the files, we believe there are only 3 annual recertifications with incorrect dependent allowances as documented in the annotated spreadsheets submitted as part of our response. This represents \$3,588 in HAP overpayments.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 10

Comment 11

Comment 12

**Leasing &
Management Company Inc.**

Ms. Kelly Anderson
July 24, 2019
Page 3 of 8

- We agree that three of the 50 household files had unreported or underreported income. For the 3 households that had unreported or underreported income, we are making adjustments to the housing assistance payments and will execute repayment agreements with the households to recapture \$12,689 in overpaid subsidies. Please see our responses to the HAP Calculations Analysis spreadsheet for more detailed information.

With respect to owner and management oversight, improvements are already in place. The site manager, the assistant manager and the recertification specialist all have Certified Occupancy Specialist (COS) certifications from the National Center of Housing Management (NCHM) and will attend annual trainings from Ross Business Development or similar training organizations. As mentioned in our interview, management has already begun implementing an improved process to oversee compliance and minimize errors. Our improvements will include, but are not limited to, the following:

- All staff will attend COS trainings to ensure familiarity with all current HUD requirements at least every two years.
- Quarterly corporate meetings will be held to discuss challenges with compliance to identify any adverse trends among residents in completing certifications.
- Annual reviews and staff training of the Tenant Selection Plan will be held to ensure the plan incorporates and implements all changes that may be required by HUD.
- Develop and implement new checklists to be used for new move-ins, annual recertifications, interim certifications, and move-outs.
- Increased internal audits of recertifications on a quarterly basis. These internal audits will be performed by a member of Leasing and Management's corporate staff on 10% of all certifications including move-ins, annual recertifications and interim recertifications.
- Review and signoff on every move-in file by the assistant manager or property manager.

As stated above, and as further supported by our responses to the spreadsheets, our review indicates HUD overpaid the project a total of \$38,890 in housing assistance payments. The certifications contributing to the various overpayments will all be corrected within 60 days.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 13

Comment 14

Comment 15

Comments
11, 14, and
15

**Leasing &
Management Company Inc.**

Ms. Kelly Anderson
July 24, 2019
Page 4 of 8

Missing Criminal Background Checks

As previously stated, LVTRA purchased Lake View Towers in September 2001 and, at that time, our firm was appointed as the management agent. The audit shows 13 individuals in 11 households with missing background checks. Eight of these individuals moved in prior to September 2001. For the 13 adults identified by the auditor as lacking evidence that a criminal background check has been performed, subsequent to the audit we performed all criminal background checks which showed that all 13 adults in the 11 households are eligible for the Section 8 housing assistance program. Please see our responses to the Missing Criminal Background Checks Analysis spreadsheet for more detailed information.

Our policy has been and will always be to run background checks for all applicants. As mentioned earlier in our response, management will be developing and implementing a new checklist that will include verification to ensure that these background checks have been run per the TSP.

Improperly Administered Waiting Lists

We agree that there was not sufficient oversight administering the waiting lists and we appreciate the information provided in the audit relating to the waiting lists. We will use that information to ensure the waiting lists are administered properly going forward. One of the important changes being made is that the waiting lists will be handled electronically through the site's property management software program. In addition, no Board member or other person will be permitted to provide names of households that are not on the waiting lists to move into the property.

Conclusion

We have significantly increased our oversight of the project's housing assistance payments program and compliance with HUD and the project's program requirements. We have responded to the claimed overpayments in our written response above and in our detailed comments to the HAP Calculations Analysis Spreadsheet. We have also improved our oversight procedures, addressed missing criminal background checks, and corrected the administration of project waiting lists.

Response to Recommendations

- 1A. Reimburse HUD \$30,047 from non-project funds for the overpayment of housing assistance and utility allowances due to incorrect calculations.**

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 2

Leasing &
Management Company Inc.

Ms. Kelly Anderson
July 24, 2019
Page 5 of 8

Comment: We disagree that HUD should be reimbursed \$30,047 for overpayment. Please see the responses to the HAP Calculations Analysis spreadsheet for line-by-line support of our position.

