



U.S. Department of Housing and Urban Development

**Philadelphia Office
The Wanamaker Building
100 Penn Square East
Philadelphia, Pennsylvania 19107-3380**

June 28, 2021

Mr. Robert L. Weir
Director, Department of Real Estate
And Housing
Louis L. Redding City/County Bldg.
800 North French Street, 7th Floor
Wilmington, DE 19801

RE: Remote Monitoring of City of Wilmington, Delaware
HOME Investment Partnerships (HOME)

Dear Mr. Weir:

We want to thank you and your staff for all you are doing to serve the Community Planning and Development (CPD) program needs of the City of Wilmington during these unprecedented times. We also recognize and appreciate your cooperation and support in preparing for the remote monitoring process. We offer our gratitude to your team for their efficiency and responsiveness in providing our Office with the information that was requested prior to our monitoring, as it allowed us to more efficiently perform our remote review during these challenging times.

The Philadelphia Office of Community Planning and Development conducted a remote monitoring of the City of Wilmington's HOME Investment Partnership Program from May 10-14, 2021 to assess your organization's performance and compliance with applicable federal program requirements. Program performance was assessed through a review of operations, file documentation and interviews. The Department of Housing and Urban Development (HUD)'s review of these areas of program performance may result in the identification of findings, or concerns. This letter transmits the monitoring review results of 19 findings and two concerns outlined in this letter.

A finding is a deficiency in program performance based on a violation of a statutory or regulatory requirement. A concern is a deficiency in program performance that is not based on a statutory or regulatory requirement, but is brought to the grantee's attention. Corrective actions to address the noncompliance are identified for all findings. Recommended corrective actions are identified for concerns. An exemplary practice is a noteworthy practice or activity being carried out by the grantee and may possibly be duplicated by another grantee.

OVERVIEW

Monitoring is the principal means by which HUD ensures program effectiveness and management efficiency, and that programs are carried out in compliance with applicable laws and regulations. It assists grantees in improving their performance, developing or increasing capacity and augmenting their management and technical skills. Also, it provides a method for staying abreast of CPD-administered programs and technical areas within the communities that HUD programs serve. Monitoring assesses the quality of performance over time and promptly resolves the findings of audits and other reviews. In determining which grantees will be monitored, the Department uses a risk-based approach to rate grantees, programs and functions, including assessing the Department's exposure to fraud, waste and mismanagement. This process not only assists the Department in determining which grantees to monitor, but also identifies which programs and functions will be reviewed.

Specifics relating to this review are as follows:

Date(s) Monitoring Conducted:	May 10-14, 2021
Type of Monitoring:	Remote
HUD Reviewer(s):	Michelle Patterson, Senior Community Planning and Development Representative
Grantee Staff and Other Participants:	Jerry Cherry, Program Administrator Alan Matas, Sr. Program Director, Dept of Real Estate & Housing Shamika Ponzo, Director Rehabilitation Division Knisha Clark, Sr. Financial Administrator
Entrance Conference: Date Representatives	May 10, 2021 Michelle Patterson, Senior Community Planning and Development Representative Alan Matas, Sr. Program Director, Dept of Real Estate & Housing David Batchelder, Development Specialist Shamika Ponzo, Director Rehabilitation Division Knisha Clark, Sr. Financial Administrator
Exit Conference: Date Representatives	May 14, 2021 David M. Collins, CPD Program Manager Michelle Patterson, Senior Community Planning and Development Representative Robert Weir, Director, Dept of Real Estate & Housing Jerry Cherry, Program Administrator

Alan Matas, Sr. Program Director, Dept of Real Estate & Housing
 David Batchelder, Development Specialist
 Shamika Ponzo, Director Rehabilitation Division
 Knisha Clark, Sr. Financial Administrator

SUMMARY OF RESULTS AND CONCLUSIONS

The purpose of this remote monitoring review is to determine compliance with the HOME program requirements and regulations with regards to the City of Wilmington's Homeowner Rehabilitation Program. In addition, the review will confirm if the written procedures describing its management of the program, including tracking of individual program activities and documenting program accomplishments, are being followed.

The City implements specific projects related primarily to rental housing development and homeownership development projects. Each year, the City of Wilmington Department of Real Estate and Housing solicits applications from qualified organizations interested in providing services for HOME Investment Partnerships Program funds. In addition, all HOME projects must be in compliance with the Lead Safe Housing Rule.

Exhibits from the *Community Planning and Development Monitoring Handbook 6509.2* were used to guide the review. They are available at:
https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2.

Exhibit 7-27: Guide for Review of Homebuyer Development and/or Rehabilitation Projects and/or Policies & Procedures; (3)

Exhibit 7-32: Guide for Review of Community Housing Development Organization (CHDO) Qualification Projects and/or Policies and Procedures;

Exhibit 7-33: Guide for Review of Match Requirements; and

Exhibit 24-1: Guide for Review of lead-Based Paint Compliance in Properties Receiving Federal Rehabilitation Assistance

SCOPE OF REVIEW

In Wilmington, the eligible uses of HOME funds fall in to three broad categories: New Construction of Housing for Homeownership – funds may be used to help developers or other housing organizations acquire, and/or construction of new housing for homeownership; Rehabilitation of Housing for Homeownership - funds may be used to help developers or other housing organizations acquire, rehabilitate or construct housing for home ownership; and Homebuyer Activities - funds may be used to finance the acquisition and/or rehabilitation and new construction of homeowner units, and homebuyer counseling.

All housing developed with HOME funds must serve low- and very low-income families. For rental housing, at least 90 percent of the families who benefit must have incomes at or below

60 percent of the area median income. Homeownership assistance must be to families with incomes at or below 80 percent of the area median income.

The scope of this review was concentrated on Wilmington's HOME homebuyer rehabilitation program and the City's updated policies and procedures. The loan interest rate is 0 percent. The deferred loans can be reduced on a pro-rata basis over the time period of the lien. At the end of the loan term, the total amount of the loan would then be forgiven and satisfied. A lien in the amount of the rehabilitation costs must be placed against all properties receiving CDBG/HOME rehabilitation assistance, except that no lien will be required to be placed on properties receiving less than \$5,000 in CDBG only rehabilitation assistance (not HOME rehabilitation assistance) for water/sewer hookup, meter installations and emergency repairs. Properties receiving rehabilitation assistance funded in whole or in part with HOME funds will have a lien placed regardless of amount.

