


Memorandum



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To: Hon. Carlos A. Gimenez, Mayor, Miami-Dade County

From: Patra Liu, Interim Inspector General 

Date: May 20, 2013

Subject: *OIG Final Report Re: Affordable Housing Funding Agreement Between Miami-Dade County and Venice Park Gardens, Inc. for the Rehabilitation of the Venice Park Condominiums, Ref. IG12-19*

Attached please find the Office of the Inspector General's (OIG) final report regarding the above-captioned matter. At the request of the Director of the Miami-Dade Public Housing and Community Development Department (PHCD), the OIG investigated concerns about the work being performed at the Venice Park Condominiums located in the City of North Miami. Rehabilitation work done to many of the units was eligible for reimbursement under a Surtax grant. We found that permits that should have been obtained were not, and that unlicensed contractors performed the work. We also determined some information contained in an invoice for electrical work to be false. The report concludes with several recommendations for PHCD to consider.

This report, as a draft, was provided to Venice Park Gardens, Inc., the developer of the condominiums and the grant recipient of the County's Surtax funds. Responses were received and they are included in the report as Appendix A.

As previously mentioned, the condominium building is located in the City of North Miami; the OIG would like to take this opportunity to thank staff in the City's Building and Zoning Department for their assistance and cooperation during this review. Likewise, PHCD staff were also very helpful, and their cooperation is greatly appreciated.

Kindly note that the OIG requests receiving a follow-up response in 90 days, on or before August 19, 2013, regarding the status of the OIG's recommendations.

Attachment

cc: Russell Benford, Deputy Mayor, Miami-Dade County
Gregg Fortner, Director, Miami-Dade Public Housing and Community Development
Charles Anderson, Commission Auditor, Miami-Dade County
John Jackson, Building Official, City of North Miami
Eduardo Pozo, President, Venice Park Gardens, Inc.

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Affordable Housing Funding Agreement Between Miami-Dade County and
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INTRODUCTION & SYNOPSIS

At the request of the Miami-Dade County Public Housing and Community Development Department (PHCD) Director, the Office of the Inspector General (OIG) conducted a review of the payment requests submitted on the Venice Park Condominium Rehabilitation project. Venice Park Gardens, Inc. (the developer/part-owner of the Venice Park Condominiums, hereinafter Venice Park Condos) was approved in September 2011 to receive \$570,000 in Surtax funding to rehabilitate 36 condominium units. Surtax funds are disbursed based upon the submission of reimbursement requests for the rehabilitation of the units, which may include contractor costs and costs of material. In its review of the reimbursement requests for work performed, PHCD staff detected some discrepancies and, thus, questioned the validity of the reimbursement request.

When questioned by PHCD staff, one of the contractors whose invoice was included in a reimbursement request stated that he had not performed the work listed on his invoices, and that he was not qualified to do such work, but that he was instructed by Venice Park Gardens to list the work the way it appeared on the invoices. When PHCD staff went to question other contractors about the work that they listed in their invoices, the contractors would not respond to their messages. PHCD then contacted the OIG and requested assistance.

The OIG investigation substantiated that one contractor did list false information on his invoices, and that he did so at the request of Venice Park Gardens. The OIG review also revealed that several other contractors did not have the required licensing for the work performed. Moreover, some of the work performed at the Venice Park Condos required building permits, which were not obtained. Thus, the required inspections were not performed.

OIG JURISDICTIONAL AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs; audit, inspect and review past, present and proposed County programs, accounts, records, contracts, and transactions; conduct reviews, audits, inspections, and investigations of County departments, offices, agencies, and boards; and require reports from County officials and employees, including the Mayor, regarding any matter within the jurisdiction of the Inspector General.

