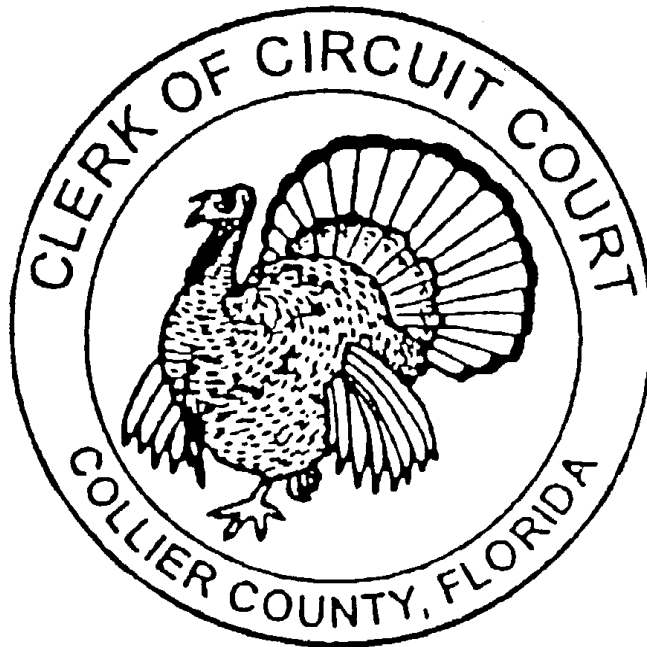


Collier County Clerk of the Circuit Court
Internal Audit Department

Audit Report 2001 - 2

Audit of Collier County State Housing Initiatives
Partnership (SHIP) Programs





Dwight E. Brock
Clerk

County of Collier
CLERK OF THE CIRCUIT COURT

COLLIER COUNTY COURTHOUSE
3301 TAMiami TRAIL EAST
P.O. BOX 413044
NAPLES, FLORIDA 33941-3044

CIRCUIT COURT
COUNTY COURT
COUNTY RECORDER
CLERK BOARD OF
COUNTY COMMISSIONERS

August 6, 2001

The Honorable James Carter, Ph.D., Chairman and Commissioners
Collier County Board of County Commissioners
3301 Tamiami Trail East
Naples, FL 34112

Dear Commissioners:

Enclosed for your review is the Audit of the State Housing Initiatives Partnership (S.H.I.P.) program.

The report has significant findings which I personally feel have cost the taxpayers of Collier County financially and more specifically have harmed the parties which the program was intended to help. By this I mean that people who should have received improvements have not obtained those improvements as the program intended.

When I read your staff's response to the auditing departments audit report two issues stand out to me. One is that I presume that staff is suggesting that they did what they did because it was more efficient and less costly than following the directives of the Ordinance. The second perception is that it was the fault of the Board of County Commissioners that staff didn't comply with the ordinance because the ordinance hadn't been changed for many years. I will address each of my perceptions:

- I suspect that we would all agree that if the Clerk did not have an accounting department and we did not have rules by which we run government that it would be less costly to those who administer the affairs of government. Unfortunately, since the people would never have any control on how government was run, and since there would be no standards by which government operates, we would be governed by chaos.

As an example, the North Naples Fire Department could make the argument that it was less costly for them not to keep the receipts of the credit card purchases than it would have been to have kept them.

As one can clearly see, there are many reasons for following rules which create controls and "checks and balances" on government activity. I therefore would suggest your staff's argument is an excuse rather than an explanation.

- The second suggestion that by not changing the ordinance the Board of County Commissioners is in some way to blame, is equally self serving. The Board takes recommendations from staff on a daily basis for changes to ordinances. This occurred when we began uncovering this mess and the Board made significant changes to the ordinance.

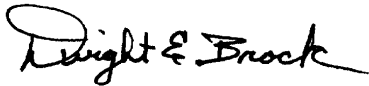
It is the responsibility of staff to recognize the shortcomings of existing ordinances and have them addressed timely. It is not staff's role to simply ignore the existing directives of the policy makers (i.e. the Board of County Commissioners) because they feel they know what is best.

The policy decisions of county government are legally vested with the Board of County Commissioners and not county staff. If there are perceived deficiencies within these policies it is staff's role to recognize those deficiencies and bring them to the Board for their final analysis.

We are again seeing the consequence of a long established philosophy of Collier County government staff that: "We know what is best and will do what we want" as opposed to "We do what the elected Board directs".

Having said the above, I would be remiss if I did not bring to your attention that Mr. Olliff is attempting to change that existing philosophy; for that the taxpayers of Collier County owe him a debt of gratitude.

Respectfully,



Dwight E. Brock
Clerk of the Circuit Court

DEB/sb

c: Hon. Pamela Mac'Kie
Hon. Tom Henning
Hon. James Colletta
Hon. Donna Fiala
Mr. Tom Olliff

Court Plaza III
2671 Airport Road South, Suite 102
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**Collier County
Clerk of the Circuit Court
Internal Audit Department**

Memo

To: The Honorable Dwight E. Brock, Clerk of the Circuit Court
From: Robert W. Byrne, CMA, Internal Audit Director
Date: 8/6/2001
Re: Audit Report 2001 – 2, Audit of Collier County SHIP Programs



Attached you will find Audit Report 2001 – 2, "Audit of Collier County State Housing Initiatives Partnership (SHIP) Programs." The findings illustrate the need for proper management controls and the adherence to those controls. The HUI Department has cooperated in the performance of this audit and has implemented a number of changes to the SHIP programs' procedures that should minimize future audit findings similar to those outlined in this report. However, the Internal Audit Department is concerned by the HUI Department response, which attempts to minimize the significance of the audit findings.

If you have any questions regarding this report, please telephone me at 774-8075.

