

RESOLUTION 15(22)


**RESOLUTION APPROVING THE JANUARY 2022 COMMUNITY DEVELOPMENT
BLOCK GRANT-DISASTER RECOVERY INTERNAL AUDIT REPORT**

WHEREAS, the City has hired Weaver and Tidwell, LLP to complete an internal audit for the Community Development Block Grant-Disaster Recovery

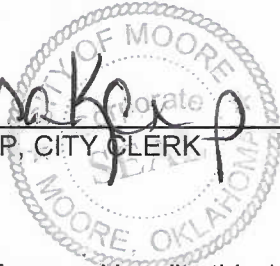
WHEREAS, Weaver and Tidwell, LLP has provided an internal audit report for the months of April 2021 through September 2021 and the City has responded and prepared a course of action

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Moore, Oklahoma, as follows:

ADOPTED, this 14th Day of February, 2022, at a regularly scheduled meeting of the governing body in compliance with the Open Meeting Act, 25 O.S. SS301-314 (2001).



VANESSA KEMP, CITY CLERK





GLENN LEWIS, MAYOR

Approved as to form and legality this 14th day of February, 2022.



RANDY BRINK, CITY ATTORNEY

City of Moore, Oklahoma

The Curve – Property Management and Readiness
Assessment

January 11, 2022

C O N T E N T S

Page

The Curve - Property Management and Readiness Assessment Report 1

Summary and Background 2

Scope and Objectives 3

Results..... 4

Conclusion..... 4

Procedures Performed, Findings, Observations, and Management Response 4

Appendix.....11



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This report presents the results of the Internal Audit procedures performed for the City of Moore, Oklahoma's The Curve – Property Management and Readiness Assessment Project from October 11, 2021 to January 11, 2022, relating to the Housing and Urban Development (HUD) Community Development Block Grant - Disaster Recovery (CDBG-DR) program funding the City of Moore (City) received for the period starting December 12, 2018 to present.

The objectives of the Internal Audit performed were as follows:

- A. Review of the City of Moore's policies and procedures pertaining to applicable HUD CDBG – DR criteria associated with housing authority requirements and performance of a comparison to industry best practices found in similar cities.
- B. Evaluation of the agreement with Belmont Development, including applicable policies and procedures, and established management practices to ensure readiness for the execution of responsibilities related to the property management of the Curve.

To accomplish these objectives, we conducted interviews with select City of Moore employees and reviewed existing documentation of the efforts for managing the third party's associated with the Curve Development. We also conducted interviews with Belmont Property Management employees to identify current processes, structure, and management practices over the development and tenant application process. We reviewed and confirmed the City's assessment of Belmont's policies and procedures pertaining to property management for CDBG-DR compliance. In addition, we tested tenant applications and supporting documentation to verify compliance with applicable CDBG-DR, City, and State policies and procedures.

The procedures were performed based on general guidelines provided by HUD CDBG-DR, the City of Moore, and State of Oklahoma. We were not engaged to, and did not perform an audit, in which the objective would be the expression of an opinion. Accordingly, we do not express such an opinion.

This report is intended solely for the use of the City of Moore and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. The following report summarizes the procedures performed, observations and findings.

Weaver and Tidwell, L.L.P.

Weaver and Tidwell, L.L.P.
Houston, Texas
January 11, 2022

City of Moore, Oklahoma
 The Curve – Property Management and Readiness Assessment
 HUD CDBG-DR
 January 11, 2022

Summary and Background

In May of 2013 the City of Moore Oklahoma was hit by a mile wide F-5 Tornado and experienced winds up to 200 MPH, resulting in the loss of 24 citizens, 2 schools, a school administration building, a regional hospital, 90 businesses and 2,400 housing units being damaged or completely destroyed. In January 2013 Congress passed, and the President signed into law, The Disaster Relief Appropriations Act, also known as Public Law 113-2 (the "Act"), which appropriated approximately \$50 billion for recovery efforts related to Hurricane Sandy and other natural disasters specified in the Act, as well as disasters occurring in the remaining months of Fiscal Year 2013. Of those funds, approximately \$16 billion was set aside for the Community Development Block Grant - Disaster Recovery Program (the "CDBG-DR Program"), to be administered by the United States Department of Housing and Urban Development ("HUD"). The Moore tornado and other tornadoes affecting Oklahoma during the period April 19th through May 31st, 2013 were included by HUD in the allocation created by the Act. The City's total HUD CDBG-DR funding received equals \$52.2 million, which are subject to federal compliance requirements based on the approved Action Plan and allocated for infrastructure, housing, and public service projects.

