

Housing Opportunities Made for Everyone, Inc.
(HOME)

Forensic Audit Report

March 6, 2014

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Strategies from Numbers®



I. Introduction

MRW was engaged to complete an independent forensic audit of program income and expenses related to the Housing Opportunities Made for Everyone, Inc. (HOME) purchase, rehabilitation and resale of foreclosed properties partially funded by federal Community Development Block Grant (CDBG) and State Housing Initiative Partnership (SHIP) funds.

The audit dates include June 1, 2008 through the program closeout in April 2010. MRW reviewed the purchase, rehabilitation and resale information relating to thirteen (13) properties acquired by HOME. Records analyzed in support of HOME activities included:

- US Department of Housing and Urban Development (HUD-1) settlement statements for the purchase and resale of each property
- CDBG and SHIP program guidelines
- Collier County, FL and City of Naples, FL SHIP Local Housing Assistance Plan (LHAP) for the State of Florida Fiscal Years 2007-08, 2008-09, 2009-10
- Memorandum and Executive Summary prepared by Jeffrey A. Klatzkow, County Attorney dated October 31, 2008 Re: Barlow SHIP Agreement
- Supplement to Agreement Between Collier County and HOME SHIP Acquisition-Rehabilitation/New Construction File #AR09-006, effective August 19, 2008
- Agreement Between Collier County and HOME SHIP Acquisition-Rehabilitation/New Construction effective January 13, 2009
- HOME application for CDBG Grant signed by John Barlow July 28, 2008
- QuickBooks records including chart of accounts listing names and the numbering system for individual accounts, cash receipts journal, cash disbursements journal, and general ledger
- Bank records including statements and cancelled checks for three accounts maintained at Bank of Florida, two accounts maintained at Bank of America and one account maintained at Regions Bank
- Deeds, mortgages, second mortgages, and assignments
- Vendor invoices from vendors supporting costs associated with the purchase of materials and other services related to acquisition and rehabilitation of properties subsidized by CDBG and SHIP funds
- Collier County Housing Human and Veteran Services (HHVS), formerly known as Housing and Human Services (HHS) records relating to inspection of work, review and approval of CDBG and SHIP payments to HOME and vendors
- Collier County Housing, Human & Veteran Services Internal Audit Report 2011-4, dated February 2012
- CliftonLarsonAllen (CLA) Audit report dated December 4, 2013

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II. Background

Housing Opportunities Made for Everyone, Inc. (HOME) is a 501(c)(3) non-profit organization formed under Chapter 617 Florida Not For Profit Corporation Act on May 21, 2008. HOME's board of directors included:

Melvin (Mel) L. Engel, President and CEO
Julie Schmelzle, Vice-President and CFO
Russell A. Budd, Vice-President and COO
Carol Golightly, Treasurer
John Barlow, Vice-President Real Estate, and Assistant Treasurer
Michael W. Pettit, Secretary
Elizabeth (Beth) A. Wolszon, Vice-President Marketing and Strategic Planning

HOME was created to provide opportunities for working individuals and families at income levels of $\leq 80\%$ of Average Median Income in Collier County Florida to purchase decent, affordable homes in Collier County. Funding for this effort was provided, in part by SHIP and CDBG. Total grant funding for the project was \$427,472 derived from a Community Development Block Grant (CDBG), \$194,432 in State Housing Initiative Partnership (SHIP) funds, and \$99,960 in private donations. (Exhibits A, B, C and D)

III. Extent and Results of Review

For this forensic audit, MRW reviewed and analyzed the purchase, rehabilitation, and resale of all residential properties. That review also included analyses of the receipt and disbursement of SHIP and CDBG funding.

Purchase, Rehabilitation and Resale Transactions

HOME entered into three separate agreements with Collier County Florida to obtain SHIP funds and a CDBG grant for the acquisition and rehabilitation of houses located in Collier County. The SHIP and CDBG funds were used for acquisition and/or rehabilitation of 12 of 13 properties purchased by HOME. The houses are referred to as House #1 - House #13. The houses are referred to in HOME's books and records by the numbers 1-13-Rehab-street address (i.e. 1-Rehab 4174 18th Pl). (Exhibit E)

Exhibit F is a calculation of purchase price, rehabilitation costs, resale price and income/loss from the sale of each property. The houses are listed in order of resale date.