Area Reviewed and Results

City of Wilmington's Homebuyer Rehabilitation Project and Policies & Procedures

A review was made of three project files related to the City of Wilmington's homebuyer rehabilitation program. The source of funds is the HOME program and CDBG funds may be utilized for rehabilitation. In accordance with the City's policy and procedures, for homebuyer projects, a developer should provide sufficient information regarding the sales market, including supply, listing times and foreclosure inventories so that the City can determine stability of the housing market. A developer will submit evidence of a minimum of three projects of similar size and scope successfully completed within the previous two years, along with project budget and project schedule. Homebuyer projects must demonstrate capacity to market and sell the completed units, which may be evidenced by a real estate professional on staff or on the development team or demonstrated staff capacity to perform the function of a real estate professional.

The City's policies and procedures states: "it will conduct a review and analysis of the sources and uses of funds for each project and a determination of whether the proposed costs are eligible reasonable, necessary, and within industry standards. This includes a review of acquisition costs (supported by an independent appraisal), hard construction costs, soft costs, evidence of firm commitments other than HOME, and an overall financial soundness of the transaction."

The City's policies also include the requirement at 24 CFR 92.250(b), that before committing funds to a project, written guidelines for underwriting and subsidy layering are adopted for determining a reasonable level of profit or return on owner's or developers' investment in a project. However, the City did not follow their policies and procedures for activity #1747 (Oliver's Way), this is a violation of the CHDO regulatory requirements. This is a finding in accordance with 24 CFR 92.250(a) and (b), which is noted as finding #1 below.

We found that environmental reviews were completed in accordance with Section 15 of the HOME written agreement.

A review of three project files were reviewed for the City's homebuyer projects

File#	Client Name/Address ¹	IDIS #	HOME Funds Committed	Commitment Date	Date of Written Agreement	HOME Funds Drawn	Completion Date
1.	608 E. 11 th Street	IDIS #1680	\$16,418.45	4/17/2017	4/17/2017	\$16,418.45	11/11/2020
2.	525 Vandever	IDIS #1682	\$195,000	7/28/2016	7/28/2016	\$195,000	6/11/2020
3.	Oliver's Way (CHDO Project)	IDIS #1747	\$186,018	5/16/2018	5/1/2018	\$186,018	10/1/2020

File #1 (608 E. 11th Street) was a HOME project that included professional services and rehabilitation with CDBG funds.

The City of Wilmington utilized a professional service rendered by an architect to determine the scope of the project. Based upon the architect design, the project was bid out and determined the total cost of the project at \$176,638. The City acted as the developer and utilized HOME and CDBG funds for the project. The City did provide documentation to support the current market demand in the area where the project is located. Before committing funds to a project, the City must evaluate the project in accordance with the guidelines that it has adopted for determining a reasonable level of profit or return on the owner's or developer's investment in a project. The project owner must disclose all HUD and/or other federal state or local governmental assistance. For this project, 608 E. 11th Street, the City did not provide documentation that it completed the maximum HOME per-unit subsidy or subsidy layering review. This is a finding in accordance with 24 CFR 92.250(a) and (b) - noted as finding #1 below.

The City provided an agreement for architect services (professional services) of \$11,150. However, there was no other documentation for costs of \$200 or the contract and invoice for \$5,268.45. This is a finding in accordance with 24 CFR 92.206(d), which is noted as finding #2 below.

With reference to the beneficiary written agreement, it is required the HOME-assisted homebuyer housing meet the period of affordability and principal residency requirements at 24 CFR 92.254 (a). It requires repayment of the HOME funds if the housing fails to meet the period of affordability or is no longer the principal residence of the homebuyer during the affordability period which is also included in the City's Policies and Procedures. The retention/beneficiary agreement provided by the City does not meet this requirement. The total amount of HOME funds provided in the project was \$16,418.45 that required a 10-year affordability period. However, the retention agreement is for 5-years. The City required the homebuyer to sign a retention agreement that did not set forth the resale or recapture provisions as required in the regulations and/or the City's policy and procedures. This is a finding in accordance with 24 CFR 92.504(c)(3)(ii) and 24 CFR 92.254(a)(4), noted as finding #7 below.

In addition, we found a certificate of occupancy for the completion of rehabilitation on 11/11/2020 and sold to a homebuyer on 12/31/2020. The City did provide documentation for our Office to determine that the homebuyer was eligible.

We concluded that HOME funds were utilized for soft costs and CDBG funds were utilized for construction. The last draw of HOME funds was before completion of project; and the project was closed out within 120 days of final project draw. The project was completed within four years of commitment and the City retains homebuyer development project records for five years after project completion.

File #2 (525 Vandever Ave) - This HOME project consisted of initially the construction of 4 units then reduced to one unit. Amendments were completed to increase funding and decrease the total number of units.

According to the policies and procedures of the City, and as stated above for the prior project, before committing funds to a project, the City must evaluate the project in accordance with the guidelines that it has adopted for determining a reasonable level of profit or return on the owner's or developer's investment in a project. The project owner must disclose all HUD and/or other federal state or local governmental assistance. The City has a subsidy layering form that is to be filled out prior to committing funds to a project. This particular project had multiple funding sources secured as indicated by the underwriting source documentation (form included amounts for NSP funds, Comenity funding and Delaware Community funding). There was no subsidy layering or maximum HOME per-unit subsidy form completed for this project, which is a finding at 24 CFR 92.250 (a) and (b) - noted as finding #1 below. In addition, there was no documentation of experience and financial capacity of developer - the Wilmington Housing Partnership (WHP). This was noted as concern #1 below.

A review was made of a completed draw associated with 525 Vandever Ave. Since all the draws associated with the project were not reviewed, office was not able to determine if all costs paid with HOME funds were eligible.