The Curve is located at SW 17th and Janeway Avenue, where the Royal Park Mobile Home community once stood. The site sits on over 14 acres and upon completion will include three buildings, including 4,650 square feet of commercial/retail space. There will be 244 total units, including 219 affordable units and 25 market rate units. The total development cost will be \$49,725,887, which includes a \$15,840,362 subsidy provided by the CDBG-DR funds. The Curve development will be one of the final and largest projects that will be funded by CDBG-DR fund for the City of Moore. The City purchased the land in 2015 and has since completed demolition, utility installation, a masterplan for the project, and is nearing completion of construction of the project. The City selected Belmont Development on December 17, 2018 to design, finance, build, and manage the mixed-use, mixed income project. The following are the details of the project funding sources, including estimated remaining drawdowns:

The Curve – Construction and Development (SW 17th / Janeway Redevelopment) – Total \$49,725,887		
Funding Sources	Project Budget	Percent
City of Moore (CDBG-DR Funds)	\$15,840,362	32%
Perm Construction Loan - Freddie TEL (rate lock)	\$17,958,000	36%
Freddie Earn out Construction Loan (at conversion)	\$1,795,800	3.6%
LIHTC Equity	\$12,003,806	24%
Deferred Developer Fee	\$2,127,919	4.4%

City of Moore - CDBG Funding Source to the Curve Development		
Funding Source	Project Budget	Remaining Draw (estimate) – as of 12/2021
CDBG-DR	\$10,603,106	\$2,000,000
CDBG-DR (expended at start of agreement)	\$5,237,256	-0-
Total	\$15,840,362	\$2,000,000 (12%)

Refer to the **Appendix** for details regarding the Development Parties, Roles, and Historical Issues identified by the City of Moore.

City of Moore, Oklahoma

The Curve – Property Management and Readiness Assessment

HUD CDBG-DR

January 11, 2022

Scope and Objectives

The scope of the internal audit focused on the management and readiness of the City of Moore, Oklahoma's Curve Project including applicable policies, procedures, and processes for the management and monitoring of the property along with housing authority requirements and processing of tenant applications.

The objectives of our procedures are as follows:

- A.** Review of the City of Moore's policies and procedures pertaining to applicable HUD CDBG-DR criteria associated with housing authority requirements and performance of a comparison to Industry best practices found in similar cities. The following procedures were performed:
 - Reviewed and validated the City's initial assessment of the policies and procedures for CDBG-DR requirements related to operating a Housing Authority.
 - Compared the City's Housing Authority policies and procedures and anticipated structure against established best practices implemented at similar cities.
- B.** Evaluation of the agreement with Belmont Development, including applicable policies and procedures, and established management practices to ensure readiness for the execution of responsibilities related to the property management of the Curve. The following procedures were performed:
 - Conducted interviews with Belmont Development Management and identified current processes, structure, and anticipated practices for managing the Curve development with tenants.
 - Evaluated the agreement and policies and procedures related to the property management function for compliance with applicable CDBG-DR requirements and the City of Moore.
 - Reviewed the tenant application process to ensure requirements were met for affordable housing standards.

To complete these objectives, we conducted interviews with select City of Moore employees and reviewed existing documentation of the efforts for managing the third party's associated with the Curve Development. We also conducted interviews with Belmont Property Management employees to identify current processes, structure, and management practices over the development and tenant application process. We reviewed and confirmed the City's assessment of Belmont's policies and procedures pertaining to property management for CDBG-DR compliance. In addition, we tested tenant applications and supporting documentation to verify compliance with applicable CDBG-DR, City, and State policies and procedures.

City of Moore, Oklahoma

The Curve – Property Management and Readiness Assessment

HUD CDBG-DR

January 11, 2022

Results

Through our interviews, walkthroughs, evaluation of policies and procedures, internal controls, and testing of applications for the two objectives, we identified four findings.

