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ensure that potential buyers are confirmed eligible under the grant requirements prior to completion of the sale.

According to the complainant, the NSP single-family residences were being listed in the Multiple Listing Service (MLS) with a sales price and almost immediately put into the status of “hold-do-not-show” for six to nine months. Then status was later changed to ‘active’ with a revised sale price.

The Grand Jury interviewed Agency intermediaries, along with their respective real estate agents, regarding their involvement with the NSP rehabilitation of and resale of SFR. Seventeen properties are being listed in the MLS when the Intermediary takes control of the project without the knowledge of the Agency. A “For Sale” sign is posted and sale price is listed in the MLS at a “projected” market value based upon the real estate agent’s best estimate of what will be the fair market price upon rehabilitation. The status of sale is placed on “hold-do-not-show” in the MLS and a lockbox is not placed on the property. The MLS price is subsequently changed to correspond to the price that has been established by the outside appraisal and agreed to with the Agency, and the properties are sold within the six to nine month period after the rehabilitated properties are completed. There is evidence that on at least two occasions the agent has been the listing and selling agent, which is a widespread business practice.

The Grand Jury discovered a real estate agent that acknowledged that his involvement in the sale of NSP properties was a learning process. At the onset, he did not know or understand the required procedures for establishing the sales price and determination of qualified buyers until Agency staff worked with him to ensure NSP compliance in the sale process.

The MLS is a computerized system, which is governed by the California Real Estate Technology Services (CARETS) Rules and Regulations. MLS collects and maintains information on properties offered and sold within the San Bernardino/Riverside greater areas and makes it available to real estate agents through subscription. A function of the MLS is to preserve the absolute, explicit integrity of the data. Each agent that uses the system is bound by a Code of Ethics. According to CARETS rules, listings are entered into the MLS with the knowledge and written consent (contract) of the seller. At such time, there is a mutually agreed price, a lockbox is placed on the property and a “For Sale” sign is posted.

To date, the Agency has purchased 36 SFR under the NSP Grant for rehabilitation and homeownership; six are still in the process of being sold. Most rehabilitated SFR are on the market from six to nine months before sale.

The Agency maintains that they are on target to meet the goals of the grant. Currently the focus is on completing the few remaining rehabilitation projects and to sell the properties. Program

income from resale is used to acquire additional eligible properties until the grant is fully expended by the end of the grant period in March 2013.

In April 2011, the Agency received an additional funding of \$3,277,401 under the Dodd-Frank Wall Street Reform and Consumers Protection Act–Neighborhood Stabilization Program III (NSP3). This was in response to the residential foreclosure crisis facing the City of San Bernardino. NSP3 has been designated by the Agency as the “Local Street Reform and Protection” Program. The commencement of this program is projected after July 1, 2012. The Agency will use the Housing and Urban Development (HUD) designated Community Housing Development Organizations (CHDO) to conduct the rehabilitation activities under NSP3. These organizations are non-profit housing entities with a goal to increase the availability of affordable housing within their communities.

FINDINGS

1. The Agency does not provide sufficient oversight of the Intermediary’s resale process. There were numerous cases where the properties were listed in the MLS at the point when the Intermediary assumed the rehabilitation project and a “For Sale” sign was posted on the property prior to the SFR being ready for resale. This enhanced the notoriety of the agent, solely, not the NSP program. Although receiving profit as the listing agent and selling agent is not illegal, perhaps within the parameters of a federal program, the activity should not be allowed.
2. The Agency allows the properties to be listed in the MLS in a status of “hold-do-not-show” for a lengthy period of time during the rehabilitation process. This discouraged agents/subscribers of the MLS and inhibited a more extensive marketing effort for eligible qualified buyers.
3. The Agency provides an insufficient level of training and instruction to the intermediaries and their respective real estate agents. An emphasis on the need to use the Affirmative Marketing Principles to “identify persons in the housing market who are not likely to apply for housing without special outreach” is lacking.
4. The Agency provides an insufficient level of training and/or instruction to the intermediaries and their staff on the NSP program beyond the construction/re-sale requirements. There is a lack of distinction placed on the purposes of increasing homeownership to those who may not know that they can achieve such status. This federal program is more than just the business as usual of rehabilitating homes and selling.

COMMENDATION

The Agency is to be commended for its programmatic focus of the NSP funds/projects to neighborhoods (specific streets in high crime areas and number of vacant SFR) which, as a consequence of the rehabilitation, resulted in an improved quality of life to the neighborhood inhabitants.

The Grand Jury applauds the decision of the Agency in using the HUD vetted CHDO in the implementation of the next stage of NSP3, the 'Local Street Reform and Protection.'

RECOMMENDATIONS

- 12-02 Provide more intensive monitoring of the activities of the intermediaries, and in the future, the CHDO, during the rehabilitation resale process so that the use of the MLS is not used to convey status of the properties that is incorrect and further, not to discourage the involvement of other agents. (Findings 1, 2)
- 12-03 Prohibit properties from being placed into the MLS without a written agreement with the Agency, and not until such time as the property has been appraised, has fair market value established, and is ready for sale. (Findings 1, 2, 4)
- 12-04 Prohibit real estate agents from placing the properties into the MLS in a "hold-do-not-show" status. This has the de-facto effect of depressing advertisement and/or widespread exposure of the property. (Findings 1 - 4)
- 12-05 Provide sufficient training and instruction to intermediaries and their real estate agents on the use of the Affirmative Marketing Principles so that a wider variety of qualified buyers can be identified. (Finding 3)
- 12-06 Provide training and/or instruction to all persons, intermediaries or CHDO, that will be involved in implementation of the NSP program. This instruction should extend beyond the construction/resale requirements to the NSP intrinsic principles. All efforts are to focus on reaching the greatest number of possible qualified homebuyers, while improving the quality of life for both the persons becoming a part of the neighborhood and those who are existing members of the neighborhood. (Findings 1 - 4)

Responding Agency	Recommendations	Due Date
City Manager, San Bernardino	12-02 through 12-06	September 29, 2012

CITY OF SAN BERNARDINO VERDEMONT COMMUNITY CENTER

BACKGROUND

The Grand Jury initiated an investigation into the construction of the Verdemon Community Center (VCC) within the City of San Bernardino (City), based on information contained in a newspaper article. The VCC was constructed on City Parks and Recreation Department property.

The Building Inspection Department had not been contacted before construction of the VCC building began. A stop order was issued as a result of a supervising City Building Inspector by chance observing construction in progress. Three days later a building permit was issued.

The VCC was opened for public use on September 30, 2011, without issuance of a "Certificate of Occupancy." An inter-office memorandum dated December 19, 2011, from the Supervising Building Inspector was sent to the Community Development Department of the City describing the deficiencies the inspector observed. Beginning in 2012 the City Parks and Recreation Department took over management of the VCC.

Members of the Grand Jury on May 3, 2012, visited the VCC. It is located on City-owned land within a park complex. The Grand Jury members identified problem areas as follows:

- Three of six air-conditioning/heating units were not operating
- The kitchen area lacked commercial sinks, proper wall covering, and there existed a gas-connected commercial grill with no vent or fire protection system, as required by the California Fire Code
- The entry area lacked the International "Sign of Accessibility."

Two major structural problems were identified by the City Operations and Maintenance Department:

- The air-conditioning/ heating unit ducts do not conduct air properly which will require repairs above the ceiling
- There is improper welding to secure the numerous steel piers supporting the floor of the building as verified by numerous photographs provided by an official from the City.

FINDINGS

1. A Certificate of Occupancy is required and has yet to be issued. ¹