In addition, the written agreement includes requirement remedies set forth in 24 CFR 92.254(a)(4), however, the retention/beneficiary agreement did not include this requirement. The retention agreement required purchaser to maintain residence for 15 years not the required 20 that is in the written agreement with the Wilmington Housing Partnership (WHP). This was noted as finding #7 below.

We have concluded that the project was completed within four years of commitment and that the City retains homebuyer development project records for five years after project completion.

File #3 (Oliver's Way-505 Lafayette) - This HOME project consisted of 2 units being constructed on an empty lot. It was completed by the CHDO - Our Youth Inc.

Documentation for this project was set up as one project, however, the agreement included 3 units that were to be constructed - only 2 units were completed. The agreement with the CHDO provided \$358,849 of HOME funds for the project. A source and uses of funds document was provided. The project summary/underwriting form included amounts from other entities, while a signed subsidy layering review form revealed no other governmental assistance or subsidy was made available to the project. We found the file did not include the experience

and financial capacity of developer documented for this project. This was noted as concern #1 below.

The City provided a maximum per-unit HOME subsidy limit form, however, it did not utilize the correct form or amount. They utilized an outdated Section 221(d)(3) form dated 6/29/06 which listed the limit at \$207,252, the correct amount/limit should be \$248,764.80. The City will need to update its policies and procedures to follow the guidance outline in CPD notice 15-03. HUD had adopted an interim policy directing PJs to use the Section 234-Condominium Housing basic mortgage limits for elevator-type projects as an alternative to the Section 221(d)(3) limits in order to determine the maximum amount of HOME funds a PJ may invest on a per-unit basis in HOME-assisted housing projects. This was a finding for all three projects – noted as finding #8 below.

A review was made on the costs associated with the project Oliver's Way (505 Lafayette Blvd). We found there were eligible costs associated with the project in accordance with 24 CFR 92.206. However, invoices provided by the City totaled \$372,601, and it appears draw #12 is a duplicate of draw #11. In addition, draw # 4 included \$500 for reproduction of material for services already paid. Also, draw #9 for \$5,130 had a letter with a request for payment of an error for duplication of services, this is noted as finding #13 below. Of the total expended \$358,849, we were able to determine \$326,971 were for eligible expenses. A total of \$5,630 were ineligible expenses that paid for duplicate services. This is a finding in accordance with 24 CFR 92.250(a) and (b), which is noted as finding #9 below. We were also unable to determine if \$26,248 were expended on eligible costs.

The City did not provide documentation that a determination was made that the household qualified as low income, nor was there at least 2 months of source documentation for our Office to determine household annual income, which is noted as finding #4 below. In addition, the client file did not include a housing counseling certificate from a certified housing counselor in accordance with 24 CFR 92.254(a)(3), which is noted as finding #5 below.

With regards to responsible lending/lending requirements, the City's project file for this project did not demonstrate that the City reviewed the homebuyer's loan to ensure it did not contain risky lending features. This is a finding in accordance with 24 CFR 92.254(f)(2), which is noted as finding #6 below.

The project was not closed out within 120 of final project draw in IDIS. The final draw was completed 10/20/2019, the unit sold 12/13/2019, and the project was closed in IDIS 10/20/2020. The project was not completed in IDIS until a year later. This is a finding in accordance with 24 CFR 92.502(d)(1), which is noted as finding #14 below.

We have concluded that the Oliver's Way project (505 Lafayette Blvd) did not create an eligible HOME project that was developed by an eligible Community Housing Development Organization in accordance with 24 CFR 92.2. In addition, the City did not provide documentation that the property was sold to an eligible homebuyer, which is noted as finding #3 below.

In addition to the above issues with the CHDO “Our Youth Inc”, it has come to our attention that this CHDO was awarded funding in 2016 (IDIS #1684) to perform a rehabilitation project at 300 East 24th street in the amount of \$65,462. We found that the CHDO was also not eligible during this period to perform any HOME eligible projects. This funding will also need to be returned to the line of credit. This will be added to finding #17 below.

Review of Match Requirement

A review was made to determine the City’s compliance with the match requirements. HOME match requirements must be met on a federal fiscal year basis. According to the City’s policies and procedures on match (page 12), the City’s match requirement is 12.5 percent. The policies also include the eligible sources of a match for HOME funds: cash, donated construction materials, value of donated land or real property, value of foregone interest, taxes fees, investments in on-or offsite improvements, proceeds from bond financing, cost of supportive services provided to families, and cost of homebuyer counseling to families.

Our Office could not make a determination if match was calculated properly by the match log submitted, which is noted as finding #10 below. The collection of match submitted was as following: 608 E. 11th Street – \$2,025.31 noted as match (did not include type of match or supporting documentation); 525 Vandever Ave - \$192,000 noted as match (did not include type of match or supporting documentation) 505 Lafayette Blvd - \$30,000 noted as match (stated as cash – no supporting documentation). The City will need to document how the match for the three projects were actually calculated (#1680, #1682 and #1747).

Our Office did not find evidence that match contributions were credited at the correct time from the match documentation provided. This is a finding at 24 CFR 92.221(a). In addition, there was no supporting documentation that indicates the types and amount of match contributions and the date it was credited to the project. This is a finding at 24 CFR 92.508(a)(2)(ix). Both findings are included in finding #11 below.

Each jurisdiction must make contributions to housing that qualifies as affordable housing under the HOME program, throughout a fiscal year. The contributions must total not less than 25 percent of funds drawn from the jurisdiction HOME treasury account in that fiscal year – 12.5 percent in the case of the City of Wilmington. The City did not have documentation that it has met its annual match requirement for the program year reviewed since they do not keep a running match log. This is a finding at 24 CFR 92.218 (listed under finding #12 below). In addition, we found the City did not adequately document eligibility and value of match contributions in accordance with 24 CFR 92.219(a)(2). The City will need to respond to the findings identified for HOME match and begin to follow its own match policy and procedures.