The issues identified in our audit are classified as either Findings or Observations which are defined as follows:

- **Finding:** The internal audit areas identified are considered to be non-compliance issues with documented City policies and procedures, State or Federal rules and regulations required by law, or where there is a lack of procedures or internal controls in place to cover risks to the City. These issues could have significant financial, operational, or compliance implications.
- **Observation:** The financial areas identified are not considered to be non-compliance issues with documented City policies and procedures, State or Federal rules and regulations required by law. These are considered to be process improvement observations and the intent for the recommendation of the observation is to strengthen the City's current policies, processes, procedures, or internal controls in place to cover risks to the City. These issues do not have significant financial, operational, or compliance implications.

Conclusion

Based on our evaluation, we verified the City of Moore's policies and procedures and Belmont Development's policies are in compliance with applicable CDBG-DR requirements. However, we identified areas for improvement pertaining to Belmont Development's execution of procedures for maintaining compliance with CDBG-DR requirements, such as the submission of required documentation, submissions of timely and equitable draw requests, and the management of tenant applications. Additional monitoring procedures by the City of Moore should be implemented to ensure future compliance with Belmont Development and CDBG-DR requirements for the Curve Project.

Detailed Procedures Performed, Findings, Observations, and Management Response

Objective A: Review of the City of Moore's policies and procedures pertaining to applicable HUD CDBG -DR criteria associated with housing authority requirements and performance of a comparison to Industry best practices found in similar cities.

Procedure Performed:

- A. Obtained and examined the City of Moore's Policies and Procedures pertaining to multifamily housing, property management, and monitoring procedures to determine if the City's policies and procedures address HUD CDBG-DR and State of Oklahoma requirements, including applicable sections of:
 - 2 CFR 200.400-401
 - 24 CFR 58
 - 24 CFR 570.200, 503, 570, 602
 - 24 CFR 85
 - FR-5696-N-01, FR-5710-N-01

City of Moore, Oklahoma

The Curve – Property Management and Readiness Assessment

HUD CDBG-DR

January 11, 2022

The policy and procedure review included an evaluation of coverage of the following areas:

- Fair Housing Procedures
- Income Calculation
- Multifamily Compliance Review and Monitoring
- Replacement Reserves
- Tenant Selection Procedures
- Waiting Lists
- CPTED
- Fair Housing Checklists
- Monitoring Schedules

Results of Procedures: No Findings Identified

- B. Reviewed and validated the City's initial assessment of Belmont's property management policies and procedures for CDBG-DR requirements pertaining to HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multi Family Housing Programs

The policy and procedure review included an evaluation of coverage of the following areas:

- Project eligibility requirements
- Income limits (including economic mix requirements for Section 8 properties)
- Procedures for accepting applications and selecting from the waiting list
- Occupancy Standards
- Unit transfer policies, including section of in-place residents versus applicants from the waiting list when vacancies occur
- Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights, laws, and statutes
- Policy for opening and closing the waiting list for the property
- Eligibility of students
- Applicant notification and opportunity to supplement information already provided
- Procedures for identifying applicant needs for the features of accessible units or reasonable accommodations
- Updating the waiting list
- Policy for notifying applicants and potential applicants of changes in the tenant selection plan
- Procedures for assigning units with originally constructed design features for persons with physical disabilities
- Charges for facilities and services
- Security deposit requirements
- Unit inspections
- Annual recertification requirements
- Interim recertification reporting policies
- Implementation of house rule changes

Results of Procedure: No Findings Identified.

City of Moore, Oklahoma
The Curve – Property Management and Readiness Assessment
HUD CDBG-DR
January 11, 2022

- C. Compared the City's Housing Authority policies, procedures, and anticipated structure against established best practices implemented at similar cities.

Results of Procedures: No Findings Identified

Objective B: Evaluation of the agreement with Belmont Development, including applicable policies and procedures, and established management practices to ensure readiness for the execution of responsibilities related to the property management of the Curve.

Procedures Performed:

- A. Conducted interviews with Belmont Development Management to identify current processes, structure, and anticipated practices for managing the Curve development with tenants.

Finding #1 - MODERATE: Belmont Property Management has experienced turnover of key positions throughout the duration of The Curve project development. The loss of key staff due to turnover and the inability to find experienced professionals with required trainings and certifications has resulted in delays of receipt of requested documentation and improperly processed tenant applications, which has required applications to be reevaluated and reprocessed. In addition, turnover and the lack of governance from Belmont Development has resulted in the lack of timely response of City compliance findings, insight on the reasoning of construction issues, along with updated construction and occupancy timelines to the City of Moore.