Collier County Clerk of the Circuit Court
Internal Audit Department

Phone (941) 774 8075
Fax (941) 775 5861
2671 Airport Road S., Suite 102
Naples, FL 34112

Audit Report 2001 - 2

Audit of Collier County State Housing Initiatives
Partnership (SHIP) Programs

Audit Report 2001 - 2

Audit of Collier County State Housing Initiatives Partnership (SHIP) Programs

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Audit of Collier County SHIP Programs

Background Information

Audit Purpose, Objectives, & Scope

The purpose of this audit was to review several State Housing Initiatives Partnership (SHIP) programs of the Housing and Urban Improvement (HUI) Department in the Community Development and Environmental Services Division. The Internal Audit Department's objective was to assure that appropriate procedures and controls were in place for distribution of funds to eligible recipients. The scope of this audit was limited to payments approved during the 1998 through 2000 state fiscal years of three SHIP programs serving individual homeowners.

Audit Methodology & Procedures

This audit was performed in accordance with generally accepted government auditing standards. The Internal Audit Department interviewed HUI, and Finance Department staff responsible for the handling and processing of SHIP payments. Additionally, the auditors reviewed all ordinances, statutes, policies, and procedures relevant to the SHIP programs. A statistically based sampling of SHIP programs files was used to test compliance with applicable regulations. The auditors also accompanied HUI staff on inspections of rehabilitation work.

Background

The Housing and Urban Improvement Department is responsible for the development and management of the County's affordable housing strategies, including the State Housing Initiatives Partnership (SHIP) programs funded by the Affordable Housing Trust Fund. The purpose of the SHIP programs is to better meet the objectives and policies of the Housing Element of the Collier County Growth Management Plan by increasing housing opportunities for lower-income individuals and families while protecting natural resources, planning for community development, and encouraging economic growth.

There are three separate SHIP programs administered by the HUI Department that this audit covers. These programs are:

- 1) **Residential Rehabilitation Loan Program** – The Residential Rehabilitation Loan Program makes available up to \$15,000 to be used for the rehabilitation of single-family homes, townhouses, or condominium units that need repairs for safe and/or sanitary habitation, for correction of code violations, for the addition of handicapped access improvements, or for the creation of additional living space.
- 2) **Down Payment/Closing Cost Assistance Program** - This program provides loans up to \$2,500 designed to assist first-time homebuyers in the purchase of single-family homes, duplexes, or condominium units.
- 3) **Rehabilitation/Emergency Repair Program** - The Rehabilitation/Emergency Repair program provides up to \$2,500 for first-time homebuyers to make repairs to correct code violations or other types of repairs to make the home livable.

Two additional SHIP programs, the land acquisition and impact fee assistance programs, were not part of this audit as they are significantly different, in a procedural sense, from the three audited programs. The three audited programs are designed for the individual homeowner while the other two programs are oriented more towards developers and multi-family affordable housing projects.

According to the “SHIP Program Annual Report,” during the 1999-2000 state fiscal year (July 1, 1999 through June 30, 2000) Collier County spent \$1,292,320 serving 374 clients among the above three programs. This represents a 33% increase in spending and a 67% increase in the total number of clients served over the previous fiscal year. Even more remarkable is that current spending is 71% above the level two years ago (1997 – 1998) and the number of clients served has nearly tripled in the same period. HUI staffing of the SHIP programs has remained constant at two full time equivalents (FTE’s) during this period. However, to keep up with the growth of the programs, an additional position has been added for the 2000 – 2001 fiscal year.

The SHIP programs are funded by the State of Florida from Documentary Stamp Tax revenues and moneys are distributed back to the counties by a formula derived from the county’s population. SHIP funds that are received from the state by the county are deposited in the Affordable Housing Trust Fund (AHTF) and can only be used for SHIP affordable housing programs. During the 1999 – 2000 state fiscal year Collier County received approximately \$1.5 million from the state for SHIP programs.

Section 2

Audit of Collier County SHIP Programs

Findings

Checks for Recording Fees Not Deposited

During our preliminary inspection of SHIP files, the Internal Audit Department found that the HUI Department had kept checks payable to the Clerk of the Circuit Court for recording fees in individual client files rather than forwarding them to the Clerk's office for deposit. Most of the checks had become stale-dated and therefore were non-negotiable. Chapter 219.07 of the Florida Statutes requires that funds received for another agency shall be distributed to that agency "not later than 7 working days from the close of the week in which the officer received the funds."

HUI Response

"In the past, the SHIP rehabilitation program collected checks from homeowners to cover the recording fees of their second mortgages. The fees ranged anywhere from \$35 to \$72 per homeowner depending on the amount of the mortgage. These nominal fees were collected in an effort to create a "buy-in" effect on the part on the homeowner to the repair of their home.

Mortgages were not recorded at this stage because invariably as projects proceed change orders are executed and the cost of the project, and loan, fluctuates up and down over the course of the repairs and warranty period. As the mortgage amount changes so does the amount of the recording fees required. It was Department practice to collect these checks at the beginning of the repair process as part of the "buy-in" process, and only deposit them after all change orders and warranty issues are resolved and the second mortgage recorded."

Auditor's Comment:

Regardless of the rationale for doing so, holding checks until stale-dated is poor business practice. Furthermore, in these circumstances, it is contrary to state law.

Mortgages Not Recorded

The SHIP programs are loans that rely on repayment to the County, upon sale of the property, to enable more funds to be available for other needy individuals and families. In

order to secure the SHIP loan, good business practice, as well as County ordinance, requires a mortgage to be recorded against the property. Again, during our preliminary inspection of SHIP files, we found many unrecorded mortgage documents contained within the client files. In some cases the mortgages were executed but unrecorded, while in others the mortgages were not even executed. Lacking a recorded mortgage, the property could be sold without payment being made to Collier County. Similarly, if the property should go into foreclosure, the County would not be notified unless a mortgage had been recorded.

HUI Response:

“Second mortgages and promissory notes for repairs made through the SHIP Rehabilitation program were executed and notarized by the homeowners at the beginning of their repair process. The mortgages were held in their files and not recorded until after all change orders and warranty issues were resolved. Invariably as projects proceed, change orders are executed and the cost of the project, and loan, fluctuates up and down over the course of the repairs and warranty period. As the project cost changes, so does the mortgage amount.