Review of CHDO Eligibility

For the activity, Oliver’s Way, the project was completed by the CHDO “Our Youth Inc”. The agreement was to construct three units on an empty lot. Amendments were completed decreasing the number of units to two. The organization is organized under State and local law as evidenced by the Articles of Incorporation. We found that “Our Youth Inc” has served

impoverished youth living in the city since 2001. We did find, however, that the organization does not provide a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development and management of affordable housing projects. This is a finding in accordance with 24 CFR 92.8(ii), which is noted as finding #15 below. In addition, there was no documentation that the CHDO had standards of financial accountability in accordance with 24 CFR 92.2(B)(6), which is noted as finding #16 below.

In accordance with 24 CFR 92.2(9), “A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds.” Our Youth Inc did not have any paid employees at the time of commitment of funds to the CHDO, during or after project completion. This is a finding in accordance with 24 CFR 92.2(9), which is noted as finding #18 below.

The policies and procedures state that “a certification by the City will be completed each time it commits funds to a CHDO and will not be a blanket certification”, rather the City will review each project and make a determination that the CHDO has the experience and capacity to undertake each specific project. Although the City supplied a CHDO re-certification form, it was not filled out by them, dated or certified. This is a finding in accordance with 24 CFR 92.300(a), which is noted as finding #17 below. The City’s policies and procedures indicate the City will examine the financial position of the developer and its commitments of other funding to ensure that there will be sufficient cash for the developer to complete the project in a timely manner. This will be completed by a review of the total development costs, the amount of investment made by the owner/developer, a review of the annual and 15-year operating budget to determine if the project has sufficient cash flow to remain stable through the affordability period, and/or excessive cash flow that could be used to repay debt and other similar analysis. The operating budget will also be reviewed as part of the project’s financial underwriting. It was indicated by the City that the CHDO did receive capacity building and operating funds. However, there was no documentation to establish for what the HOME assistance was paid. We found that the City did not make a financial capacity assessment of the CHDO or an evaluation against specific CHDO criteria as established in 24 CFR 92.2 and 92.300.

The City allocated operating costs to Our Youth Inc, CHDO in 2016 towards the development of 505 and 507 Lafayette Blvd for \$21,809. Since the City did not certify the CHDO prior to allocating the operating costs, these funds will also have to be repaid to the line of credit as noted in finding #17 below.

Appendix C: City of Wilmington Resale/Recapture Policy and Procedures is the section of the policy that mentions the recapture of funds from net proceeds. This section addresses when a resale occurs during the affordability period, or the homeowner no longer occupies the home as their principal residence. However, if there are no net proceeds or insufficient proceeds to recapture the full amount of HOME funds invested, the amount subject to recapture will be limited to what is available from net proceeds. We did find in the City’s RFP process that they will recapture HOME funds upon the sale of assisted properties after developer’s fees and

closing costs. The net proceeds are the sales price minus loan repayment (other than HOME funds), developers fees and closing costs.

In accordance with 24 CFR 92.504(c)(3)(ii)(B),” if the owner or developer is undertaking a homeownership project for sale to homebuyers in accordance with 92.254(a), the agreement must set forth the resale or recapture requirements that must be imposed on the housing, the sales price or the basis upon which the sales price will be determined, and the disposition of the sales proceeds. Recaptured funds must be returned to the participating jurisdiction”. As stated above, the City does include this provision in their RFP, however, they will need to update their procedures and agreements to include this requirement in those documents. For the two projects, 525 Vandever and 608 E. 11th Street, the City will need to show documentation of proceeds reverting back to the city. If the proceeds were allocated to an eligible HOME project, verification and documentation will need to be provided on what and how the funds were allocated. This is noted as finding #19 below.

We found that the City did not commit HOME funds to an eligible CHDO project (Oliver’s Way) 505 Lafayette. Also, they did not follow what is in their own policies and procedures or Part 92.300 for Community Housing Development Corporations. As a result, all funding associated with this project will have to be repaid to the line of credit with non-federal funds, which is noted in finding #17 below.

Review of Lead-Based Paint Compliance in Properties Receiving Federal Rehabilitation Assistance

The City of Wilmington accurately assesses projects for possible exemption in accordance with the requirements at 24 CFR 35. There is a written process where the City includes the requirements of Sec. 35.115 exemptions through a “Lead Safe Housing Requirement Screening Worksheet. Once this is completed, this will assess projects for possible exemption.

In reference to the program ensuring that the Lead Safe Housing Rule and the RRP requirement regarding worker and occupant safety is shared with the entities who perform the rehabilitation work on painted surfaces, the City has no actual procedures that are shared with entities and individuals who perform rehab work on painted surfaces. This is noted as concern #2 below to update the procedures. However, when such entities receive federal assistance in excess of \$25,000, the RFP package provided includes: background and HOME program information, HOME application, sources of funds, development budget, construction scope of work and annual operating budget forms to be completed. This ensures that the developer or CHDO meets the eligibility requirements. The City also ensures that the LSHR and RRP requirements regarding worker and occupant safety by receiving an RRP certificate, which is in the file of the entity performing the work.

A Lead-based Paint Exposure Notice was not needed for this project since the unit was empty. A lead-based paint clearance report was completed showing the unit passed clearance in accordance with 24 CFR 35.1340(c). It appears Wilmington’s Department of Real Estate Owned is in compliance with the Lead-Based Paint requirements at 24 CFR 35 and the Lead Safe Housing Rule.

Finding #1

Condition: The City did not conduct subsidy layering or underwriting review to ensure that it did not invest any more HOME funds than necessary to ensure long term viability for the HOME funds invested for 608 E. 11th Street = \$16,418.45; 525 Vandever Ave = \$195,000; and 505 Lafayette Blvd.= \$186,018.

Cause: The City did not implement its own procedures or the HOME requirements.

Criteria: The City is in violation of 24 CFR 92.250 (a) and (b).

Effect: A determination that a reasonable level of profit or return on the owners or developer's investment may not have been determined.

Required Corrective Action: The City will need to inform the Department going forward how this requirement will be implemented and how you will ensure that for all projects utilizing HOME funds will comply with the underwriting and subsidy layering requirements. We request that the City submit the underwriting and subsidy layering for the three projects to this Office within 30 days of the date of this letter.

