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RESOLUTION TRUST CORPORATION

Affordable Housing Disposition Program Achieving Mixed Results

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Chairman
The Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing, and
Urban Affairs
United States Senate

The Honorable Paul S. Sarbanes
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Committee on Banking, Housing,
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United States Senate

The Honorable Henry B. Gonzalez
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The Honorable James A. Leach
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The Honorable Marge Roukema
Ranking Minority Member
Subcommittee on Housing and
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Committee on Banking, Finance
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House of Representatives

This report, mandated by the RTC Completion Act of 1993,[1] reviews the Resolution Trust Corporation's (RTC) Affordable Housing Disposition Program (AHDP). Specifically, as agreed with the Committees and Subcommittees, we (1) assessed RTC's progress in providing home ownership and rental opportunities for very low-, lower-, and

[1]Resolution Trust Corporation Completion Act, P.L. 103-204, 107 Stat. 2369, 2409 (1993).

moderate-income families[2] since we last reported in September 1992; (2) assessed RTC's procedures for ensuring that purchasers of AHDP properties comply with income and occupancy requirements; and (3) attempted to identify RTC's costs of administering AHDP. We also are providing information on the status of RTC's and the Federal Deposit Insurance Corporation's (FDIC) joint plan for continuing AHDP after RTC closes in December 1995.

Results in Brief

Overall, RTC has achieved mixed results in its AHDP. RTC continues to make progress in providing home ownership and rental opportunities for very low-, lower-, and moderate-income families. As of June 30, 1994, RTC had sold about 63 percent (21,327 of 33,716) of the single-family properties that were marketed through AHDP. Of those sold, 11,798 were sold since we last reported on AHDP in September 1992. Also, as of June 30, RTC had sold about 54 percent (673 of 1,245) of the multifamily properties marketed through AHDP; 489 were sold during the past 2 years. Although sales of multifamily properties have increased over the past 2 years, complete data on the number of multifamily housing units occupied by income-eligible households were not available as of June 30, 1994.

RTC also improved its procedures for ensuring that purchasers of single-family properties comply with AHDP income and occupancy requirements. Specifically, RTC directed its field offices to require that buyers of single-family properties provide evidence of their income, such as copies of income tax returns or recent pay statements, to demonstrate their eligibility. RTC has developed a compliance monitoring program, but several problems hampered RTC's ability to ensure that multifamily property owners achieve and maintain the set-aside requirements. For example, the multifamily program lacked time frames and may lack sufficient enforcement actions to encourage multifamily property owners to comply with set-aside requirements. Further, RTC lacked assurance that all properties sold under AHDP had the required deed restrictions critical to monitoring compliance with set-aside requirements. As of June 30, 1994, deed restrictions for 113 multifamily properties either could not be located by RTC or needed legal corrections. Consequently, these properties were not being monitored for compliance with set-aside requirements.

We were unable to determine the difference between the cost to sell properties under AHDP and outside the program primarily because data

[2]Families approved to buy AHDP properties cannot earn more than 50 percent of their area's median income to qualify as very low-income, 80 percent to qualify as lower-income, and 115 percent to qualify as moderate-income.

comparing the sales price received from AHDP properties to the estimated sales price that would have been received had the property been sold in RTC's regular disposition program were not available. However, RTC reported that the administrative costs for AHDP averaged $11.8 million for calendar years 1991 through 1993 and were $6.8 million from January through July 1994. These expenditures include costs such as salary and travel; however, they do not reflect property holding costs.

In April 1994, RTC and FDIC developed a plan for unifying their respective AHDPs as required by the RTC Completion Act. Under the plan, FDIC will assume responsibility for the marketing and managing of RTC affordable housing properties not later than October 1995. Currently, RTC and FDIC are engaging in joint affordable housing single-family sales events involving 313 properties.

Background

RTC's AHDP was mandated by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). This was a new program that had to be fully developed by RTC. The requirement to preserve affordable housing added a goal that could compete with another mandate for RTC—to maximize the net recoveries on the sale or other disposition of the assets of failed thrifts. FIRREA added section 21A(c) to the Federal Home Loan Bank Act (FHLBA) and charged RTC with providing affordable home ownership and rental housing opportunities to very low-, lower-, and moderate-income families. Since 1989, there have been several amendments to the affordable housing provisions of FHLBA relating to the administration of the program and authorizing special provisions for nonprofit organizations and public agencies to acquire properties through the program.[3]

In January 1990, RTC set up a separate organization to manage its AHDP (see app. I for statistics on staff assigned to AHDP). This unit consists of a headquarters office that develops and issues AHDP regulations and advises the field offices that are responsible for implementing AHDP regulations.