1B. Reimburse the appropriate households \$144 from non-project funds for the under payment of housing assistance due to incorrect calculations.

Comment: We agree that appropriate households should be reimbursed for the underpayment of housing assistance. These reimbursements will be made to the households within the next 60 days and appropriate recertifications filed through the HAP billing process.

Comment 16

1C. Support or reimburse HUD \$158,146 from non-project funds for the unsupported payments of housing assistance cited in the finding.

Comment: We disagree with HUD's stated overpayment of \$158,146. Please see our detailed responses to the HAP Calculations Analysis and Missing Criminal Background Checks Analysis spreadsheets for line-by-line support of our position.

Comment 2

1D. Pursue collections from the applicable household or reimburse HUD \$28,697 from non-project funds for the overpayment of housing assistance due to unreported income.

Comment: We agree there were overpayments of housing assistance but disagree with HUD's stated overpayment of \$28,697. Please see our detailed responses to the HAP Calculations Analysis spreadsheet for line-by-line support of our position which details only \$12,689 in overpayments due to unreported income.

Comments 2
and 10

1E. Implement adequate quality control procedures to ensure that housing assistance payments are appropriately calculated and supported. These procedures and controls should ensure that \$54,257 in program funds is appropriately used for future payments.

Comment: We are implementing better training and oversight procedures based on the audit finding.

Improving our quality control involves, but is not limited to, the following:

- Revising the Tenant Selection Plan and reviewing that with the team every year.

Comments
11 and 17

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 18

Comment 19

Comment 17

Leasing &
Management Company Inc.

Ms. Kelly Anderson
July 24, 2019
Page 6 of 8

- Holding quarterly meetings with the team to review any changes from HUD that affects program compliance.
- Updating forms, questionnaires and our file checklist to minimize any documents being omitted from the file.

1F. Ensure that third party verifications, such as tax returns provided by the applicant, are by the source by obtaining certified tax returns from the Internal Revenue Service.

Comment: Based on Handbook requirements (Appendix 6C, Section A2d), we will obtain signed tax returns from residents. Verification of information provided on the tax returns will be through the EIV system.

1G. Revise its occupancy standards to include policies and procedures to prevent underutilization of the project's units.

Comment: We will revise the Tenant Selection Plan to include a specific policy that creates a balance between internal transfers (required vs. requested) with the need to fill vacant units. The staff will also maintain internal waiting lists of overhoused and underhoused households to ensure those households are transferred to the appropriately sized apartments in the timeliest manner.

1H. Ensure that the management agent's staff is properly trained and familiar with HUD's and the project's requirements regarding housing assistance payments calculations.

Comment: As stated above, all staff will be trained to ensure compliance with HUD's project-based Section 8 program. All staff will receive current and ongoing training both by HUD-approved training companies and by regular meetings with L&M's corporate staff.

1I. Conduct criminal records background checks in accordance with the project's policies and procedures to ensure that all adult members of all households, including the eleven households for which HUD made housing assistance payments totaling \$239,500 were eligible to participate in the program. If the participants are deemed ineligible, the owner should follow applicable regulations to terminate or modify assistance and reimburse HUD from non-project funds for those housing assistance payments deemed ineligible.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 13 and 14

Comment 15

Comments 2 and 13

Comment 12

Leasing &
Management Company Inc.

Ms. Kelly Anderson
July 24, 2019
Page 7 of 8

Comment: We have conducted criminal records background checks in accordance with the project's policies and procedures on all the adult members of the eleven households identified by the auditor. Based on these criminal background checks, we have confirmed that all of those adults are eligible to participate in the program. We will conduct criminal background checks in accordance with HUD and owner requirements going forward. Please see our in-depth responses to the Missing Criminal Background Checks Analysis spreadsheet for line-by-line support of our position. We also note that eight of the fifteen residents cited in the audit report predated our management of the project, and although no copies of criminal background checks were found in their files, it is our belief that these checks were likely performed but not properly retained. Our policy has been, and will always be, to run background checks for all applicants. We are developing and implementing a new checklist that will include verification that all background checks have been run.

