

NCSHA 2008 Annual Awards

NEW YORK CITY HOUSING DEVELOPMENT CORPORATION (HDC) RENTAL HOUSING: MULTIFAMILY MANAGEMENT

Enhanced Compliance Monitoring for Project Marketing and Tenant Selection

Background: The demand for affordable rental housing in New York City is overwhelming, with hundreds of applications often received for every available affordable unit. A recent HDC-financed development attracted more than 10,000 applications for only 20 available low-income housing units. Given the dynamics of this overwhelming demand and limited supply, HDC has undertaken innovative efforts to ensure the legitimacy of the means through which our developments are marketed and their tenants selected.

These innovations have successfully served two purposes. First, they are guaranteeing the integrity of HDC's affordable housing programs by ensuring that housing units are awarded to those applicants who are eligible and not to those who have attempted to corrupt the process. Second, they have proven to be a major protection of HDC's bonds and our building owner's tax credits, which would be jeopardized if units were found to be out of compliance for renting to ineligible households. Ineligible applicants trying to qualify for an apartment is not in itself a new phenomenon. But as affordable housing has become a more rare and valuable resource, the attempted fraud involved has become more sophisticated. With advances in computer software, document manipulation is easier than ever. "Underground networks" have even surfaced where people have made lucrative businesses out of providing false documents (such as tax returns and payroll records) for fees. HDC's efforts under this initiative, in conjunction with law enforcement, have uncovered such schemes and helped to prevent them from infiltrating our programs.

Project Marketing: HDC pre-approves, and monitors the implementation of, a specific marketing plan for every affordable housing development we finance. The plans are designed to ensure that units are marketed to the general public in a manner consistent with fair housing and all other applicable law. The plans disclose all criteria upon which applicants are evaluated, and the specific advertising strategy. HDC monitors the actual placement of the advertisements, and promotes all listings on our own agency website as well, to ensure that appropriate public outreach is achieved.

Project Lottery Process

To prevent any application tampering, HDC has implemented very rigid procedures to ensure that units are awarded fairly through a public lottery process. These steps include:

- All housing applications for each new building must be returned to a call-box at a branch of The U.S. Postal Service. These are purchased by HDC staff (with costs reimbursed by building owners) and only HDC has access while the application period is ongoing.
- At the conclusion of the application period, a date is selected with the building owners and their staff to open the call-box. The owner must provide sufficient staff to open and

- log the applications. This occurs at a secure location in “assembly line” formation, all under the supervision of an HDC monitor. This ensures that received applications are drawn randomly and that additional applications are not “slipped in” during the process.
- All names of household members listed on an opened application are then recorded in a project tracking log. Since income requirements are adjusted by family size, applicants have been detected adding or deleting household members on revised applications to falsely induce eligibility. When files are reviewed, the application is compared to the tracking log to flag any such changes as potential efforts to corrupt the process.
 - It can often take multiple days to open a sufficient number of applications due to the vast responses. In the interim, any unopened applications must be stored at a secure location in an HDC-approved footlocker. The HDC monitor provides a combination lock, the combination for which is known only to HDC, to safeguard against any application tampering after the applications have been locked.

Review and Pre-Approval of Tenants

As a proactive way to protect HDC’s bonds and ensure regulatory compliance, the agency’s asset management group requires our building owners to submit tenant files for our review and pre-approval prior to lease signings. This function is performed at the agency’s discretion as a regulatory function and therefore HDC is not subject to any liability issues regarding the owner’s compliance or leasing obligations. However, the extra layer of review has been critical in detecting ineligible applicants who may otherwise have been awarded affordable apartments. As the demand and competition for affordable housing has increased, so too have efforts by some to manipulate the system and obtain that elusive “low rent deal”. The problem is that such efforts, unless detected and controlled, could come at the expense of eligible families who are truly in need. To address these growing concerns, and further protect the integrity of the agency’s programs and bonds, HDC has expanded our review procedures to include the following:

- All applicants submitted for approval are entered into HDC’s automated system which cross-references the names and social security or tax ID numbers with those of existing tenants in all HDC properties. This flags applicants who may be trying to claim a second affordable unit without giving up the first (i.e. those planning to illegally sublet one of the residences at higher rents).
- All possible forms of income documentation must be obtained for each applicant – including multiple recent and consecutive pay stubs, tax returns and third party employer verifications. Staff have been trained to observe inconsistencies and flags of potential fraud in all such documents, including mismatched type-set fonts on verification letters or forms (an indication that certain information may have been altered by someone other than the appropriate third party) and payroll deductions on pay stubs that do not add up correctly (an indication that salary amounts may have been tampered with).
- All applicants must execute two signed copies of IRS Form 4506-T, one designating the building owner/manager and one designating HDC. These are release forms which give the owner and HDC the applicant’s consent to directly contact the IRS to receive copies of their tax transcripts. This has been very valuable in eliminating one source of fraud, which is the submission of falsified tax returns. First, just signing the release is a deterrent for applicants to provide fake taxes because they know we have their authority to confirm same with the IRS. And second, for those applicants who disregard that deterrent, discovery of the attempted fraud is possible through a comparison of the tax returns provided by the applicant and the transcripts obtained directly from the IRS. Through such comparative analysis HDC has detected multiple instances of fraud and prevented these applicants from falsely claiming affordable housing units (including

those financed with low-income housing tax credits and tax-exempt bonds which are subject to serious financial consequences for noncompliance).

- HDC has formed a relationship with the appropriate law enforcement agency governing such fraudulent activity in our jurisdiction (The New York City Department of Investigation). Files flagged by HDC for potential fraud are forwarded to law enforcement for appropriate action. Since the implementation of these procedures, there have been multiple investigations of criminal fraud by applicants and, on a more limited basis, by staff members of building owners who have participated in such activity. There have been several arrests and criminal cases are outstanding on many of these cases. The publicity of these cases also serves a deterrent to any others who may be considering such fraudulent tactics to infiltrate affordable housing.

Summary:

- The innovation of HDC's marketing and tenant selection reform lies primarily in the manner in which the emphasis on compliance has been shifted from a post-audit basis (such as through periodic on-site compliance reviews) to a more proactive pre-audit basis. While HDC of course continues to perform post-audit reviews as required, by that time it could be too late to prevent the major financial consequences that can arise from program units discovered to be inhabited by ineligible households. The new procedures implemented are successfully avoiding such consequences by detecting potential issues in advance, before an ineligible applicant has falsely claimed a unit.
- These procedures address a potential problem that is not unique to New York. The demand for affordable housing is a national issue, and so is the need to safeguard available stock and ensure that it is designated to those in need. The marketing, lottery and tenant review procedures have been formatted into an HDC Marketing Guide which is available for view on the agency's website. The procedures are replicable and can be adjusted to suit other related issues encountered by an HFA in their jurisdiction.
- These initiatives respond to what we consider the most important housing need of all: Ensuring that affordable housing is awarded to those who qualify and are in need.
- The benefits of these initiatives are measurable to all of HDC's customers, both our partnering owners/developers and our applicants/tenants. The owners/developers are avoiding exposure on millions of dollars in tax credit equity and tax-exempt bond financing. Just as important is that eligible tenants are receiving the benefits of the affordable rent and improved quality of life that are realized when they obtain an affordable housing unit over an ineligible applicant who corrupted the system.
- The initiatives have already proven successful in the marketplace. Many cases of fraud have been detected and turned over to law enforcement, and the ineligible applicants involved have been prevented from claiming affordable units.
- The initiatives demonstrate an effective use of resources, with benefits that clearly outweigh any associated costs (which are basically portions of involved staff salaries). In subsidy alone, HDC provides as much as \$85,000 for every affordable unit we finance (20,900 new units and 18,100 preservation units since 2003). This is in addition to tax-exempt bond financing and millions of dollars in tax credit equity per project. The consequences of an affordable development's noncompliance for housing ineligible tenants could include losses in the millions due to the recapture of tax credits and the potential exposure of tax-exempt bonds becoming taxable. Such consequences would not only place multi-million dollar mortgage loans financed by HDC in danger of default, they could also cause irreparable damage to the agency's bond ratings (which could adversely impact future business going forward).

- These procedures have been implemented in partnership with the owners, developers and managing agents of HDC-financed properties. While the enhanced scrutiny did require some adjustment on their part, those relationships were ultimately strengthened when it became clear that the new initiatives were successfully protecting their buildings and investments. The procedures have also employed a new and very successful partnership with the law enforcement agency for our jurisdiction, which works with us closely to investigate suspected fraud in our programs.
- The strategic objectives of these initiatives have been to minimize fraud in our programs, ensure the compliance of our buildings and protect our financial assets, and guarantee that affordable housing is awarded to those truly in need. On all levels, the commitment HDC has undertaken with these new procedures continues to achieve these essential goals.