



STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL
STATE CAPITOL
ALBANY, NEW YORK 12224

61 BROADWAY, 12TH FLOOR
NEW YORK, NEW YORK 10006

KRISTINE HAMANN
INSPECTOR GENERAL

65 COURT STREET, 5TH FLOOR
BUFFALO, NEW YORK 14202

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For additional information, contact:
Stephen Del Giacco at (518) 474-1010

REVIEW BY STATE INSPECTOR GENERAL FINDS DHCR FAILED TO MONITOR MITCHELL-LAMA PROGRAM

State Inspector General Kristine Hamann today released the results of an in-depth review by her office concluding that the New York State Division of Housing and Community Renewal's monitoring of the Mitchell-Lama affordable housing program and enforcement of its own regulations were deficient on a broad scale.

The IG's report, "An In-Depth Review of the Division of Housing and Community Renewal's Oversight of the Mitchell-Lama Program," describes the results of an examination that revealed fundamental deficiencies in DHCR's oversight of the Mitchell-Lama program during the period January 2003 to October 2006. The IG's office began its review in response to numerous complaints from residents and others that pointed to systemic problems in DHCR's oversight role.

Inspector General Hamann stated: "Rather than safeguarding the integrity of the program, DHCR, through its own shortcomings, allowed housing companies to flout rules regarding apartment allocation, financial reporting, and contracting. DHCR's deep and systemic failures resulted in increases in charges to tenants and the allocation of apartments to unqualified applicants at the expense of those legitimately entitled to those same apartments."

Inspector General Hamann emphasized that DHCR Commissioner Deborah VanAmerongen, who was appointed to her position in February 2007, immediately began to address problems at the Division and has already initiated significant reforms. Hamann noted that VanAmerongen accepted the recommendations contained in the report and has begun to implement a plan that will strengthen DHCR's oversight of the Mitchell-Lama program.

Commissioner Deborah VanAmerongen stated: "Governor Spitzer has made it clear that affordable housing is a top priority for his administration. As such, he wants to ensure that DHCR is as effective, transparent and accountable as possible, and I'm pleased to announce we have already made great strides toward that goal in a very short

time. As the Inspector General noted, we have already initiated a plan to implement all the recommendations included in her report on oversight of the Mitchell-Lama portfolio. Today, I want to assure the public that Governor Spitzer and I are committed to building upon all the good work accomplished by the DHCR, while also initiating reforms that will make the Division a model of efficiency and accountability.”

Since its inception in 1955, the State’s Mitchell-Lama housing program has provided affordable rental and cooperative apartments for hundreds of thousands of middle-income New Yorkers. The majority of Mitchell-Lama developments are located in New York City, where the program is especially important to middle-income families who, while not qualifying for federal government housing vouchers, struggle to pay market-rate rents. Currently, the Mitchell-Lama program encompasses some 189 building complexes containing 80,000 apartments, both rental and cooperative, owned by private housing companies. These companies receive tax exemptions and government-financed low-interest loans in exchange for agreeing to charge rental and purchase prices well below market rates. DHCR is responsible for enforcing rules and regulations to ensure the efficient and fair operation of the program.

The Inspector General’s review examined DHCR’s oversight of, and housing companies’ compliance with, tenant and cooperative owner selection rules at three building complexes: Cathedral Parkway Towers and Westview Apartments, rental developments in Manhattan and Roosevelt Island, respectively, and Towers of Bayridge, a cooperative in Brooklyn. In addition, at Co-op City in the Bronx, the Inspector General examined DHCR’s oversight of contracting, budgeting and other financial issues. Finally, the review sought to determine if DHCR properly monitored the Mitchell-Lama complexes through its field staff, its complaint process and its review of required financial statements and reports.

The IG’s review found that DHCR failed to enforce many regulations designed to ensure proper financial management and fair assignment of apartments. These failures included the lack of any formal system to monitor receipt and review of required documents, sloppiness in record-keeping, and inadequate supervision of employees. When DHCR Housing Management employees did perform their oversight functions, they were inhibited from properly doing so by incomplete agency policies and inadequate training.