It was Department practice to only record these mortgages once change orders and warranty issues were resolved. Otherwise, a mortgage modification document would be required to be recorded for every change in the loan amount. This would add to the client's recording fees and require additional staff time to prepare and record the documents. Because the mortgages and promissory notes were executed at the beginning of the repair process, the County's interest in the property was not jeopardized. All mortgages were recorded at the end of their project's warranty period and no money has ever been lost by the County.”

Auditor's Comment:

The HUI Department's practice to record mortgages after change orders and warranty issues is in direct violation of the ordinance, which the department drafted. The ordinance, and good business practice, requires immediate recording of a mortgage in order to protect the mortgagee. The assertion that “the County's interest in the property was not jeopardized” is contradicted by the fact that the loan that was reduced by HUI staff [see below] was only paid to the County because the seller notified their attorney of the loan's existence. Had this not been done, lacking a recorded mortgage, the County very likely would not have received any payment at all.

Additionally, a warranty on workmanship has no effect on whether or not to record a mortgage.

HUI Staff Accepted Reduced Loan Repayment Without BCC Approval

In one particular instance, the Internal Audit Department found that a property, with an unrecorded mortgage for a SHIP loan, was sold and the owner had negotiated with HUI staff a lesser payment than the full loan amount of \$15,000. HUI staff accepted \$7089 as payment satisfying the mortgage, a 53% discount on the amount owed. Additionally, this payment was not deposited for several months, and was only deposited after the Internal Audit Department inquired as to the status of the payment. HUI staff, by compromising

the amount of a debt owed the County, contravened F.S. 125.74 (2), which prohibits staff from exercising powers that are anything other than administrative or ministerial in nature. A number of Florida Attorney General Opinions confirm that only the Board of County Commissioners has the authority to compromise and settle accounts owed to Collier County.

HUI Response:

"In only one case (where circumstances dictated) a rehabilitation loan recipient's loan amount was reduced. The situation arose when a *County appointed* contractor had satisfactorily completed a repair and was paid for the job in full by the County. The rehabilitation contracts between both the homeowner and the contractor, and the homeowner and the County, specified that all work and workmanship were warranted for one year from completion.

Shortly after completion of the rehabilitation work the homeowner began having many problems with some of the work performed at her home. She and the HUI Department both tried to contact the contractor to make him honor the warranty. The HUI Department even went so far as to request that the contractor's County license be revoked until he corrected the warranty issues. The contractor then went out of business and it was apparent that he could not honor the warranty.

The County Attorney's office then opined that the homeowner could sue the contractor to recoup her losses. The HUI department felt that this option was unreasonable because it was the County who had assigned this contractor to the project, and therefore, the County had some responsibility to mitigate the financial losses to the homeowner.

As a customer service to the homeowner a solution was fashioned that deducted from the homeowner's overall loan balance those amounts paid to the contractor for line items that were considered deficient and could not be repaired. The homeowner then sold the property and HUI accepted the payoff of the loan balance. The HUI Department believed that because the SHIP ordinance gave the HUI Director authority to settle homeowner / contractor disputes, that there was authority delegated to take this action. The Internal Audit indicates that such an action violates *Florida Statutes*, notwithstanding any authority granted by local ordinance."

Auditor's Comment:

Resolving disputes between the contractor and homeowner is far different than reducing a debt owed the county. As explained above, only the Board of County Commissioners can reduce debts owed the county. We again emphasize that staff is prohibited by Florida Statute, Chapter 125.74 (2), from exercising powers that are anything other than administrative or ministerial in nature.

Failure to Inspect Projects Results in Possible Fraud

The Internal Audit Department found that no records existed documenting the HUI Department inspecting any of the emergency rehabilitation/repair work performed by contractors. When asked about inspections it was indicated that some inspections were done on a "drive-by" basis, whereby the HUI Manager drove past the subject property on his way home. When asked for a list of the homes inspected in this manner, no

documentation was provided, as none existed. Subsequently, HUI staff stated that they had inspected approximately 10% of the clients with repairs in order to assure that the work had been done as stated in the contract. However, no documentation was provided to the Internal Audit Department supporting this assertion.

The significance of this is that a client came forward inquiring of HUI as to why repair work on their house had not been done. The contractor allegedly pocketed a portion of the money earmarked for repairs and turned over the remainder to the homeowners to do the work themselves. HUI staff, upon learning of this situation, brought it to the attention of the County Attorney's Office, the Finance Department, and the Internal Audit Department.

Further investigation found that payment was secured from the county by presentation of an invoice for the work that was contracted; yet not performed. HUI staff authorized payment to be made, with the Finance Department relying on the cost center signatory that the goods and/or services had been received as contracted. An inspection, as required by ordinance, would have found that the work had not been performed. Additionally, a copy of the final inspection report was required to have been provided to the Finance Department, and had a procedure been in place to verify the receipt of the inspection report, the questionable payment may have been avoided.

More significantly, this was not an isolated incident. Approximately thirty SHIP clients appear to have had similar experiences with the same contractor. The SHIP clients affected appear to have been victimized because of their limited ability to speak, read, and write English. The contractor, capitalizing on being bilingual, appears to have acted as a "one-stop" shop for these individuals: acting as realtor, translator, advisor, as well as the contractor for their home repairs. While the HUI Department has several documents translated into Spanish and Haitian Creole, the HUI staff has only limited spoken Spanish language abilities.

The Collier County Sheriff's Office (CCSO) was notified of the possibility that the contractor had obtained County funds fraudulently in September 2000, but no charges have yet been brought forth. These cases are, according to the CCSO, still under active investigation by the CCSO and other law enforcement agencies. The release of this report was delayed at the request of the CCSO to avoid impeding their investigation, however they have agreed to its release at this time.