1J. Review and update the project's waiting lists to include the missing dates and required notations.

Comment: The waiting lists will be properly updated within the next 60 days.

1K. Develop and implement adequate procedures and controls to ensure that the project complies with HUD's requirements and its own policies regarding the management of its waiting list.

Comment: As part of revising the Tenant Selection Plan, we will also address the waiting list procedures. New procedures will improve our intake and approval processes to ensure we comply with both HUD requirements and company policies.

We believe that our comments above and the detailed explanations provided in the annotated spreadsheets support our management position and responses to the audit results and recommendations. In the cases where overpayments were made, we ask that the mechanism to reimburse HUD for the overpayments be provided through retroactive interim recertifications. We take the results of this audit very seriously and will take all necessary steps to properly train Lake View Towers Apartments' onsite staff and ensure the project's Section 8 housing assistance program is administered in accordance with HUD and its own requirements.

We believe that overall regulatory compliance with Lake View Towers Apartments' Section 8 Housing Assistance Payments Program is strong. Our own review of the OIG's findings shows only a combined potential of \$38,890 of overpaid housing assistance by HUD representing only 0.5% of the total HAP made over the audit period. Many of the issues

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 20

**Leasing &
Management Company Inc.**


Ms. Kelly Anderson
July 24, 2019
Page 8 of 8

raised in the audit report were caused by clerical, rather than substantive errors. These issues have been corrected or will be corrected within the next 60 days. While we believe our property management staff is highly competent and qualified, we are using the audit report to guide forthcoming staff training and improve management oversight to ensure administrative issues are resolved immediately and do not occur again going forward.

We appreciate the opportunity to provide your office with this written response. We would welcome the opportunity to discuss this information with you in greater detail prior to issuance of your final audit report. Please do not hesitate to contact me with any questions or comments.

Very truly yours,

LEAING & MANAGEMENT COMPANY, INC.


Michael Levine
President
ML/cmc
32247

cc via email: Mr. Kornelius A. Randolph - krandolph@hudoig.gov

OIG Evaluation of Auditee Comments

Comment 1 The management agent stated that in addition to the comments given in its response, it provided responses to the “HAP Calculations Analysis” and “Missing Background Checks Analysis” spreadsheets prepared by the auditor. The management agent stated that the comments it made on the spreadsheets should be considered a part of its written response.

We appropriately evaluated the project’s management agent’s written comments, along with its comments on the spreadsheets. Generally, its written comments summarized the comments included on the spreadsheets. Therefore, the spreadsheets were not needed to understand the context of the management agent’s response and, thus, were not included in the report. The spreadsheets can be provided upon request.

Comment 2 The management agent stated that in many instances, the auditor’s computations of overpayments did not agree with its own projections.

As previously mentioned, the management agent provided responses to our calculations of housing assistance paid on behalf of its program households, based on documentation maintained in the project’s household files. The management agent’s responses included recalculations of housing assistance per household; however, documentation to support its recalculations was not provided. Therefore, the management agent should work with HUD to resolve the finding.

Comment 3 The management agent stated that as a single-purpose, not-for-profit corporation, Lake View Towers Residents Association, Inc., does not have nonproject funds.

We acknowledge the project’s management agent’s concern. The management agent should work with HUD Multifamily Midwest Region’s Chicago office to resolve the recommendations that involve the repayment of funds.

Comment 4 The management agent stated that only 15 certifications cited in the report had unsupported or incorrectly calculated housing assistance.

We disagree. As stated in the audit report, 66 certifications had unsupported or incorrectly calculated housing assistance. Although the management agent noted on the spreadsheet the 51 certifications in which it disagreed, it did not provide documentation to support its comments. The management agent can provide any documentation and work with HUD to resolve the finding.

Comment 5 The management agent stated that only eight certifications had incorrect income calculations.

We disagree. As stated in the audit report, 31 certifications had incorrect income calculations. Although the management agent noted on the spreadsheet the 23 certifications in which it disagreed, it did not provide documentation to support its

comments. The management agent can provide any documentation and work with HUD to resolve the finding.