Finding #2

Condition: The contract/agreement for HOME funds totaled \$16,418.45 for 608 E. 11th Street architect/professional services. The City provided documentation for \$10,950 for eligible soft cost. However, there was no back-up documentation for either the \$200 or the \$5,268.45 that make up the total cost of the project.

Cause: Lack of staff coordination within the City.

Criteria: The City is in violation of 24 CFR 92.206(d).

Effect: Costs may not have been eligible.

Required Corrective Action: We request that the City submit proof of all costs (\$5,468.45) for the professional services contract to this Office within 30 days of the date of this letter.

Finding #3

Condition: The City did not provide documentation that the property was sold to an eligible homebuyer. (Oliver's Way- 505 Lafayette)

Cause: The City did not follow its policies and procedures

Criteria: The City is in violation of 24 CFR 92.254(a)(3)

Effect: Property may not have sold to an eligible homebuyer.

Required Corrective Action: The City does have policies and procedures that include a provision for the selection of qualified homebuyers. However, the City did not follow their own procedures. We request that the City provide documentation that the property was sold to an eligible homebuyer to this Office within 30 days of the date of this letter.

Finding #4

Condition: The City did not provide documentation that a determination was made that the household qualified as low income, nor was there at least 2 months of source documentation to determine household annual income. (Oliver's Way - 505 Lafayette)

Cause: The City did not follow its policies and procedures.

Criteria: The City is in violation of 24 CFR 92.203(a)(2) and 24 CFR 254(a)(3)

Effect: Household may not have been income eligible.

Required Corrective Action: The City does have policies and procedures that include a provision for the selection of qualified homebuyers. However, the City did not follow their own procedures. We request that the City provide documentation that the property was sold to a low-income household to this Office within 30 days of the date of this letter.

Finding #5

Condition: There was no documentation that the homebuyer received housing counseling from a HUD-certified housing counselor. (505 Lafayette Blvd-Oliver's Way)

Cause: The City did not follow its policies and procedures

Criteria: The City is in violation of 24 CFR 92.254(a)(3).

Effect: Household did not meet requirement of completing housing counseling.

Required Corrective Action: The City does have policies and procedures that include a provision for the selection of qualified homebuyers. We request that the City provide documentation that the homebuyer completed housing counseling to this Office within 30 days of the date of this letter.

Finding #6

Condition: The project file did not include records that demonstrated that the City reviewed homebuyer's loan to ensure that it did not contain risky lending features. (Oliver's Way 505 - Lafayette)

Cause: The City did not include this requirement in its' policies and procedures

Criteria: The City is in violation of 24 CFR 92.254(f)(2).

Effect: Mortgage financing may not have been reasonable.

Required Corrective Action: The City is requested to update its policies and procedures to include a provision to review loans to ensure loans do not contain risky lending features. Please submit this documentation to this Office within 30 days of the date of this letter.

Finding #7

Condition: The written agreements included affordability requirements but the retention agreements with the homeowners did not meet the period of affordability requirement.

Cause: The City did not follow its policies and procedures or the regulations.

Criteria: The City is in violation of 24 CFR 92.254(a)(4) and 24 CFR 92.504(c)(3)(ii).

Effect: The written agreements include requirement remedies set forth for period of affordability, however, the retention agreement requires the purchaser to maintain the unit as their primary residence for only 15 years not the required 20 years. (525 Vandever Ave). The agreement for property at 505 Lafayette Blvd included an affordability requirement of 20 years but the retention agreement with the homeowner was for a period of 15 years. For 608 E. 11th Street, the period of affordability was set at 5 years in the retention agreement with homeowner but should have been 10 years based upon the amount of HOME assistance.

Required Corrective Action: The City does have policies and procedures that include a provision for period of affordability. The City did not follow their own procedures or the regulations. The City is requested to submit documentation of the corrections for 525 Vandever Ave, 505 Lafayette Blvd, and 608 E. 11th Street to this Office within 30 days of the date of this letter.

Finding #8

Condition: The City did not utilize the correct maximum per-unit subsidy amount. (All 3 projects)

Cause: The City did not implement its own procedures.

Criteria: The City is in violation of 24 CFR 92.250 (a).

Effect: The housing may have exceeded the per unit dollar limitation established by HUD.

Required Corrective Action: The City will need to provide documentation that the housing met the correct maximum per-unit subsidy amount. The City is requested to submit this documentation to this Office within 30 days of the date of this letter.

Finding #9

Condition: We could not establish if all costs associated with the project were eligible. (Oliver's Way 505 Lafayette)

Cause: The City did not follow its policies and procedures or the regulations.

Criteria: The City is in violation of 2 CFR 200.53(b) and 24 CFR 92.206.

Effect: Costs associated with the project may not have been eligible

Required Corrective Action: The City does have policies and procedures that include a provision for eligible costs for which HOME funds may be used. However, the City did not follow their own procedures. We request that the City submit the documentation of all eligible costs associated with Oliver's Way to this Office within 30 days of the date of this letter.

Finding #10

Condition: There was no documentation that the value of each matching contribution was calculated properly.

Cause: The City did not implement its own procedures or the match requirements.

Criteria: The City is in violation of 24 CFR 92.220(a)(1).

Effect: A determination could not be made if match contribution was correct for the HOME projects.

Required Corrective Action: The City will need to provide documentation of how the match for the three projects were actually calculated. We request that the City submit the match calculations of all three projects (#1680, #1682 and #1747) to this Office within 30 days of the date of this letter.

Finding #11

Condition: The City does not have a running match log indicating type and amount of match contributions or if match contributions were credited at the correct time.

Cause: The City did not implement its own procedures or the match requirement.

Criteria: The City is in violation of 24 CFR 92.508 (a)(2)(ix) and 24 CFR 92.221(a).

Effect: The City may not have applied the correct amount of match for projects at the correct time.

Required Corrective Action: The City will need to provide a running match log that shows the contributions that qualified as match for at least beginning of fiscal year 2018 and to ensure that the match was credited correctly. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Finding #12

Condition: The City did not document the eligibility and value of match contributions, nor did the City show how it met its annual match requirement for the program year.

Cause: The City did not implement its own procedures or the match requirement.

Criteria: The City is in violation of 24 CFR 92.218 and 24 CFR 92.219 (a).