Recommendation: We recommend that the City of Moore expand their planned monitoring procedures and efforts to ensure Belmont Property Management Personnel obtain and maintain all the required trainings and certifications in a timely manner. In addition, the standing meetings with Senior Management from Belmont Development, Belmont Property Management, and Rise should continue to occur to discuss issues and receive assurances on their efforts to control turnover and construction delays.

Management Response: The City will continue its weekly meeting with Belmont Development and Belmont Property Management. As of January 18, 2022, the property management is fully staffed for The Curve. The City will notify Belmont Property Management of the required trainings and certifications as outlined in the City's agreement with Belmont Development and request documentation for each employee be submitted to the City by April 30, 2022.

Responsible Party: Kahley Gilbert, Project-Grants Manager - City of Moore and Belmont Property Management Contact

Implementation Date: 2/14/2022

City of Moore, Oklahoma
The Curve – Property Management and Readiness Assessment
HUD CDBG-DR
January 11, 2022

- B. Evaluated the agreement and policies and procedures related to the property management function for compliance with applicable CDBG-DR requirements and the City of Moore.

Finding #2 - HIGH: Belmont Development is not in compliance with HUD CDBG-DR requirements for subcontractor training and consistent reporting, including weekly reports of contractors and subcontractors onsite, certified payrolls, weekly new hire documents, and subcontractor breakdown on the VDR-05 F Form. Although the City of Moore presented internal findings to Belmont related to noncompliance with requirements, such as Davis Bacon and Fidelity Bonds for subcontractors of Rise Development, Belmont has not presented proposed actions or completed remediation to ensure compliance with HUD CDBG-DR requirements by the City deadline.

Recommendation: We recommend that The City of Moore coordinate with internal legal counsel and executive management from Belmont Development to receive formal responses on the remediation plans and efforts to ensure compliance with HUD CDBG-DR requirements. In addition, City of Moore should continue to not process any future drawdown requests until compliance is achieved. Lastly, if compliance cannot be achieved by Rise, disbarment procedures should be explored.

Management Response: Rise has submitted a significant amount of outstanding reports identified in the City's monitoring report. As of January 31, 2022, 3 out of 3 concerns have been cleared and 2 out of 5 findings have been cleared. Out of the 36 contractors identified as non-compliant, all but two are now in compliance. As of November, Rise has hired a new project manager that has been in weekly communication with the City since being involved with this project. The City will not process any future drawdown requests until all findings are cleared. If compliance is not met, the City will move forward with disbarment procedures.

Responsible Party: Kahley Gilbert, Project-Grants Manager - City of Moore and Rise Residential Contact

Implementation Date: 2/14/2022

Finding #3 - MODERATE: Belmont Development has not submitted timely and equitable draw requests to the City of Moore in 2021 to align with the construction progress made, as required within Section 2 of the Development Financing and Loan Agreement and Section 5 of the Disposition and Development Agreement. It is assumed that due to the lack of remediation of the non-compliance items identified by the City of Moore, Belmont has front loaded the costs from other funding sources instead of an equitable distribution of funds from all available funding sources over the 2021 year. Construction is expected to be completed in the first quarter of 2022 and \$2 million remains to be drawn, in which any request is anticipated to be denied until compliance with the City's findings is achieved.

Recommendation: We recommend that the City of Moore request from Belmont Development the detailed draw amounts distributed from all funding sources over the course of the project and to perform an analysis to determine if the draw requests have been equitable over the term. Additionally, the City should request a formal status on the anticipated draw requests for the remainder of CDBG-DR funds, along with remediation efforts to achieve compliance, to ensure timeliness and eligibility for receiving the remaining draw.

City of Moore, Oklahoma

The Curve – Property Management and Readiness Assessment

HUD CDBG-DR

January 11, 2022

Management Response: There is a loan balance of \$2,081,677.19, of which \$1,060,310.64 is retainage that will be held until construction completion. It can also be assumed that other funding sources have a higher fund balance, draws are being made against those funding sources until the remaining balance is equal to the City's. However, the City understands the importance of documentation of draw requests to ensure compliance with the Disposition and Development Agreement. The city will request from Belmont Development the detailed draw amounts distributed from all funding sources and complete and analysis.

Responsible Party: Kahley Gilbert, Project-Grants Manager - City of Moore and Belmont Development Contact

Implementation Date: 4/30/2022

- C. Reviewed the tenant application process to ensure requirements are met for affordable housing standards.