HUI Response:

"As previously stated, the SHIP program has evolved from a program designed to process 50 clients each year to one that now services well over 700 clients per year. Clients in the Emergency Repair program average about 3 separate repairs each, this translates into over 1,500 repair transactions program-wide per year. Staffing in the HUI Department had remained constant since the inception of the SHIP program and the increased workload was still handled by only two employees. With so many small repairs being completed it was impossible for staff to personally inspect each item. A small percentage of repairs (10%) received undocumented random inspections while the remainder of the program operated under a complaint driven inspection system. If a homeowner was dissatisfied with the repairs they had received they were instructed to inform the Department about their discrepancy and payment would be withheld from the contractor until the issue was resolved.

The facts behind the findings detailed in the Internal Audit Department report revolve around the actions of one particular realtor / mortgage broker / translator / contractor. This individual would shepherd Spanish-only speaking clients through the entire home buying process, including the Emergency Repair

program. He operated as a one-stop-shop for low-income minority homebuyers with very limited English skills.

Further investigation by the HUI Department uncovered possible allegations ranging from falsifying documents to defrauding lender banks and the IRS. The SHIP program and this individual's possible fraud against the County are only a small piece of what appears to be a larger scheme. The language barrier coupled with greatly increased program volume made the detection of the possible fraudulent situation more difficult. Approximately thirty clients may have been victimized by the same individual, with only three of these sustaining actual damages. To its credit HUI actually uncovered the situation with help from a bilingual homebuyer through the complaint driven inspection system and immediately brought the situation to the attention of the County Attorney's Office and Clerk of Court. Since September, 2000, the Collier County Sheriff's Office has been investigating the actions of the realtor, but, to date no charges have been filed."

Auditor's Comment:

The auditors were not provided with any written procedures outlining a "complaint driven inspection system," nor does the ordinance require this type of "reactive" inspection system. Instead, the ordinance requires a proactive inspection, prior to making payment to the contractor. As previously stated, the HUI Department offered no substantiation of their claim that they performed a random inspection of 10% of client properties. Clearly, if inspections were done, they were not sufficient to catch the problems discussed in this audit, and anything less than 100% inspection was contrary to the ordinance in effect at the time.

The contractor, by presenting what appear to be false invoices in order to receive payment of county funds, has victimized the entire county. Additionally, the homeowners were victimized by not receiving all they were to receive in the way of services. How HUI staff can state that "only three" clients sustained actual damages, when no one received all they were supposed to receive in the transactions is especially troubling. Troubling in that it seems that HUI staff is attempting to minimize the fact that an important management control, required by ordinance, was ignored and allowed the ensuing problems to occur.

Required Documentation Not Obtained and/or Not In Files

A previously conducted state audit rated the files and records kept on the SHIP programs by the HUI Department as unsatisfactory. The Florida Housing Finance Corporation (FHFC) auditor's report, dated September 28, 1999, notes that:

"Several files reviewed for Down Payment Assistance Program did not include relevant documentation including Closing Statements and Second Mortgage Lien documents.

Several files reviewed for Residential Rehabilitation were lacking documentation of Work Inspections, Final Inspections and/or Completion of rehabilitation work.

All files reviewed did not contain a Letter of Commitment (Eligibility) to the recipient stating funds would be awarded from the SHIP Program. Florida Housing Finance Corporation recommends that recipients selected for an award, from all strategies, be notified that funds to be expended are from the SHIP Program.

It is recommended Administrator review files, for each strategy, to ensure inclusion of all relevant documentation and provide additional training/assistance to participating sponsor/partners in SHIP program requirements."

The Internal Audit Department randomly sampled files from each of the programs for compliance with the documentation provisions in the ordinance. The results for the major requirements of each program are presented in Tables 1, 2, and 3 below. The samples were designed to have a 95% level of confidence that the compliance rates shown in the tables are within a +/- 20% range. Clearly, the results detailed in the tables suggest poor record keeping and are similar to those found in the FHFC audit.

Table 1: Required Documentation - Residential Rehabilitation

| Required Documentation | Compliance Rate |
|--|-----------------|
| Proof of fee simple ownership | 92.86% |
| Applicant Income Certification (Form B) | 85.71% |
| Disbursement authorization (Form T) | 28.57% |
| Home is over 12 months old | 92.86% |
| Gross annual incomes meet requirements (from Form B) | 85.71% |
| Signed Waiver of Lien to Date | 35.71% |
| Contractor's Occupational License | 14.29% |
| Recording fees paid by homeowner (Receipt) | 14.29% |
| Copies of signed final inspection report | 7.14% |

Table 2: Required Documentation - Down Payment/Closing Cost Assistance

| Required Documentation | Compliance Rate |
|---|-----------------|
| Mortgage Pre-Approval Letter | 14.63% |
| Copy of lender's title insurance policy | 12.20% |
| Annual Income meets requirements | 100.00% |
| Applicant is a first time homebuyer (Mortgagor's Certification) | 51.22% |
| Promissory Note | 95.12% |
| Recorded Second Mortgage | 73.17% |
| Formal Settlement Statement | 4.88% |

Table 3: Required Documentation - Rehabilitation/Emergency Repair

| Required Documentation | Compliance Rate |
|---|-----------------|
| Applicant meets eligibility criteria | 90.91% |
| Borrower selected a licensed contractor | 13.64% |
| Copy of signed contractual agreement | 22.73% |
| Signed final Inspection report | 0.00% |
| Recorded Second Mortgage | 86.36% |
| Waiver of lien | 0.00% |

HUI Response:

"As mentioned earlier, the inclusion of a State compliance audit quoted in the audit report is misleading because the State audit included was for completely different fiscal years. The State Audit cited covered only fiscal years 1993 through 1997, while the Clerk's internal audit covers fiscal years 1998 through 2000. Thus, there is no overlap between the two separate audit periods. Of greater concern is the omission of the most current State Audit, which *does* cover the exact same fiscal years covered by this report (1998 through 2000). This is so, even though the more favorable report had been completed and was available.