Effect: The City may not have applied an eligible value of match contributions.

Required Corrective Action: The City will need to provide documentation as to the eligibility and value of all match contributions for the three projects. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Finding #13

Condition: The City paid for service costs of project more than once for Oliver's Way (505 Lafayette Blvd).

Cause: The City paid for duplicate services without a review of costs.

Criteria: The City is in violation of 2 CFR 200.53(b) and 24 CFR 92.206.

Effect: The City may not have paid for eligible costs.

Required Corrective Action: Although the City will need to re-imburse its line of credit for all the funding associated with Oliver's Way, it will still need to provide documentation for the eligible costs that were funded for this project. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Finding #14

Condition: The project (Oliver's Way - 505 Lafayette Blvd) was not closed out within 120 days of the final project draw in IDIS – the project was not completed in IDIS until a year later.

Cause: The City did not follow the requirements of the HOME program regarding IDIS closeout.

Criteria: The City is in violation of 24 CFR 92.502(d)(1).

Effect: If satisfactory project completion information is not provided, HUD may suspend further project set-ups or take other corrective actions.

Required Corrective Action: The City will need to update its policies and procedures to include a requirement that activities be closed out in IDIS 120 days of final project draw. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Finding #15

Condition: The CHDO, "Our Youth Inc", does not provide a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development and management of affordable housing projects - Oliver's Way (505 Lafayette Blvd).

Cause: The City did not follow all the requirements for CHDO certification.

Criteria: The City is in violation of 24 CFR 92.8(ii).

Effect: CHDO may not have been an eligible organization to do HOME projects.

Required Corrective Action: The City will need to update its policies and procedures to include this requirement in their CHDO procedures. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Finding #16

Condition: There was no documentation that the CHDO, "Our Youth Inc", had standards of financial accountability - Oliver's Way (505 Lafayette Blvd).

Cause: The City did not follow all the requirements for CHDO certification.

Criteria: The City is in violation of 24 CFR 92.2(B)(6).

Effect: CHDO may not have been an eligible organization to do HOME projects.

Required Corrective Action: The City will need to update its policies and procedures to include this requirement in their CHDO procedures. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Finding #17

Condition: The City did not certify the CHDO ("Our Youth Inc") prior to the commitment of funds for activities #1747 and #1684.

Cause: The City did not follow the CHDO program requirements or its policy and procedures.

Criteria: The City is in violation of 24 CFR 92.300(a).

Effect: The CHDO project carried out by “Our Youth Inc” was ineligible.

Required Corrective Action: The City will need to pay back to its line of credit from non-Federal funds all HOME funding associated with the CHDO “Our Youth Inc” activity # 1747 (\$358,849 plus the operating funds of \$21,809). The City will in addition need to pay to the line of credit from non-Federal funds the amount of \$65,462 (Activity #1684). We request that the City submit this proof of the repayments to this Office within 30 days of the date of this letter. We will provide via e-mail the repayment instructions for HOME funds.

Finding #18

Condition: The CHDO, “Our Youth, Inc” did not have paid employees with housing development experience who work on projects assisted with HOME funds.

Cause: The City did not follow the CHDO program requirements.

Criteria: The City is in violation of 24 CFR 92.9.

Effect: The CHDO project carried out by “Our Youth Inc” was ineligible.

Required Corrective Action: Please see above the corrective action for finding #17. We request that the City submit this this proof of the repayment documentation to this Office within 30 days of the date of this letter.

Finding #19

Condition: There was no documentation that sales proceeds from the properties were reverted back to the City or if funds were placed in the City’s program income account. (525 Vandever Ave and 608 E. 11th Street)

Cause: The City did not follow the requirements in their RFP or the regulations for Part 92

Criteria: The City is in violation of 24 CFR 92.504(c)(3)(ii)(B).

Effect: Proceeds may not have been allocated to a HOME eligible project.

Required Corrective Action: The City will need to update its policies and procedures to include requirement of proceeds from projects as stated in their RFP. If these funds cannot be accounted for, then they will have to be paid back to the line of credit from non-Federal funds. We request that the City submit this documentation to this Office within 30 days of the date of this letter.

Concern #1:

Condition: For the two projects (525 Vandever and 505 Lafayette), the City did not include the experience and financial capacity of developer.

Cause: The City did not follow all the requirements at 24 CFR 92.250(b).

Effect: Developer may not have had the experience to fulfill contract.

Recommended Corrective Action: This Office recommends that the City ensure that project files include all records that document the requirements included in the policies and procedures of the HOME program for certified CHDOs and developers.

Concern #2

Condition: For the Lead Safe Housing Rule and the RRP requirement regarding worker and occupant safety, the requirement is not shared with the entities who perform the rehabilitation work on painted surfaces.

Cause: The City may be in violation of 24 CFR 35.900(a).

Effect: The safety of workers and occupants could be at risk.

Recommended Corrective Action: This Office recommends that the City update its policies and procedures to ensure that this requirement is met.

Within 30 days from the date of this letter, you have the opportunity to provide additional information demonstrating that you have met the requirements of the finding. If you fail to respond within 30 days, or if the response is unsatisfactory to HUD, you must undertake corrective actions. Similarly, if you disagree with any of HUD's determinations or conclusions in this monitoring letter, please address these issues in writing to this Department within 30 days of the date of this letter. Your written communication should either provide supporting information to demonstrate the requirement has been met, or explain your reasons why you disagree, along with supporting evidence. While a response is not required for concerns, we would appreciate any information you would like to provide. All communications should be sent to Ms. Michelle Patterson, Senior CPD Representative, Department of Housing and Urban Development, Community Planning and Development Division, by email at michelle.patterson@hud.gov.

I would like to thank you and your staff for your professionalism and cooperation during the review. The City of Wilmington's Department of Real Estate Owned is supporting valuable programs that are successfully supporting housing and community development activities. Your HUD representative, Michelle Patterson, Senior CPD Representative, is available to discuss the

results of this monitoring letter or provide technical assistance, if requested, and can be reached by email at michelle.patterson@hud.gov . This Office can be reached via text telephone (TTY), by dialing (800) 877-8339.