Finding #4 - HIGH: We selected an initial 5 applications from the 95 applicants listed in the Resident Tag Listing, which included affordable unit, market rate, and special accommodation units for testing (audio and visual impaired), to validate that the applications were complete, from eligible applicants, and processed timely. However, all 5 applications selected were missing required documents from the application checklist and were in the process of being "reworked" by Belmont due to applications expiring from delays in construction. Due to the Resident Tag Listing including incomplete and expired applicants, which are not specifically identified, an additional 5 applications identified and confirmed by Belmont as "completed" were selected and evaluated to ensure they were complete, from eligible applicants, and processed timely. From the supporting documentation provided by Belmont Management, we identified the following:

- One of the five samples was missing a required resident screening.
- All 5 samples were not officially certified and were marked as "Not Final", due to certification occurring on the date of occupancy, which is delayed due to construction.

Recommendation: We recommend that Belmont Property Management modify the Resident Tag Listing to include a column that identifies the application status of each applicant along with expiration date. In addition, we recommend that the City of Moore develop monitoring procedures to evaluate the applicant population to validate the applications are complete, from eligible applicants, and are not expired. The monitoring procedures should randomly select applicants on a routine basis to evaluate and to formally provide the results of the review, including corrective action, to Belmont Property Management. Follow-up procedures of the applicants reviewed should be performed timely to ensure corrective action occurred and the applicant files are complete.

City of Moore, Oklahoma

The Curve – Property Management and Readiness Assessment

HUD CDBG-DR

January 11, 2022

Management Response: The City will make a request to Belmont Management to modify the tag list by adding an application status for each applicant identified along with the expiration date. The City has established monitoring procedures and a monitoring schedule for applications. The City is scheduled to monitor fair housing and equal opportunity, tenant eligibility, and income calculations within three months of first occupancy. The City has procedures and checklists that will assist with this monitoring.

Responsible Party: Kahley Gilbert, Project-Grants Manager - City of Moore and Belmont Property Management Contact

Implementation Date: 4/30/22

Appendix

City of Moore, Oklahoma
The Curve – Property Management and Readiness Assessment
HUD CDBG-DR
Appendix
January 11, 2022

Summary of Development Parties, Roles, and Historical Issues

Party	Role	Responsibilities	Identified Issues by the City of Moore	Aging (month and Date)	Remediation Status	Agreement Reference
Belmont Development	Primary Contractor	<ol style="list-style-type: none"> 1. Overall project management 2. Ensuring compliance with HUD CDBG-DR Requirements and other applicable state / local regulations 3. Oversight over contractors and subcontractors, including reporting 	Non-compliance with submission of documentation required by CDBG-DR requirements pertaining to the general contractor and respective sub-contractors.	Noncompliance identified starting 01/2020	Not Initiated	p.21-23, 35, 36, 58
Belmont Property Management	Property Manager Subsidiary of Belmont Development / Contracted by Belmont Development	<ol style="list-style-type: none"> 1. Processing and certifying of tenant applications, including validating eligibility 2. Day to day management of the property and tenants 3. Timely submission of required reports & documents to the City 	<p>Tenant Applications are expiring or don't have all the required documentation and have to be reworked, including the refunding of deposits.</p> <p>Due to high turnover, new property management personnel may not meet the 5 year experience qualification requirements per the signed agreement with the City.</p>	<ol style="list-style-type: none"> 1. Identified expired applications dating from 03/2021 2. Hiring requisitions remain unfilled dating 09/2021 	In-Progress	p.32-33
Rise Residential Construction	General Contractor for Construction	<ol style="list-style-type: none"> 1. Construction of the development 2. Communication and reporting of building progress 3. Timely submission of reports & documents related to CDBG-DR requirements (i.e. Davis-Bacon, Insurance, etc.) 4. Managing and ensuring compliance of sub-contractors 	Rise and various subcontractors are not in compliance with providing required documentation and reports associated with various CDBG-DR requirements.	<ol style="list-style-type: none"> 1. Annual Davis Bacon / Section 3 noncompliance identified from 01/2020 for certain Sub-contractors 2. Certified payrolls / weekly new hires documentation not reported consistently, which was identified starting 04/2020. Additionally, certain sub-contractors have never provided the required documentation 3. Contractors onsite but no documentation and reporting starting 11/2020 	Not Initiated	p.21-23