Internal Audit staff even held a private meeting with the State auditor in November 2000 while he was completing his site visit. The most current independent State audit finds the Collier County SHIP program (as administered by the HUI Department) to be satisfactory in all areas, including: Examination of Records, Administrative Procedures, and Physical Inspections. A complete copy of this current independent State audit is included as Exhibit B of this response.

The HUI Department feels that the inclusion of an outdated, negative outside audit which covers the wrong fiscal years, coupled with the complete omission of a more recent positive outside audit which covers the same fiscal years as the internal audit, results in an unfair comparison.

...In the audit report there are charts for each program, which list between six and nine selected variables along with the compliance rate for each as calculated by the auditors. However, closer examination of the spreadsheets shows Internal Audit Staff actually checked between seventeen and forty variables per program. Many of these variables checked were found to be in 100% compliance. Without comment, the audit report failed to mention these favorable compliance rates.

This results in a skewed conclusion showing only the selected unfavorable findings."

Auditor's Comment:

The 1999 FHFC audit that is cited in this audit report was used to illustrate that the HUI Department had previously been notified of lax record keeping practices. The 2000 FHFC audit that the HUI Department mentions in their response rated their files as "satisfactory" however, in the comments section of the report, the FHFC auditor specifically states: "Several Downpayment Assistant [sic] files did not include all pertinent documentation." The audit performed by the Clerk of the Circuit Court's Internal Audit Department included larger samples for each program than either of the FHFC audits used in total, resulting in a greater statistical validity in the rates cited in this report. Furthermore, the focus of the FHFC audit was eligibility rather than compliance with Collier County ordinance, as was this audit.

Ordinance Procedures Not Followed

The procedures outlined in the SHIP ordinance require certain procedures to be followed. Preparing files, recording mortgages, and performing inspections are among the procedures required by the ordinance. Furthermore, the documentation requirements of the ordinance assume certain procedures are followed in order to obtain the required documents and are, therefore, a useful measure as to how well procedures are followed.

The data in Tables 1, 2, and 3, above, reflect an inconsistent adherence to the ordinance-defined procedures in addition to the previously discussed record-keeping practices. One possible contributing factor is that the HUI Department does not have a detailed procedures manual for the SHIP programs. Clear, written procedures are an important control that ensures the efficiency and effectiveness of any program.

HUI Response:

"This one finding in the internal audit report primarily sums up most of the other findings.

As previously stated, the original SHIP ordinances were written in the early 1990's when total program funding was \$250,000 per year and procedures were designed for only 50 clients per year. Program funding has increased over time to over three million dollars per year. Today, the number of individuals assisted has risen to more than 700 per year, while staffing remained constant, the SHIP programs had to be streamlined to provide an exceptional level of customer service. The program evolved over this time to become ranked number one in the State in several categories (including volume) while still complying with all SHIP compliance requirements."

Auditor's Comment:

The very fact that the program has grown so quickly emphasizes the need for all established procedures to be followed consistently in order to effectively and efficiently reach the program's goals.

Audit of Collier County SHIP Programs

Recommendations & Conclusion

Make Timely Deposits of Payments

Payments should be deposited daily. If payment is received for the recording of documents in the Public Records of Collier County, the documents should be recorded as soon as the payment is received (provided the documents have been executed). In those circumstances where documents and checks must be held overnight, the items should be placed in a safe or locked drawer for safekeeping until they can be deposited or recorded. Payments should be held in the department's offices for the shortest time possible.

HUI Response:

"On July 24, 2000 the HUI Department stopped collecting any checks to cover recording fees, instead choosing to pay for recording fees from administrative funds."

Establish Procedures to Ensure Mortgages Are Recorded

While mortgages for the Downpayment/Closing Cost Assistance Program are recorded by the title company at the time of closing, mortgages for the repair programs are recorded by HUI staff. The mortgage should be in the full amount of the loan and when executed should be immediately recorded by HUI staff prior to any disbursement of funds to the contractor. Should circumstances arise where the amount of funds finally obtained by the borrower are different than the executed mortgage, a mortgage modification agreement should be executed in the correct amount.

HUI Response:

"On July 24, 2000 the HUI Department changed procedures to record all second mortgages as soon as they are executed and spend the additional expense and staff time to re-record mortgage modifications as needed."

Obtain BCC Approval for All Matters of Policy

As mentioned above, the Board of County Commissioners is the policy maker for the County. Employees, including the County Administrator (Manager), are authorized to act solely in a ministerial or administrative capacity by law [F.S. 125.74 (2)]. Staff should request prior approval from the BCC for any changes in policy, particularly those involving debts owed the County.

HUI Response:

"All reduced loan re-payments will be approved by the BCC."

Establish a Repair Work Inspection Program

Verification that repair work has been completed satisfactorily is critical in preventing fraudulent payment requests from contractors. The homeowner borrowing SHIP funds has an obligation to insure that repair work is done to their satisfaction and reporting problems to the County, prior to the County paying the contractor's invoice. The County, however, has an obligation by ordinance and prudent business practice, to ensure that the funds entrusted to it go towards achieving the stated goals of providing for safe, sanitary, affordable housing for the lower income residents of Collier County. A comprehensive inspection program would contribute in meeting these goals.

Copies of the inspection report should be provided to the Finance Department and procedures should be established by the Finance Department to assure that payments for repair work are not made without an inspection report on file.

HUI Response:

"To prevent the possibility of a situation like this from happening again the HUI Department has hired additional staff dedicated solely to the inspection of rehabilitation work. The new inspector now physically examines and photographs *every* repair or improvement done through the SHIP program and signs off on an inspection report prior to payment. In addition detailed client instructions on the repair procedures and guidelines of the program have been translated into Spanish and are now handed to each Spanish-speaking client."