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SHIP Agreement effective August 19, 2008 - \$50,000

On May 13, 2008, HOME purchased a house located at 4174 18th Place SW, Naples, FL. The house was purchased with private funds and closed on June 30, 2008. The house is referred to as House #1 and is recorded in HOME's books and records as 1-4174 18th Place SW.

On August 19, 2008, John Barlow signed a Collier County SHIP Application Form requesting \$50,000 SHIP assistance. The Collier County Housing Department advised HOME that it would be awarded \$50,000 in SHIP funds. On August 28, 2008, Housing's Rehabilitation Specialist provided a bid specification to HOME describing necessary improvements. (Exhibit A)

The County Attorney's Office and Clerk's Office raised concerns as to the legal sufficiency of the agreement. On September 28, 2008, John Barlow signed a contract presented by HHVS. In addition, Mr. Barlow signed a Promissory Note and Second Mortgage in the amount of \$50,000. The county attorney drafted a memo to the Collier County Board of Commissioners, along with an Executive Summary and an Agreement incorporating the terms of the SHIP agreement between the County and HOME. (Exhibit I)

Using the detailed scope of work provided by HHVS Rehabilitation Specialist, HOME prepared bid specifications to solicit at least three bids from contractors. The contracts were subsequently awarded to individual sub-contractors, with Boran Craig Barber Engel Construction Co., Inc. (BCBE) serving as an uncompensated administrator. Rick Torres, Collier County Rehab Specialist, conducted a site visit and prepared an inspection report on December 1, 2008. Mr. Torres indicated in his report that the work that was completed states "okay to pay." SHIP funds totaling \$45,137 were paid by Collier County HHVS to HOME for reimbursement to BCBE for rehabilitation of House #1. (Exhibit J)

House #1 was sold on 12/29/2008 for \$150,000. SHIP funds were retained in the property to buy down the mortgage in the amount of \$45,137. (Exhibit K)

CDBG Funds

On July 26, 2008, John Barlow submitted a CDBG Grant application to Collier County Housing and Human Services in response to a Request for Proposals. The application provides full disclosure of HOME's board of directors, including Melvin Engel, President and CEO of BCBE. (Exhibit B)

HOME requested funding in the amount of \$840,000, with a total estimated project cost of \$2,265,000. The purpose of the loan was to purchase and refurbish foreclosed homes in Collier County, subsidize home price to lower mortgage payments, keep the home

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affordable over time, cover related administrative expenses, and close the sale to qualified buyer.

HOME's plan included the acquisition and rehabilitation of up to 12 homes. The CDBG grant was to be used to subsidize the home price and was to be retained with the home.

HOME estimated the total project cost at \$2,265,000 with total CDBG funds at \$840,000 representing 37.1% of the total cost.

On September 23, 2008, Collier County awarded HOME a CDBG grant in the amount of \$427,472.42 for Acquisition/Rehab/Resale. Indirect costs are also allowable with development of an indirect cost allocation plan. The contract was amended on January 1, 2009 to allow progress payments and to allow payments to be made directly to the provider(s) of service(s).

HOME subsequently purchased 12 homes. HHVS reimbursed the purchase price of seven of the 12 homes with CDBG funds. At the time of purchase of the 12 homes, no program income had been generated.

SHIP Acquisition-Rehabilitation/New Construction Agreement dated January 13, 2009

Following the CDBG award, HOME applied for additional SHIP funds. On January 13, 2009, HOME entered into an agreement with Collier County for SHIP Acquisition-Rehabilitation/New Construction funding in the amount of \$150,000.

HOME developed a scope of work and prepared bid specifications to solicit bids for rehabilitation of the 12 properties. (Exhibit C)

HOME submitted reports as required in Exhibit B for repayment for rehabilitation costs. Collier County HHVS reviewed the requests, along with invoices, signed contracts, and bid information prior to approval of SHIP reimbursements. In addition, HHVS to ensure that work was properly completed inspected the properties.

HOME utilized the entire \$150,000 award for rehabilitation of properties. The SHIP funds were utilized to reduce the mortgages on the properties, with loan forgiveness after 15 years.