Comment 6 The management agent stated that only 6 of the 30 certifications had unsupported income calculations due to missing or inadequate income documentations.

We disagree. The management agent noted on the spreadsheet the 24 certifications in which it disagreed; however, it did not provide documentation to support its comments. The management agent can provide any documentation and work with HUD to resolve the finding.

Comment 7 The management agent stated that while the zero-income certifications were not found in the files, many of the EIV reports supported the management agent's calculations.

EIV does not include all types of income, such as welfare benefits, most pensions, child support, etc. Further, appendix 3 of HUD Handbook 4350.3, REV-1, states that to verify zero income, the applicant or tenant must self-certify to zero income. Therefore, the tenants must self-certify to zero income and the management agent must include the self-certifications in the tenant's file.

The management agent can work with HUD to resolve the finding.

Comment 8 The management agent disagreed that the households associated with the 11 certifications had incorrect rents and utility allowances; however, it acknowledged that the households were overhoused. The management agent stated that it had focused on households that were underhoused; however, it would work on finding a balance of transferring both overhoused and underhoused households and use its internal waiting lists, along with the tenant selection plan, to ensure that households are in the appropriate-size apartments.

Because the households associated with the 11 certifications were overhoused, as mentioned in the report, the households' rent charges and utility allowances were inaccurate. In addition, as mentioned in the audit report, the project's waiting lists were improperly administered. Therefore, the management agent should ensure that its waiting lists are maintained in compliance with HUD's requirements in its efforts to use its waiting lists to ensure that households are in appropriate-size units.

Comment 9 The management agent disagreed that five of the eight certifications cited in the report had incorrect dependent allowances. However, it agreed that the remaining three certifications had incorrect dependent allowances. It further stated that there were clerical errors causing supporting documents not to be included in the files.

Although the management agent noted on the spreadsheet the five certifications in which it disagreed, it did not provide documentation to support its comments. The management agent can provide any documentation and work with HUD to resolve the finding.

Comment 10 The management agent agreed that 3 of the 50 households had unreported or underreported income and that it would execute repayment agreements with the households to recapture \$12,689.

The audit report cited four households that had unreported or underreported income. Although the management agent agreed to recapture assistance paid on behalf of three households, it did not provide documentation to support how it determined that \$12,689 should be recaptured. Further, we reviewed the costs associated with the four households and determined that \$1,782 should have been classified as unsupported, thus reducing the ineligible amount associated with the four households to \$26,915. We adjusted the report accordingly.

Comment 11 The management agent stated that with respect to owner and management oversight, improvements were already in place and that management had already begun implementing an improved process to oversee compliance and minimize errors.

We acknowledge the management agent's willingness to improve the oversight of the project.

Comment 12 The management agent stated that its responses to the spreadsheet indicated that HUD overpaid the project a total of \$38,890 in housing assistance.

We disagree. As cited in the audit report, HUD potentially overpaid \$216,890 in housing assistance due to inaccurate and unsupported calculations and missing documentation. Further, the management agent did not provide support for its determination. It can work with HUD to resolve the questioned costs.

Comment 13 The management agent stated that it performed criminal background checks for the 13 adults in 11 households cited in the report as lacking criminal background checks and that the 13 adults were eligible for Section 8 housing assistance.

The management agent did not provide evidence to support its written comments and responses on the spreadsheet regarding the adult household members. Therefore, this deficiency will remain in the report.

Comment 14 The management agent stated that it would develop and implement a new checklist that would include verification to ensure that background checks have been run. The management agent should work with HUD to ensure that the new procedures resolve the issue with the background checks.

We acknowledge the management agent's willingness to improve its procedures for performing background checks. The management agent should work with HUD to ensure that the new procedures resolve the issue with the background checks.

Comment 15 The management agent agreed that there was no sufficient oversight in the administration of the waiting lists and stated that it would use the information in

our audit report to ensure that the waiting lists are administered properly going forward.