Obtain and Retain Required Documentation

Procedures should be established to ensure that all required documentation is obtained and retained in client files. To ensure that necessary documentation is received and fully completed in accordance with the ordinance, the development of an updated checklist is

recommended. Annual training sessions on the provisions of the ordinance and applicable state laws are recommended.

HUI Response:

"The SHIP ordinance was amended in October of 2000 to formally eliminate the requirement to use some of the unnecessary, redundant forms. The addition of more staff to the program has allowed more time to carefully check each file for the required documentation. A new checklist has been developed to ensure the documentation required is in each file. Lastly, staff is actively enrolled in, and teaches at the SHIP workshop series presented by the Florida Housing Coalition which provides continuing education of SHIP administrators state-wide."

Develop Procedures Manual for SHIP Programs

A procedures manual that outlines all procedures and documentation required in the ordinance does not currently exist within the Housing and Urban Improvement Department. A procedures manual, coupled with adherence to the defined procedures, would help ensure a consistent application of the provisions of the SHIP ordinance and aid in improving the efficiency and effectiveness of the programs.

HUI Response:

"The SHIP ordinance amendment of October 2000 has brought the old, outdated ordinance in line with current, more streamlined procedures and an amended ordinance for the rehabilitation program contains a very detailed procedures manual, negating the need as suggested in the internal audit report's recommendation. All SHIP ordinances will now be reviewed on an ongoing basis as part of HUI staff's essential position tasks to ensure continued compliance and further success of the program."

Auditor's Comment:

The previous ordinance had similarly detailed procedures that were not followed. The reason for a procedures manual is to define the specific administrative "how-to's" as well as the "who's," "what's," and "where's" that are not included in the ordinance. The Internal Audit Department therefore reemphasizes the need for a procedures manual.

Conclusion

The HUI Department has implemented a number of changes to the SHIP programs' procedures that should minimize future audit findings similar to those outlined in this report. The HUI Department has cooperated in the performance of this audit and we look forward to working with them again in a follow-up to this audit that will be scheduled in the next 18 months. The Internal Audit Department is concerned, however, by the response

to the audit findings, as HUI's response attempts to minimize the significance of the audit findings.

The findings illustrate the need for proper management controls and the adherence to those controls. The controls established in the ordinance were preventative in nature and when the procedures were not followed, without implementing compensating controls, the situations described were able to occur. A necessary part of any program, proper controls help ensure that the program's goals are met. For thirty clients of the SHIP Emergency Repair Program, it is questionable, at best, if the goal of making their homes more livable was met. Certainly the citizens and taxpayers of Collier County did not get what they paid for.

Audit of Collier County SHIP Programs

Attachments

Attachment A: HUI Department Response

Note: Due to the length of this response, only the letter portion is included. The attachments referred to within the response are available for inspection in the Internal Audit Department office.

July 20, 2001

Collier County Clerk of the Circuit Court
Mr. Robert W. Byrne, Internal Audit Department Director
2671 Airport Road South, Suite 102
Naples, FL 34112

Re: Housing and Urban Improvement (HUI) Internal Audit Report Response:

The HUI Department thanks the Clerk's office for completing this audit of the County's SHIP program. We recognize the importance that both internal audits and our yearly state audit play in the ongoing review of ordinances and procedures used in all of our programs.

The Collier County SHIP program is one that has experienced tremendous growth in program activity over the past four years. In that time period the program has become ranked number one in the State of Florida by the Florida Housing Finance Corporation in several categories. These include the number of Very-Low income units produced and the total number of units produced per SHIP dollar spent. The HUI Department has been recognized by the State for doing a better job at managing and allocating its SHIP money than any other of the 114 participating SHIP communities in the state.

Although investigation into the SHIP program dates back to July 12, 2000 (see attached Exhibit A, Audit Timeline), the internal audit was completed with very limited input from HUI staff. As such, we appreciate this opportunity to now be able to respond to the audit findings.

Most of the findings in the audit report stem from procedures under an old ordinance not being followed in exact detail while program activity more than quadrupled between 1996 and 2000. The operating ordinance for the SHIP program, as written in 1994, was by all accounts a very cumbersome ordinance written to accommodate a program with yearly expenditures of less than \$250,000 and fewer than 50 clients per year. Today the program services more than 700 clients per year and has an annual budget of over three million dollars.

Over time, in order to accommodate the increase in clients and to provide better customer service some procedures were consolidated, simplified, or streamlined (within State SHIP guidelines) to meet the increased demand from the public. The Collier County SHIP ordinance was formally revised and updated in October, 2000 to reflect a more streamlined, efficient system providing increased services to the public. The HUI Department believes that each of the recommendations and conclusions raised by the findings in this audit report have already been addressed and corrected. These corrections have been accomplished either through ordinance amendment or through internal procedural changes and staffing additions.

To verify this conclusion please find attached a copy of an independent State compliance audit (Exhibit B) commissioned by the Florida Housing Finance Corporation covering the same fiscal years as the Clerk's internal audit report (FY98-FY00). The State compliance audit finds the Collier County SHIP program to be satisfactory in all areas, including:

- Examination of records
- Administrative procedures
- Physical inspections

A prior state audit, referenced in the internal audit report covers only FY93- FY97, even though the internal audit report actually covered FY98- FY00. Thus, there is no overlap between the years audited in the Internal Audit report and the years audited in the State audit cited in the report.

The more recent, independent State audit was completed and made available to Internal Audit staff prior to release of their audit report. However, there is no mention of the recent State audit or its findings anywhere in the Clerk's audit report. Internal Audit Department staff held a private meeting with the state auditor while he was here for his site visit, however, the report cites an outdated, previous audit that does not cover the same timeframe as the internal audit. This produces a strained comparison.

As previously stated, the more recent State compliance audit covering the same program years that were audited by Internal Audit finds the Collier County SHIP program to be satisfactory in all areas. Inexplicably, this more recent report was not used by the Internal Audit Depart Staff in the preparation of their audit report.

Detailed Analysis, Responses, and Remedies

The following are more detailed responses to each of the findings in the Internal Audit Report.