The contractor used for the majority of rehabilitation on the homes was BCBE. The use of BCBE for the project presented a potential conflict of interest. In the application for CDBG funding, HOME fully disclosed to the County that Melvin Engel was President and of HOME as well as the President of BCBE.

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Subpart E. within IX – Other Program Requirements for the Sub-recipient agreement states that “The sub-recipient covenants that no person who presently exercises any functions or responsibilities with the Project, has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the sub-recipient.” (Exhibit L)

Mr. Engel resigned from HOME’s board prior to the award of SHIP funds to be utilized in the project. Mr. Engel rejoined the board in April 2010 after the project had been fully completed.

The house located at 4705 Orchard, also referred to as House #12 received \$3,000 in SHIP funds for rehabilitation. An offer was made to purchase House #12. HOME learned that the house was to be placed in a trust, which did not conform to the CDBG or SHIP agreements. Mr. Barlow contacted Collier County employees Frank Ramsey and Sandra Marrero to advise them of the situation. Mr. Ramsey contacted someone in Tallahassee and subsequently advised Mr. Barlow that the sale could proceed if HOME repaid the \$3,000 SHIP funds to the county. On April 28, 2010 HOME repaid the \$3,000 with check number 1139 from HOMES Bank of Florida account. (Exhibit M)

MRW reviewed requests for reimbursement under the January 13, 2009 SHIP agreement. (Exhibit N) Collier County HHVS required the following documentation be provided along with the request for reimbursement.

- Initial Inspection
- Bid Specifications/Cost Estimates
- Contractor’s Bid or Proposal
- Contractor/Homeowner Contract
- Work Inspection Reports
- Change Orders (If Applicable)
- Final Inspections
- Waiver of Lien

MRW reviewed documentation submitted by HOME for the reimbursement of rehabilitation costs of Houses 2 through 13. HOME provided all required documentation. Rick Torres, Collier County Rehab Specialist, conducted site visits and prepared inspection reports for each project. The Collier County Board of County Commissioners then issued Certificates of Completion for work performed in connection with projects funded by the SHIP agreement.

HOME provided extensive documentation to support construction costs reported by Boran Craig Barber Engel Construction Co., Inc. (BCBE). The documents include time cards for labor, invoices, copies of checks, credit card statements, bid specifications, proposals, and inspection reports.

On March 9, 2009, the Collier County HHVS issued a letter to HOME referencing page 13 part H of the Sub-recipient Agreement, which states that any sub-recipient who will receive program income needs to submit its plan to utilize such income and receive prior written approval from the HHVS or designee. (Exhibits O, P and Q)

HOME responded to HHVS on March 15, 2009 indicating that the HOME's plan was to leave an average of approximately \$35, 623 in each house as a subsidy retention to buy down the mortgages to make the homes more affordable. Mr. Barlow followed up in an email to Mrs. Marcy Krumbine, Director, Collier County HHVS wherein he inquired as to whether or not she had received his letter and if acceptable to please forward to staff. Mrs. Krumbine replied that she "forwarded to staff." HOME inferred from Mrs. Krumbine's response that HOME's plan for subsidy retention was approved.

As of March 15, 2009, HOME had not generated any program income. The only house that had been resold was house #1 that was rehabilitated with SHIP funds in accordance with the SHIP agreement dated September 28, 2008. A subsidy in the amount of \$45,137 was left in the house to buy down the mortgage at the time of resale. (Exhibit F)

HOME had purchased nine additional houses totaling \$561,000. On February 19, 2009 HOME received reimbursement of \$202,500 for the purchase of the first three homes. On February 24, 2009, HOME submitted a request for reimbursement of \$224,972.42, however the second request was still outstanding as of March 15, 2009. HOME subsequently purchased three additional houses for \$197,000 using private funds that were not reimbursed with CDBG or SHIP funds. (Exhibit R)

HOME subsequently did provide subsidies to homebuyers. The subsidies were properly recorded at the time of sale. Mortgages were issued on the properties in the amounts of the subsidies. HOME subsidized the mortgages in the form of a Second Mortgage for the CDBG funds and a Purchase Money Mortgage for the SHIP funds. Collier County is the lender on the second mortgages. HOME was the mortgagee on the Purchase Money Mortgages. HOME dissolved in 2010 and the Purchase Money Mortgages were assigned to Collier County. (Exhibits S and T)

HOME invested a total of \$330,527 in private funds to purchase houses for the program. The use of CDBG funds to subsidize the mortgages is proper and lawful under the regulations governing CDBG grants.