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BACKGROUND

Venice Park Condominiums is a 60-unit housing facility, comprised of low to moderate income homeowners and renters, located at 1895 Venice Park Drive, North Miami, Florida, 33181. Venice Park Condos is owned by Venice Park Gardens, Inc., (Venice Park Gardens) whose sole corporate officer is Eduardo Pozo.¹

Originally, Venice Park Gardens had received a \$1 million allocation of FY 2008 SHIP funds to be used for the rehabilitation project. A subsequent change in fund usage was made so that the funds could be used as second mortgages to buy down the price of the units. The contract was executed in April 2008. By August 2011, \$430,000 had been expended for second mortgages. The remaining \$570,000 allocation was changed from SHIP to Surtax funds, thereby allowing Venice Park Gardens to use the remaining funds to rehabilitate individual units in the building. (Exhibit 1) This last change was codified in an Amendment 2, which was executed on September 15, 2011.²

Only funds expended after September 15, 2011 were eligible for reimbursement. The new amendment to the contract added a revised budget showing \$570,000 for construction costs; however no further instruction was provided indicating what type of rehabilitation work was being contemplated. (Exhibit 2)

INVESTIGATIVE FINDINGS

The OIG reviewed documents, interviewed all of the contractors whose invoices were submitted by Venice Park Gardens for reimbursement of work performed at the Venice Park Condos, and met with the City of North Miami Building Department regarding the work performed and the associated permits and final inspections. This investigation was conducted in accordance with the *Principles and Standards for Offices of Inspector General, Quality Standards for Investigations*, as promulgated by the Association of Inspectors General.

The OIG interviewed one contractor regarding electrical work. This contractor—the same contractor that PHCD staff had spoken to earlier—stated that the

¹ There is an Eduardo Pozo, Sr. and an Eduardo Pozo, Jr.; however State of Florida, Division of Corporation Records only show “Eduardo Pozo” – not indicating Sr. or Jr.

² Amendment 1, executed in December 2009, extended the contract term by four months. Amendment 2 also extended the contract term by adding two years to the project completion date. The new date of completion was June 26, 2012.

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electrical work listed on the invoices that Venice Park Gardens submitted to PHCD for reimbursement was false. Specifically, he stated that his work at the Venice Park Condos consisted of changing light bulbs and occasionally installing some fans—not changing or installing main breakers, changing timers, and fixing short circuits, as listed on the invoices. He stated that he was instructed by the Pozos (both Eduardos—father and son) to change the work listed on his invoices. Lastly, he told the OIG that he is not a licensed electrician, but stated he is licensed for “service and repairs.”

During the course of interviewing all the contractors whose invoices were included in the reimbursement requests, the OIG determined that several other contractors did not have the required licenses for the work listed on the invoices. The OIG review also revealed that required building permits were not obtained for some of the rehabilitation work being performed.

The OIG also learned that the Venice Park Condos has had a history of building issues with the City of North Miami (North Miami). Apparently, roofing repairs performed back in 2007 were never permitted and elevators have been out of service for several months. North Miami has issued a Notice of Violation (NOVs) to Venice Park Condos for each case.

Specifically, with regards to the rehabilitation work being funded by the Surtax grant, the OIG met with North Miami Building Department officials on several occasions, and provided them with a copy of a spreadsheet that was prepared by the PHCD. (Exhibit 3) The spreadsheet lists the invoices and the work performed. The North Miami Building Department officials reviewed their records for the Venice Park Condos and thereafter provided the OIG with a marked-up copy of the same spreadsheet. (Exhibit 4) According to North Miami, of the 251 work-related invoices for which reimbursement had been requested, 71 invoices³ contained work scopes requiring permits and inspections. Moreover, the North Miami Building officials also stated that only one permit had been pulled during the entire rehabilitation period for work at the Venice Park Condos (to replace an A/C condenser in Unit 21B), but that this project was not on PHCD’s spreadsheet. In sum, much of the work that was done in the actual units

³ These numbers were revised since the issuance of the draft report. Moreover, Venice Park Gardens’ response to the draft report addresses whether or not some of the work scopes, as stated in the invoices, actually require permits. Further revision to the list of non-compliance work has been made. Progress is also being made by Venice Park Gardens to remedy the unpermitted rehabilitation work done in certain units. (See pages 6 - 7 of the report.)

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(plumbing, electrical, window repairs, etc.) required permits and final inspections, which were not obtained.