Sincerely,

NADAB BYNUM Digitally signed by: NADAB BYNUM
DN: CN = NADAB BYNUM C = US O = U.S.
Government OU = Department of Housing and
Urban Development, Office of Administration
Date: 2021.06.28 14:38:11 -0400

Nadab O. Bynum, Director
Office of Community Planning
and Development

City of Wilmington



MICHAEL S. PURZYCKI
Mayor

July 28, 2021

VIA EMAIL (michelle.patterson@hud.gov)

Ms. Michelle Paterson, Senior CPD Representative
U.S. Department of Housing and Urban Development
Community Planning and Development Division
Philadelphia Office
The Wanamaker Building
100 Penn Square East 12th Floor
Philadelphia, PA 19107-3380

RE: Remote Monitoring of City of Wilmington, Delaware
HOME Investment Partnerships (HOME)

Dear Ms. Patterson:

This letter shall serve as the City of Wilmington's response to the findings set forth in Nadab O. Bynum's letter dated June 28, 2021 (the "June 28 HUD Letter"), which were the result of the remote monitoring of the City of Wilmington's HOME Investment Partnership Program from May 10-14, 2021. For purposes of organizing this letter and presenting the corrective actions that have been or will be undertaken by the City of Wilmington (the "City") in response to the findings set forth in the June 28 HUD Letter, this letter will include the specific "Condition" for each finding and our Corrective Action/Response."

Finding #1

Condition: The City did not conduct subsidy layering or underwriting review to ensure that it did not invest any more HOME funds than necessary to ensure long term viability for the HOME funds invested for 608 E. 11th Street = \$16,418.45; 525 Vandever Ave = \$195,000; and 505 Lafayette Blvd.= \$186,018.

City of Wilmington Response:

City staff will be trained on HOME requirements and City policies and procedures for subsidy layering and underwriting review to ensure that future HOME projects comply with applicable underwriting and subsidy layering requirements. In addition, future projects shall be subjected to internal layers of review to ensure compliance with such requirements. Attached with this letter are copies of the underwriting and subsidy layering review summaries for the three projects identified above. See attachment titled "Finding 1"

Finding #2

Condition: The contract/agreement for HOME funds totaled \$16,418.45 for 608 E. 11th Street architect/professional services. The City provided documentation for \$10,950 for eligible soft cost. However, there was no back-up documentation for either the \$200 or the \$5,268.45 that make up the total cost of the project.

City of Wilmington Response:

Enclosed please find the back-up documentation for the \$5,468.45 in project costs for the above-referenced project. See attachment titled "Finding 2"

Finding #3

Condition: The City did not provide documentation that the property was sold to an eligible homebuyer. (Oliver's Way - 505 Lafayette)

City of Wilmington Response:

City staff will be trained on the required documentation to verify that a property has been sold to an eligible homebuyer. In addition, future projects shall be subjected to internal layers of review to ensure that such documentation is obtained. Additionally, the City will be engaging the services of Work Numbers, a subsidiary of Equifax, to verify applicant's financial information.

Finding #4

Condition: The City did not provide documentation that a determination was made that the household qualified as low income, nor was there at least 2 months of source documentation to determine household annual income. (Oliver's Way - 505 Lafayette)

City of Wilmington Response:

City staff will be trained on the required documentation to verify that a household qualifies as low income and the requirement that staff obtain at least 2 months of source documentation for a household's annual income. In addition, future projects shall be subjected to internal layers of review to ensure that such documentation is obtained. Financial documents were collected from the buyer and upon closer examination the buyer furnished triplicates of the same information. Moving forward, the Department has submitted an application with Work Numbers to have them provide all necessary financial information on buyers.

Finding #5

Condition: There was no documentation that the homebuyer received housing counseling from a HUD-certified housing counselor. (505 Lafayette Blvd- Oliver's Way)

City of Wilmington Response:

City staff will be trained on the required documentation to confirm that a homebuyer received housing counseling from a HUD-certified housing counselor. In addition, future projects shall be subjected to internal layers of review to ensure that such documentation is obtained.

Finding #6

Condition: The project file did not include records that demonstrated that the City reviewed homebuyer's loan to ensure that it did not contain risky lending features. (Oliver's Way – 505 Lafayette)

City of Wilmington Response:

The City has updated its policies and procedures to require any City staff overseeing future HOME projects to evaluate the homebuyer's loan for such project to confirm that the terms of such loan are reasonable and do not contain any predatory or risky lending features in violation of 24 CFR 92.254(f)(2). Revised Subsidy Layering P&P attached and incorporated by reference in the P&P main document (pg. 13) and at Appendix G (pgs. 64). See attachment titled "Policy and Procedures"

Finding #7

Condition: The written agreements included affordability requirements but the retention agreements with the homeowners did not meet the period of affordability requirement.

City of Wilmington Response:

City staff will be trained on the applicable affordability requirements for HOME projects. In addition, future projects shall be subjected to internal layers of review to ensure that appropriate affordability requirements are included within the documentation for such projects. For 505 Lafayette the City has opted not to impose the stricter 20-year affordability period but rather modify the development agreement to reflect 15-year affordability period. Attached with this letter are copies of the corrected retention agreement for 608 E. 11th Street and 525 Vandever Ave. See attachment titled "Finding 7"

Finding #8

Condition: The City did not utilize the correct maximum per-unit subsidy amount. (All 3 projects)

City of Wilmington Response:

Enclosed please find the documentation that the housing for each project met the correct maximum per unit subsidy amount. See attachment titled "Finding 8"

Finding #9

Condition: We could not establish if all costs associated with the project were eligible. (Oliver's Way – 505 Lafayette)

City of Wilmington Response:

Enclosed please find the documentation that all costs for such project were eligible. See attachment titled "Finding 9"

Finding #10

Condition: There was no documentation that the value of each matching contribution was calculated properly.

City of Wilmington Response:

Enclosed please find the documentation for the match calculation for each of the three, above-referenced projects. See attachment titled "Finding 10"

Finding #11

Condition: The City does not have a running match log indicating type and amount of match contributions or if match contributions were credited at the correct time.