Checks for recording fees not deposited

Analysis: In the past, the SHIP rehabilitation program collected checks from homeowners to cover the recording fees of their second mortgages. The fees ranged anywhere from \$35 to \$72 per homeowner depending on the amount of the mortgage. These nominal fees were collected in an effort to create a "buy-in" effect on the part on the homeowner to the repair of their home.

Response: Mortgages were not recorded at this stage because invariably as projects proceed change orders are executed and the cost of the project, and loan, fluctuates up and down over the course of the repairs and warranty period. As the mortgage amount changes so does the amount of the recording fees required. It was Department practice to collect these checks at the beginning of the repair process as part of the "buy-in" process, and only deposit them after all change orders and warranty issues are resolved and the second mortgage recorded.

Remedy: On July 24, 2000 the HUI Department stopped collecting any checks to cover recording fees, instead choosing to pay for recording fees from administrative funds.

Mortgages not recorded

Analysis: Second mortgages and promissory notes for repairs made through the SHIP Rehabilitation program were executed and notarized by the homeowners at the beginning of their repair process. The mortgages were held in their files and not recorded until after all change orders and warranty issues were resolved. Invariably as projects proceed, change orders are executed and the cost of the project, and loan, fluctuates up and down over the course of the repairs and warranty period. As the project cost changes, so does the mortgage amount.

Response: It was Department practice to only record these mortgages once change orders and warranty issues were resolved. Otherwise, a mortgage modification document would be required to be recorded for every change in the loan amount. This would add to the client's recording fees and require additional staff time to prepare and record the documents. Because the mortgages and promissory notes were executed at the beginning of the repair process, the County's interest in the property was not jeopardized. All mortgages were recorded at the end of their project's warranty period and no money has ever been lost by the County.

Remedy: On July 24, 2000 the HUI Department changed procedures to record all second mortgages as soon as they are executed and spend the additional expense and staff time to re-record mortgage modifications as needed.

HUI staff accepted a reduced loan repayment without BCC approval

Analysis: In only one case (where circumstances dictated) a rehabilitation loan recipient's loan amount was reduced. The situation arose when a *County appointed* contractor had satisfactorily completed a repair and was paid for the job in full by the County. The rehabilitation contracts between both the homeowner and the contractor, and the homeowner and the County, specified that all work and workmanship were warranted for one year from completion.

Shortly after completion of the rehabilitation work the homeowner began having many problems with some of the work performed at her home. She and the HUI Department both tried to contact the contractor to make him honor the warranty. The HUI Department even went so far as to request that the contractor's County license be revoked until he corrected the warranty issues. The contractor then went out of business and it was apparent that he could not honor the warranty.

The County Attorney's office then opined that the homeowner could sue the contractor to recoup her losses. The HUI department felt that this option was unreasonable because it was the County who had assigned this contractor to the project, and therefore, the County had some responsibility to mitigate the financial losses to the homeowner.

Response: As a customer service to the homeowner a solution was fashioned that deducted from the homeowner's overall loan balance those amounts paid to the contractor for line items that were considered deficient and could not be repaired. The homeowner then sold the property and HUI accepted the payoff of the loan balance. The HUI Department believed that because the SHIP ordinance gave the HUI Director authority to settle homeowner / contractor disputes, that there was authority delegated to take this action. The Internal Audit indicates that such an action violates *Florida Statutes*, notwithstanding any authority granted by local ordinance.

Remedy: All reduced loan re-payments will be approved by the BCC.

Failure to inspect projects results in possible fraud

Analysis: As previously stated, the SHIP program has evolved from a program designed to process 50 clients each year to one that now services well over 700 clients per year. Clients in the Emergency Repair

program average about 3 separate repairs each, this translates into over 1,500 repair transactions program-wide per year. Staffing in the HUI Department had remained constant since the inception of the SHIP program and the increased workload was still handled by only two employees. With so many small repairs being completed it was impossible for staff to personally inspect each item. A small percentage of repairs (10%) received undocumented random inspections while the remainder of the program operated under a complaint driven inspection system. If a homeowner was dissatisfied with the repairs they had received they were instructed to inform the Department about their discrepancy and payment would be withheld from the contractor until the issue was resolved.

Response: The facts behind the findings detailed in the Internal Audit Department report revolve around the actions of one particular realtor / mortgage broker / translator / contractor. This individual would shepherd Spanish-only speaking clients through the entire home buying process, including the Emergency Repair program. He operated as a one-stop-shop for low-income minority homebuyers with very limited English skills.

Further investigation by the HUI Department uncovered possible allegations ranging from falsifying documents to defrauding lender banks and the IRS. The SHIP program and this individual's possible fraud against the County, are only a small piece of what appears to be a larger scheme. The language barrier coupled with greatly increased program volume made the detection of the possible fraudulent situation more difficult. Approximately thirty clients may have been victimized by the same individual, with only three of these sustaining actual damages. To its credit HUI actually uncovered the situation with help from a bilingual homebuyer through the complaint driven inspection system and immediately brought the situation to the attention of the County Attorney's Office and Clerk of Court. Since September, 2000, the Collier County Sheriff's Office has been investigating the actions of the realtor, but, to date no charges have been filed.

Remedy: To prevent the possibility of a situation like this from happening again the HUI Department has hired additional staff dedicated solely to the inspection of rehabilitation work. The new inspector now physically examines and photographs *every* repair or improvement done through the SHIP program and signs off on an inspection report prior to payment. In addition detailed client instructions on the repair procedures and guidelines of the program have been translated into Spanish and are now handed to each Spanish-speaking client.

Recorded documentation not obtained and/or not in files

The comments to this finding will be split into two sections. First, we discuss the appropriateness of the use and inclusion of an outdated State audit while omitting any mention of the current State audit which covered the same fiscal years as this report; and second, we comment on compliance rates found in the HUI files selected to be reviewed.