The OIG then met again with North Miami Building officials regarding the status of the two NOVs previously noted. They advised that on August 1, 2012 a hearing was held regarding all items that were failed on the Annual Housing Inspection checklist and that a fine was set by the Magistrate of \$50 per day, plus a \$100 cost assessment for failure to correct all of the problems. North Miami Building officials recently advised the OIG that the fine of \$50 per day is still ongoing and that the current cumulative fine amount exceeds \$12,000.⁴

VENICE PARK GARDENS' RESPONSE & OIG COMMENTS

This report, as a draft, was provided to Venice Park Gardens and to the County's Public Housing and Community Development Department for comment. Venice Park Gardens submitted several responses to the OIG.

An initial response was submitted by Venice Park Gardens on January 30, 2013. The response included a 3-page letter and a large binder full of documentation. Due to the bulk of the response, only the letter and one document (described below) are included in Appendix A-1.⁵ A second supplemental response was received on March 11, 2013, and it is attached to this report as Appendix A-2. A third response, dated April 16, 2013, is included as Appendix A-3, and a fourth response, dated May 14, 2013, is included as Appendix A-4. (The three supplemental responses transmit updated building permit and compliance information.) All four responses were signed by Eduardo Pozo, President of Venice Park Gardens, Inc.

In its initial letter to the OIG, Mr. Pozo addressed the four areas of contention in the OIG report. A summary of each of the four areas and our comments follow.

Section I. False Invoicing

Mr. Pozo adamantly denies that fraud has taken place. Mr. Pozo explains that the electrician who made the statement about the false invoice (Mr. Jesus Siso) may have done so because of his unlicensed status. To refute the charge, Mr. Pozo states that Mr. Helvert Garcia, a resident of the building who has also been

⁴ Information as of May 13, 2013.

⁵ The entire response is available by contacting the OIG.

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the on-site building manager since 2005, witnessed “Mr. Siso perform the work that was invoiced as it was his unit that the work was invoiced.” Mr. Pozo provides an affidavit executed by Mr. Garcia (included in Appendix A-1) and requests that the OIG speak with him.

OIG Comment and Follow-up

1. The actual affidavit executed by Mr. Helvert Garcia (supplied in the initial response and included in Appendix A-1) does not actually state that Mr. Garcia witnessed Mr. Siso perform work in his unit. Mr. Garcia does generally state that he has witnessed Mr. Siso “undertaking various electrical projects on the premises.” Specifically, Mr. Garcia has observed Mr. Siso replace circuit breakers in several apartment units, replace electrical breakers in the building’s electrical meter room, and replace and/or repair some exit and emergency lights in the corridors of the building. However, no mention is made to work done in Unit 15A – Mr. Garcia’s own unit, which is the unit listed on the purported false invoice.
2. The OIG interviewed Mr. Garcia, and he specifically stated that Mr. Siso had never done any work in his unit, 15A. In addition, Mr. Garcia stated that, when Mr. Pozo sent him a copy of Mr. Siso’s invoices, Mr. Garcia specifically told Mr. Pozo that Mr. Siso had never done any work of any sort in his unit, 15A (as shown on two of the invoices in question). Mr. Garcia provided the OIG with a written sworn statement to this effect.
3. The explanation in the initial response submitted by Mr. Pozo and the supplied affidavit do not match. The response attempts to refute the finding that the invoice pertaining to work performed in Unit 15A is false, but neither Mr. Garcia nor his affidavit refutes the finding.

Section II. City of North Miami Violations

A. Roofing Repair (2007)

Mr. Pozo included a copy of a permit (Permit No. BCR00-2012-00014) containing the handwritten notation “Final OK 11/16/12 – Old repairs (roof in bad shape).”

OIG Comment on Roof

The OIG verified with the City of North Miami that the permit was issued and has been closed.