We acknowledge the management agent's willingness to improve the administration of the waiting list. The management agent should work with HUD to ensure that the changes to the administration of its waiting lists comply with HUD's requirements.

Comment 16 The management agent agreed that the appropriate households should be reimbursed for the underpayment of housing assistance.

We appreciate the management agent's willingness to reimburse the households. The management agent should work with HUD to resolve the recommendation.

Comment 17 The management agent stated that it was implementing training procedures to ensure compliance with HUD's project-based Section 8 program.

We acknowledge the management agent's willingness to train its staff on HUD's requirements regarding housing assistance payment calculations.

Comment 18 The management agent stated that it would ensure that all residents submit a signed tax return.

Paragraphs 5-13(B)(1)(b) and (c) of HUD Handbook 4350.3, REV-1, state that the owner must consider whether the third-party verification from a source provided by the applicant is an unaltered original. Documents with original signatures are the most reliable, and photocopied documents generally cannot be assumed to be reliable. Therefore, the management agent should obtain tax returns that are certified by the Internal Revenue Service.

Comment 19 The management agent stated that it would revise its tenant selection plan to address its overhoused households and it would maintain internal waiting lists of overhoused and underhoused households to ensure that the households are transferred to the appropriate-size units in the timeliest manner.

We acknowledge the management agent's willingness to resolve the overhoused household issue.

Comment 20 The management agent stated that the issues raised in the audit report were caused by clerical rather than substantive errors. It further stated that these issues had been corrected or would be corrected within 60 days.

We disagree. As stated in the report, the deficiencies occurred due to a lack of oversight. The management agent should work with HUD to resolve the recommendations cited in the audit report.

Appendix C

Federal and Project Requirements

HUD's regulations at 24 CFR 5.240(c) state that the responsible entity must verify the accuracy of the income information received from the family and change the amount of the total tenant payment, tenant rent, or program housing assistance payment or terminate assistance as appropriate, based on such information.

HUD handbook 4350.3, REV-1, paragraph 3-23(A)(1), states that owners must develop and follow occupancy standards that take into account the size and number of bedrooms needed, based on the number of people in the family. Occupancy standards serve to prevent the overuse or underuse of units, which can result in an inefficient use of housing assistance. Occupancy standards also ensure that tenants are treated fairly and consistently and receive adequate housing space. By following the standards described in this paragraph, owners can ensure that applicants and tenants are housed in appropriate-size units in a fair and consistent manner as prescribed by law. Occupancy standards must be part of an owner's tenant selection procedures. Paragraph (G)(2) states that a single person must not be permitted to occupy a unit with two or more bedrooms, except for (a) a person with a disability who needs the larger unit for reasonable accommodations, (b) a displaced person when no appropriate-size unit is available, (c) an elderly person who has a verifiable need for a larger unit, or (d) a remaining family member of a resident family when no appropriate-size unit is available.

Paragraph 5-4(A)(2) of the handbook states that annual income is the amount of income that is used to determine a family's eligibility for assistance. Annual income is defined as follows: all amounts anticipated to be received from a source outside the family during the 12-month period following the admission or annual recertification effective date.

Paragraph 5-12(A)(2) of the handbook states that owners must use the EIV income report for third-party verification of a tenant's employment and income at the time of recertification (annual and interim) and to assist in reducing administrative and subsidy payment errors.

Paragraph 5-12(B)(2) of the handbook states that owners must verify each family's income, assets, expenses, and deductions as part of the annual recertification process.

Paragraph 5-13(B)(1)(b)(1)(b) of the handbook states that owners may not accept pay stubs to document employment income unless the applicant or tenant provides the most recent four to six, consecutive pay stubs to illustrate variations in hours worked.

Paragraphs 5-13(B)(1)(b)(1)(c) of the handbook states that the owner must consider whether the third-party verification from a source provided by the applicant is an unaltered original. Documents with original signatures are the most reliable, and photocopied documents generally cannot be assumed reliable.

Appendix 3 of the handbook states that to verify zero income, the applicant or tenant must self-certify to zero income.