I. Analysis: As mentioned earlier, the inclusion of a State compliance audit quoted in the audit report is misleading because the State audit included was for completely different fiscal years. The State Audit cited covered only fiscal years 1993 through 1997, while the Clerk's internal audit covers fiscal years 1998 through 2000. Thus, there is no overlap between the two separate audit periods. Of greater concern is the omission of the most current State Audit, which *does* cover the exact same fiscal years covered by this report (1998 through 2000). This is so, even though the more favorable report had been completed and was available.

Internal Audit staff even held a private meeting with the State auditor in November, 2000 while he was completing his site visit. The most current independent State audit finds the Collier County SHIP program (as administered by the HUI Department) to be satisfactory in all areas, including: Examination of Records, Administrative Procedures, and Physical Inspections. A complete copy of this current independent State audit is included as Exhibit B of this response.

Response: The HUI Department feels that the inclusion of an outdated, negative outside audit which

covers the wrong fiscal years, coupled with the complete omission of a more recent positive outside audit which covers the same fiscal years as the internal audit, results in an unfair comparison.

II. Analysis: Three spreadsheets containing a list of files sampled by the Internal Audit Department (complete with compliance variables and percentages found for each) was forwarded to the HUI Department after discussion regarding a draft of their report. These spreadsheets are included as part of this response (Exhibits C, D, and E). The audit report distinguishes the compliance rates for the three SHIP programs.

In the audit report there are charts for each program which list between six and nine selected variables along with the compliance rate for each as calculated by the auditors. However, closer examination of the spreadsheets shows Internal Audit Staff actually checked between seventeen and forty variables per program. Many of these variables checked were found to be in 100% compliance. Without comment, the audit report failed to mention these favorable compliance rates.

This results in a skewed conclusion showing only the selected unfavorable findings.

When all variables are considered, the compliance rate program-wide is actually 20.11% higher than what the audit report would lead one to conclude.

The spreadsheets also include other auditing errors such as:

Using canceled or rejected files in the sample size.

Using the results from those cancelled files when calculating overall percentages.

There were two canceled files used in the calculations in the Residential Rehabilitation compliance section out of a total sample size of only sixteen files. Eliminating these cancelled files raises the compliance rate by 12.5% across the board in that section. This error was brought to the attention of the Internal Audit Department staff and the oversight was acknowledged prior to the release of their report, but has not been corrected.

The HUI Department feels that most of the compliance rates compiled by the Internal Audit staff do not provide a complete and accurate representation of the programs as actually administered. The HUI Department has streamlined application procedures so as to provide greater customer service while experiencing a 1,300% increase in clientele.

One example of streamlining is that specific forms containing redundant information used in the program have been phased out in favor of alternate sources providing the same information (as required by State SHIP guidelines). The use of such alternate documentation has reduced application processing time to less than one day.

One specific example of alternate documentation is in the Down Payment/Closing Cost Assistance program. This program calls for all recipients to be first-time homebuyers. The old original SHIP ordinance from 1994 called for a form called a "Mortgagor's Certification of Past Residence." This form listed the applicant's home address for the previous three years (it can then be deduced that if the applicant was a renter for the previous three years, then they would be qualified as a first-time homebuyer).

The information on this form is both redundant and an unreliable check for previous homeownership. To determine if a client is a first-time homebuyer HUI staff now checks in no less than four other more reliable alternative places in the application, per SHIP requirements, as follows:

1) The reservation form is checked for the appropriate box filled out by the lender.

2) The lender's official-typed loan application is checked in two more separate places. One check is made in the past residence certification section of the application.

3) A check is made of the buyer's declaration section where the lender certifies the buyer as not having owned a home before.

4) Copies of the applicants three years Federal tax returns are also checked. If the applicant had owned a home in the past three years then they most likely would have claimed the interest on their mortgage as a deduction on their IRS return.

The HUI department feels that its accumulation of first-time homebuyer information from four alternative sources is a much more accurate way to ensure this requirement is met.

This is just one example, of one of the 22 selected variables, from one of the programs, contained in the audit report. The HUI Department feels there may be many more similar circumstances with the other variables that were checked. When the issue of using alternate, more reliable documentation to fulfill the intention of the ordinance was brought to the auditors their response was that they were not looking in the file to check to see if the client was, in this case, actually a first-time homebuyer, they were only looking to see if the "Mortgagor's Certification of Past Residence" form was completed for a full three years. If it was not, they summararily classified the buyer as not being a first-time homebuyer.

Remedy: The SHIP ordinance was amended in October of 2000 to formally eliminate the requirement to use some of the unnecessary, redundant forms. The addition of more staff to the program has allowed more time to carefully check each file for the required documentation. A new checklist has been developed to ensure the documentation required is in each file. Lastly, staff is actively enrolled in, and teaches at the SHIP workshop series presented by the Florida Housing Coalition which provides continuing education of SHIP administrators state-wide.

Ordinance procedures not followed

Analysis: This one finding in the internal audit report primarily sums up most of the other findings.

Response: As previously stated, the original SHIP ordinances were written in the early 1990's when total program funding was \$250,000 per year and procedures were designed for only 50 clients per year. Program funding has increased over time to over three million dollars per year. Today, the number of individuals assisted has risen to more than 700 per year, while staffing remained constant, the SHIP programs had to be streamlined to provide an exceptional level of customer service. The program evolved over this time to become ranked number one in the State in several categories (including volume) while still complying with all SHIP compliance requirements.

Remedy: The SHIP ordinance amendment of October 2000 has brought the old, outdated ordinance in line with current, more streamlined procedures and an amended ordinance for the rehabilitation program contains a very detailed procedures manual, negating the need as suggested in the internal audit report's recommendation. All SHIP ordinances will now be reviewed on an ongoing basis as part of HUI staff's essential position tasks to ensure continued compliance and further success of the program.

Thank you again for the opportunity to provide this detailed response.

Respectfully submitted,

Greg Mihalic, Director
Housing and Urban Improvement Department