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B. Elevator Compliance

The response provides background and context for why the elevator remains unrepaired. Mr. Pozo explains that the Condo Association has initiated a claim with its insurance company; however, no formal decision has been made by the insurer. Mr. Pozo states that the building has sought some repair proposals, but the cost would equate to a \$2,000 special assessment per unit. Mr. Pozo states that they are seeking financing options to pay for the repair work. Mr. Pozo acknowledges that the daily fine of \$50 per day is still in effect.

OIG Comment on Elevator

We note that while Venice Park is a condominium building, over half of the units are owned by Venice Park Gardens.⁶ Mr. Pozo also runs the Venice Park Condominium Association, as he is listed as the Association's President. We believe that more can be done to address the elevator situation other than continuing to accept a \$50 per day fine.

Section III. Failure to obtain permits

First, Mr. Pozo recognizes and accepts that some work was performed without permits. Mr. Pozo states that he met with John Jackson, City of North Miami Building and Zoning Director, in order to determine exactly which scopes of work required permits. Mr. Pozo goes on to state that permit applications are being submitted for the non-compliant work. Mr. Pozo's three supplemental responses (Appendices A-2, A-3 and A-4) include copies of building permits obtained since receiving the OIG's draft report. Mr. Pozo's responses state that Venice Park Gardens continues to demonstrate compliance in all areas highlighted by the OIG report.

OIG Comment

Our follow-up with the City of North Miami has included discussions about the specific work done in individual units requiring permits. We have reviewed the newly obtained permits submitted by Mr. Pozo and will continue to monitor the remedial work to ensure that all required permits are obtained and that all are properly closed upon passing any required inspections.

As a side note, in our discussions with Mr. Jackson there came to light another significant repair needing a permit where one was not obtained. This matter

⁶ According to current Miami-Dade County Property Appraiser listings, 36 out of 60 units are owned by Venice Park Gardens, Inc.

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concerned repairs made to Unit 9A, after a fire occurred in the kitchen back on July 30, 2012. The extent of the fire was significant enough that the occupant had to move to another apartment for almost two and a half months until repairs were completed. Mr. Jackson reviewed the City's files and found that Electric Link performed a safety check on the unit in conjunction with the City's electrical section on October 12, 2012, and the unit passed the safety inspection. However, Mr. Jackson was not able to find any permit applications or permits issued for the type of repair work that would have been needed for the unit to be able to pass the safety check.

Section IV. Unlicensed Contractors

Mr. Pozo admits the use of unlicensed contractors. He explains that not all the work required licensed contractors and that he gave work to people who otherwise did not have work during the economic downturn. He ensures that going forward, all contractors will be licensed, and permits will be obtained when required.

OIG Comment

We hope that, going forward, Mr. Pozo and Venice Park Gardens will be responsible landlords as it pertains to improvements made at the Venice Park Condominiums.

CONCLUSION & RECOMMENDATIONS

The OIG has substantiated that one contractor's invoice contained false information. Further, according to North Miami Building Department officials, some construction rehabilitation activities required permitting and inspections, which were not obtained inasmuch as several of the contractors performing the work were unlicensed. Because the rehabilitation of these units is funded by County Surtax dollars, the County should be concerned when those activities are not inspected in accordance with the Building Code.

Recommendations:

1. PHCD, as the administrator of the Surtax grant, should determine whether Venice Park Gardens, based on the findings herein, is in default/breach of the grant agreement. PHCD should consult with the County Attorney's Office. Consequences of any default/breach should be pursued.

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2. No further funds should be released until all permitting issues with the City of North Miami have been resolved.
3. PHCD should reject any reimbursement requests for work performed by Jesus Siso (the unlicensed electrician discussed in this report). Likewise, PHCD should not reimburse any payments for unlicensed activities.
4. Separate from the contract determination (Rec. 1, above) PHCD, should make a responsibility assessment of Venice Park Gardens. A determination should be made regarding the seriousness of the findings identified herein and whether this entity should be eligible to continue receive county funding.

The OIG would like to thank PHCD staff, and City of North Miami Building Department personnel, for their assistance and cooperation in this investigation.

The OIG requests that PHCD provide a status report in 90 days, on or before August 19, 2013, regarding the status of our recommendations.