Paragraph 7-16(A)(1) of the handbook states that if a tenant reports a change or the owner becomes aware of a change in family composition, the owner must determine the appropriate unit size and whether a transfer is required. Owners should use the occupancy standards established for the property to determine whether the unit was the appropriate size for the tenant.

Paragraph 4-19(A) of the handbook states that the owner should update the waiting lists annually or semiannually to ensure that applicant information is current and any names that should no longer be on the list are removed. Paragraph 4-19(B) states that if the household composition changes, the owner must update the waiting list information and decide whether the household needs the same or a different unit size. The owner's written policy will determine whether the family maintains the original application date or its place on the waiting list is based on the date of the new determination of family composition.

Paragraph 4-7(C)(1) of the handbook states that tenant selection plans must contain screening criteria that include standards for prohibiting admission of those who have engaged in drug-related or criminal activity.

Paragraph 8-14(C)(14) of the handbook states that criminal records obtained by the owner are to be maintained confidentially, not misused or improperly disseminated, and destroyed 3 years after tenancy is terminated.

Section V(a)(3) of the project's tenant selection plan states that a criminal search will be obtained to determine program eligibility for anyone who is seeking housing at the project.

Section VIII(c) of the project's tenant selection plan states that applicant households containing members (1) with current addiction to or engagement in the illegal use of a controlled substance; (2) who were evicted in the last 3 years from federally assisted housing for drug-related criminal activity; (3) who are subject to a State sex offender lifetime requirement; and (4) for whom there is reasonable cause to believe that the member's behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, and right to peaceful enjoyment by other residents will be rejected. In addition, if other persons who will be living in the unit have criminal convictions (1) that involved physical violence to persons or property or endangered the health and safety of other persons within the last 7 years or (2) in connection with the manufacture or distribution of a controlled substance within the last 7 years, the applicant will be rejected.

Paragraph 4-4(C)(5)(a) of the handbook states that the tenant selection plan must include unit transfer policies, including procedures for selecting among applicants on the waiting list and current tenants who need a unit transfer because of family size.

Paragraph 4-15(A) of the handbook states that once unit size and preference order are determined, owners must select applicants from the waiting list in chronological order to fill vacancies.

Paragraph 4-18(A) of the handbook states that whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list. Paragraph 4-18(B) states that the goal of the annotation is to provide an auditable record of applicant additions, selections, withdrawals, and rejections. Independent reviewers

looking at the waiting list should be able to (1) find an applicant on the waiting list; (2) readily confirm that an applicant was housed at the appropriate time, based on unit size needs, preferences, and income targeting; and (3) trace various actions taken with respect to a family's application for tenancy.

Paragraph 4-19(A) of the handbook states that the owner should update the waiting lists annually or semiannually to ensure that applicant information is current and any names that should no longer be on the list are removed. Paragraph 4-19(B) states that if the household composition changes, the owner must update the waiting list information and decide whether the household needs the same or a different unit size. The owner's written policy will determine whether the family maintains the original application date or its place on the waiting list is based on the date of the new determination of family composition.

Section IV(a) of the project's tenant selection plan states that if an applicant is eligible for tenancy but no appropriate-size unit is available, management will place the applicant on a waiting list for the project. The waiting list(s) will be maintained in a bound ledger. The waiting list will contain the applicant name, household unit size (number of bedrooms the household qualifies for), date and time when the application was received, qualifications for any preferences and ranking, annual income level, targeted program qualifications, accessibility requirements, and number of persons in the household. Further, the preapplication will be a permanent file, all applicants will be maintained in order of preference, and applications equal in preference will be maintained by date and time sequence.

Section VII of the tenant selection plan states the unit must have enough space to accommodate the household. Occupancy standards must comply with Federal, State, and local occupancy standards and laws in connection with occupancy requirements, fair housing, and civil rights laws, as well as landlord-tenant laws and zoning restrictions. The occupancy standards for the project are that there must be no more than two or fewer than one person per bedroom in a unit at the time of initial occupancy.