Tenant Selection: Nothing is more important to the fair operation of the Mitchell-Lama program than the integrity of apartment waiting lists. At any given time, thousands of eligible applicants are on waiting lists, often waiting many years before being offered an apartment. The IG’s review found:

- At Cathedral Parkway, of 79 tenants who either moved into the development or transferred into new apartments from January 2004 to August 2006, only one was submitted to, and approved by, DHCR, a stunning 99 percent non-compliance rate. The Inspector General’s analysis of a random sample of 40 of the 79 revealed that 39 of the 40 were not eligible for apartments or transfers under DHCR regulations. None of the

new tenants receiving apartment had been on a waiting list, nor did their files even contain an application form.

- At Bayridge, 59 applications were improperly inserted in the waiting list during the period 2002 to 2004. Despite the obvious nature of these insertions, the DHCR representative declared at the time that the Bayridge did an excellent job of maintaining the waiting list.
- In 2006, Cathedral Parkway granted apartments to individuals who were not on the waiting list, bypassing applicants who had been waiting for an apartment since 1999. When the manager was asked for an explanation, she said, “they just walked in and filled out applications and we gave them apartments.”
- In numerous cases, eligible applicants were improperly dropped from waiting lists without explanation. At Bayridge, 263 applicants were removed from the list between April 2000 and September 2006. At Cathedral Parkway, approximately 125 individuals were removed. Interviews with a sample of those removed from the list revealed that most had been removed from the list with no explanation and without their knowledge.
- Apartments were granted to applicants without the required DHCR approval. Astonishingly, in 109, or fully 70 percent, of the 156 tenancies reviewed, apartments were granted although applications had not been submitted to DHCR for approval or had been submitted but returned as incomplete or denied.
- DHCR failed to detect unauthorized residents in Mitchell-Lama complexes because it conducted so few audits of apartment rent rolls, and those it did conduct were inadequate. For example, in a rent roll audit at Bayridge, DHCR failed to detect that the housing company listed 21 residents who no longer lived in the complex, including four who were deceased.
- In some instances, DHCR failed to enforce maximum income requirements for eligible tenants. For example, the maximum allowed for one apartment was \$83,000, while the income affidavit submitted by the tenant listed an income in excess of \$300,000. Since DHCR did not enforce its income requirements, the tenant pays a monthly rent of \$1,068.36
- While thousands of families waited their turn, DHCR’s own employees who supervised the Mitchell-Lama program benefited from the program themselves. Of a randomly selected sample of 30 DHCR employees who live in New York City and are responsible for direct supervision of Mitchell-Lama complexes, 10, or fully 33.3 percent, resided in Mitchell-Lama developments or in complexes that recently bought out of the program, contrasted with 2 percent of New York City residents in general. The potential for abuse by DHCR employees in this situation is underscored by the arrest and conviction of Mark Marcucilli, Assistant Director of DHCR’s Housing Management Bureau, the bureau directly responsible for oversight of the Mitchell-Lama program, and Jody Wolfson, DHCR’s housing representative at Southbridge Towers, on federal charges relating to the unlawful occupancy and transfer of apartments at Southbridge, a Mitchell-Lama complex

in lower Manhattan. DHCR lacked adequate controls to prevent conflicts of interest arising from DHCR employees residing in Mitchell-Lama complexes.

Financial Oversight at Co-op City: At Co-op City, the largest Mitchell-Lama development in the State, the Inspector General found a virtual abdication by DHCR of its oversight responsibilities on contract awards and other financial matters. In this vacuum, the housing company that operates Co-op City engaged in a number of acts of regulatory non-compliance, including a willful avoidance of DHCR contracting requirements.