Indirect Costs

The CDBG Agreement, Exhibit A, Part C – Scope of Services states that “if indirect costs are charged, the Sub-recipient will develop an indirect cost allocation plan for determining the appropriate Sub-recipient’s share of administrative costs and shall submit such plan to the County for Approval in a form specified by the County. Exhibit B contains the form required by the County for requesting payment and Exhibit C contains the form required by the County for monthly reporting. The agreement does not contain a form for allocation of indirect costs. HOME did not seek reimbursement for indirect costs.

HOME’s sole purpose was to acquire, rehabilitate and resell affordable homes. HOME incurred indirect costs in the execution of the program that are eligible for reimbursement as follows: (Exhibit S)

Legal Fees	\$ 63,958
Accounting Fees	\$ 13,541
Marketing	<u>\$ 25,110</u>
Total	\$102,609

Project Completion

The final home sale closed on February 12, 2010. The project did not generate any program income. Exhibit A is a calculation of the application of CDBG and SHIP funds for all 13 properties involved in the project. 24 CFR 570.503(a), (b)(3) and (7), and 570.504 defines “Program Income.” Playing by the Rules A Handbook for CDBG sub-recipients on Administrative Systems states “Income generated by an activity that is only partially assisted with CDBG funds must be prorated to reflect the percentage of CDBG funds used to determine the portion that is program income.” The prorated percentage of CDBG funds is as follows:

Total Project Income/Loss (Exhibit F)

Acquisition Costs	698,387.00
Rehabilitation and Other Costs	680,521.00
Total Cost of Project	1,378,908.00
CDBG Funds	427,472.00
Percentage of CDBG	0.31
Net Income/Loss	(28,297.01)
Total CDBG Income/Loss	(8,772.29)

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In June 2010 HOME received a CDBG closeout document from Collier County HHVS noting there was no program income or irregularities. (Exhibit T)

HOME dissolved in December 2010 due to the continued Collier County Housing economic decline and increased competition from Collier County's NSP program.

IV. Conclusions

HOME purchased a total of seven homes that were partially funded by CDBG. HOME purchased an additional six homes with private funds. HOME rehabilitated and resold all 13 homes. Rehabilitation was funded in part by SHIP funds.

HOME resold the homes to income eligible individuals in accordance with the CDBG and SHIP agreements with Collier County. HOME retained CDBG and SHIP funds and utilized them as subsidies to buy down the mortgages to make the homes more affordable.

HOME properly accounted for all CDBG and SHIP funds expended under the agreements. Collier County Rehab Specialist Rick Torres inspected each of the homes and recommended reimbursements as requested. In addition, the Collier County Board of County Commissioners issued Certificates of Completion for all SHIP rehabilitation projects. HOME provided all required documentation to Collier County HHVS to support expenses. HOME properly accounted for the expenditure of all private funds.

All thirteen homes were resold and mortgages properly executed for CDBG and SHIP funds used to subsidize mortgages. House #12 was sold to an individual who placed the house in a trust. HOME reimbursed the County for SHIP funds that had been expended for rehabilitation of that home. There were no SHIP or HOME mortgages recorded on house #12.



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Exhibits

- A SHIP Agreement dated September 2009
- B CDBG Application and Agreement
- C SHIP Agreement dated January 2009
- D Addendum to SHIP Agreement
- E Chart of QuickBooks accounts for homes rehabilitated
- F Calculation of program income/loss
- G Closing Documents - purchase of house #1
- H Closing documents - purchase of houses 2-13
- I Memo to Board of County Commissioners from County Attorney
- J BCBE expense records relating to house #1
- K HUD 1s
- L Copy of CDBG regulations
- M Copy of HOME Check to Board of County Commissioners in the amount of \$3,000
- N SHIP Reimbursement Files
- O Letter to John Barlow from Director, HHVS
- P Letter to Director HHVS from John Barlow
- Q Email correspondence between John Barlow and Director HHVS
- R CDBG Reimbursement Files
- S Mortgages
- T Assignment of Mortgages
- U HOME QuickBooks Report