City of Wilmington Response:

Enclosed please find the requested match log. See attachment titled "Finding 11"

Finding #12

Condition: The City did not document the eligibility and value of match contributions, nor did the City show how it met its annual match requirement for the program year.

City of Wilmington Response:

Enclosed please find the documentation for the eligibility and value of match contributions for each of the three, above-referenced projects. See attachment titled "Finding 12"

Finding #13

Condition: The City paid for service costs of project more than once for Oliver's Way (505 Lafayette Blvd).

City of Wilmington Response:

To date, the City has been unable to locate any documentation to confirm that the City did not pay for duplicate services. As a result, the Policy and Procedures manual has been updated to address the duplication of payments (pgs,19,29).

Finding #14

Condition: The project (Oliver's Way - 505 Lafayette Blvd) was not closed out within 120 days of the final project draw in IDIS the project was not completed in IDIS until a year later.

City of Wilmington Response:

The City has updated its policies and procedures to require that activities be closed out in IDIS within 120 days of a final project draw. Staff will receive training and oversight to ensure that this practice is followed in the future. This is included on pp 24 and 34 for rental and homebuyer, respectively. See attachment titled "Policy and Procedures"

Finding #15

Condition: The CHDO, "Our Youth Inc.", does not provide a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development and management of affordable housing projects – Oliver's Way (505 Lafayette Blvd).

City of Wilmington Response:

The City has updated its policies and procedures to require that all organizations seeking to be classified as a CHDO shall adopt and implement a formal process for low-income program beneficiaries to advise such organization in its decisions regarding the design, siting, development and management of affordable housing projects as required by 24 CFR 92.8(ii). The low-income requirement is included in the CHDO P&P on pgs. 2, 3; The City will monitor this process in the future to ensure compliance. See attachment titled "Policy and Procedures"

Finding #16

Condition: There was no documentation that the CHDO, "Our Youth Inc.", had standards of financial accountability – Oliver's Way (505 Lafayette Blvd).

City of Wilmington Response:

The City has updated its policies and procedures to require that all organizations seeking to be classified as a CHDO shall adopt and implement standards of financial accountability as required by 24 CFR 92.2(B)(6). The Financial Accountability is included on p 6 of the CHDO P&P. See attachment titled "Policy and Procedures"

Finding #17

Condition: The City did not certify the CHDO ("Our Youth Inc.") prior to the commitment of funds for activities #1747 and #1684.

City of Wilmington Response:

The City has requested a repayment plan which has been sent to Nadab O. Bynum under separate cover. A copy is attached for your reference (Finding 17 and 18).

Finding #18

Condition: The CHDO, "Our Youth, Inc." did not have paid employees with housing development experience who work on projects assisted with HOME funds.

City of Wilmington Response:

The City has requested a repayment plan which has been sent to Nadab O. Bynum under separate cover. A copy is attached for your reference (Finding 17 and 18).

Finding #19

Condition: There was no documentation that sales proceeds from the properties were reverted back to the City or if funds were placed in the City's program income account. (525 Vandever Ave and 608 E. 11th Street)

City of Wilmington Response:

The City has updated its policies and procedures to include in the loan agreement whether the City will require that sales proceeds from future HOME projects revert back to the City or may be retained by the Developer against eligible costs. This language can be found in P&P on p 36 in the section on Written Agreements. See attachment titled "Policy and Procedure"

The proceeds from 608 E 11th Street were reallocated in IDIS accurately reflecting CDBG and HOME percentages. HOME funds receipted were \$7,362.29.

The Wilmington Housing Partnership Corporation (WHP) began the Walt's Way project in 2013. During that time, there were pledges of financial support that eventually were withdrawn. Because of that, the WHP took out loans to complete the project. During construction, the original contractor had financial difficulties and in addition, passed away, which increased the per unit costs. To offset these costs, the City allowed the proceeds from the sale of 525 Vandever Avenue to help satisfy the Barclay's line of credit.

Concern #1:

Condition: For the two projects (525 Vandever and 505 Lafayette), the City did not include the experience and financial capacity of developer.

City of Wilmington Response:

The City has updated its policies and procedures to require that project files include documentation regarding the experience and financial capacity of the applicable developer as required by 24 CFR 92.250(b). See attachment titled "Policy and Procedures, (pg. 15)"

Concern #2

Condition: For the Lead Safe Housing Rule and the RRP requirement regarding worker and occupant safety, the requirement is not shared with the entities who perform the rehabilitation work on painted surfaces.

City of Wilmington Response:

The City has updated its policies and procedures to ensure that worker and occupant safety requirements are shared with the entities that perform the rehabilitation work on painted surfaces. This is included on p. 37 as part of the Construction Management/pre-construction review. See attachment titled "Policy and Procedures"

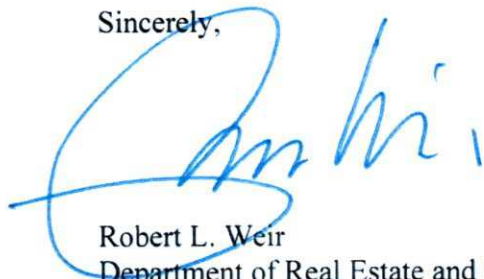
The City will require Developer's sign acknowledging receipt of worker and occupant safety requirements. See attachment titled "Concern 2"

Conclusion:

The City acknowledges the shortcomings in its performance as described in the aforementioned findings and concerns; however, with the implementation of the corrective actions set forth above and the cessation of remote working conditions for City staff, the City expects to fully address such findings and concerns so that they are not repeated in the future. As previously stated, to the extent that your office requires the City to pay back any funds to its line of credit from non-Federal funds, the City requests that such pay-back be deducted from future awards of Federal funds to the City of Wilmington over the next five (5) fiscal years. This accommodation to the City is needed due to budgetary constraints within the City's non-Federal funds budget and will allow the City to maintain a similar level of community service as currently provided.

If you should have any questions or need any additional information, please feel free to contact my staff person, Alan J Matas, at (302) 526-3021.

Sincerely,



Robert L. Weir
Department of Real Estate and Housing
City of Wilmington

Attachments