In April 2007, following a joint investigation by the Inspector General's Office and the United States Attorney's Office for the Southern District, Iris Baez, a former president of Co-op City's board of directors was indicted on charges that she accepted nearly \$100,000 in bribes from a painting contractor who was awarded \$3.5 million in work without a contract and without any objection by the DHCR representative.

Other findings regarding Co-op City included:

- DHCR monitoring of contract procurement at Co-op City was seriously deficient. Our review sampled 47 Co-op City contracts executed between 2002 and 2006 with a total value of \$127.5 million and representing about 20 percent of the contracts during the period. In 40 of the contracts, valued at \$56.4 million, Co-op City failed to comply with DHCR procurement rules. Even more troubling, DHCR approved 21 of these contracts, despite the violations.
- DHCR paid little attention to Co-op City's financial statements or budgets. For the fiscal year ending March 31, 2004, Co-op City submitted its financial statement 253 days late; for the fiscal year ending March 31, 2005, it was delinquent by 210 days. DHCR did not review the 2005 statement until almost three months after its already-late submission and never reviewed the financial statement for 2004. Similar lapses occurred with respect to submission of proposed budgets.
- Performance bonds, though required by DHCR, were not obtained from some of the vendors hired to make multi-million dollar repairs at Co-op city. In one contract worth \$43 million, five DHCR employees, including the director of the Housing Management Bureau and the assistant commissioner, signed DHCR's approval form attesting, among other things, that the documents they were approving included the performance bond, which in fact did not exist.
- While Co-op City was in arrears to the New York State Housing Finance Agency in mortgage payments of \$152.8 million, HFA agreed to allow Co-op City to earn credits against these arrears for certain construction projects DHCR verified as completed. While HFA believed DHCR satisfied this agreement and granted \$111.6 million in credits, DHCR never in fact verified the work. Thus, \$111.6 million was awarded to Co-op City for construction work that DHCR never verified as having been completed.

Systemic Deficiencies in Mitchell-Lama Oversight: With respect to DHCR oversight of the Mitchell-Lama program in general, our review similarly found serious problems, including:

- DHCR field staff, the agency's primary point of contact with housing companies, was not properly trained or supervised, and failed to inspect housing complexes as required. During 2005, for example, 106 developments, or 54 percent of then active developments, did not receive the required number of field visits.
- In a particularly serious lapse, of 138 site-visit field reports DHCR staff prepared in the 2005-2006 heating season, 36 percent did not include the required examination of heating systems, even though 12 percent of DHCR tenants complained of inadequate heat.
- While DHCR said that complaints are the primary basis for auditing housing companies, it handled complaints in a manner that rendered the process nearly useless. DHCR officials said they did not see a reason for logging complaints because they received so many that there was not time to log them in or respond to all of them. When complaints were received, they were forwarded to the DHCR field representative assigned to the very housing company that was the subject of the complaint.
- DHCR failed to ensure that housing companies submitted required financial statements, proposed budgets, and other reports designed to detect potential financial mismanagement or abuses of authority. A random sample of 31 housing companies revealed that the majority had not submitted financial statements on time. Even when reports were submitted, DHCR failed to review many of them in a timely manner.
- Between 2004 and 2006, DHCR overlooked the failure of housing companies to submit required Tenant Selection Activity Reports, as the rate of companies' compliance with the requirement declined during the period from 70 percent to 45 percent.
- Seventy percent of housing companies failed to submit Identity of Interest Statements, required by DHCR as a means of identifying potential conflicts of interest in contracting. The DHCR employee assigned to track the submissions was given no guidance on what to do if companies failed to comply.

The IG's report included a number of recommendations to DHCR for improving its Mitchell-Lama oversight. DHCR's detailed responses to these recommendations are also contained in the report.

A number of issues relating to Mitchell-Lama housing companies and DHCR's oversight remain under investigation by the Inspector General's Office.

The Inspector General's report is available on the office's website at www.ig.state.ny.us.

For additional information, contact Stephen Del Giacco at (518) 474-1010.