AHDP consists of two components: single-family and multifamily. Under the single-family component, RTC offers to sell qualifying 1- to 4-unit properties to eligible families, nonprofit organizations, and public agencies during a

[3]Section 21A(c) of FHLBA has subsequently been amended by the Resolution Trust Corporation Act of 1991, P. L. 102-18, 105 Stat. 58 (Mar. 23, 1991); the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (The RTC Improvement Act), P. L. 102-233, 105 Stat. 1761 (Dec. 12, 1991); and the Resolution Trust Corporation Completion Act, P. L. 103-204, 107 Stat. 2369 (Dec. 17, 1993).

97-day period. The affordability guidelines state that families approved to buy the properties or those occupying the property[4] cannot earn more than 115 percent of their area's median income (adjusted for family size) and must occupy the property as a principal residence for at least 1 year.

Initially, under the multifamily program, RTC listed properties with clearinghouses that marketed the properties to qualifying purchasers for 90 days. During this period, public agencies, nonprofit organizations, and for-profit organizations could submit expressions of interest. After the 90-day exclusive marketing period, qualifying purchasers interested in purchasing the property had 45 days to submit an offer.

In May 1992, as authorized by the RTC Refinancing, Restructuring, and Improvement Act of 1991, RTC implemented a direct sales program that allows public agencies and nonprofit organizations to negotiate directly with RTC to purchase eligible multifamily properties. Under the direct sales program, a multifamily property is marketed exclusively to public agencies for no more than 30 days. If no public agency expresses interest during this period, RTC next offers the property to nonprofit organizations during another exclusive 30-day marketing period. If a nonprofit organization does not express interest at the end of the 30-day period, properties are to be marketed through the clearinghouse procedures.

Properties sold under AHDP are to be bound by a land use restriction agreement (LURA), which is a deed restriction that all purchasers are required to sign when they acquire property through AHDP. Single-family purchasers or those who occupy single-family properties agree to live in the property as a principal residence for at least 1 year. Multifamily purchasers agree to set aside at least 35 percent of the units for very low- and lower-income families for the useful life of the property, which has been defined to be the later of 40 years from the date of the LURA or 50 years from the date the property was occupied as multifamily housing.[5] The LURA binds the purchaser and all subsequent owners of the multifamily property for the full term of the agreement, and its conditions remain in effect over the useful life of the property.

[4]Public agencies and nonprofit organizations are allowed to purchase single-family properties under AHDP if they agree to make the property available for rent or sale to eligible families who agree to occupy the property as a principal residence for at least 1 year.

[5]While purchasers are required to designate at least 35 percent of the units in the property for very low- and lower-income families, many nonprofit and public agency buyers have agreed to set aside higher percentages for such families.

To ensure that the requirements of the LURAs are achieved and maintained, RTC has entered into memorandums of understanding with state monitoring agencies. Under the memorandums, the state agencies are responsible for monitoring and enforcing owner compliance with the occupancy requirements. Specifically, agencies are to provide training and guidance to property owners and managers on program procedures and requirements, monitor and enforce corrective actions in cases of noncompliance, and report semiannually to RTC and its successor agency on their compliance monitoring activities. To offset the cost of monitoring owner compliance with the LURA, each owner also agrees to pay the state monitoring agency or RTC an annual administrative fee.

Past Audit Reports

Over the past 2 years, we and RTC's Inspector General (IG) have reported on RTC's AHDP.[6] In addition to providing statistics on the number of properties sold under AHDP, these reports have identified internal control weaknesses and compliance issues that had an adverse impact on AHDP.

In September 1992, we reported that RTC lacked controls to verify that purchasers were eligible to acquire property through the single-family program or that they were complying with the program's 1-year occupancy requirement. We concluded that RTC could not ensure that the program was meeting its goal of providing affordable housing for very low-, lower-, and moderate-income families and was vulnerable to program violations. We also reported that due to system limitations and data integrity problems, RTC's real estate management information system had only limited ability to support the affordable housing program. This limited support hindered RTC's ability to evaluate the program's effectiveness and accurately report on its status to Congress.

We also reported that while RTC had published operating procedures for marketing and selling multifamily properties, it needed to strengthen its internal controls by monitoring and overseeing the implementation of these procedures to ensure that they were being executed properly and consistently throughout RTC.

In April 1993, RTC's IG reported that RTC did not fully achieve the intent of AHDP due to internal control weaknesses. The IG reported that two RTC

[6]Resolution Trust Corporation: More Actions Needed to Improve Single-Family Affordable Housing Program (GAO/GGD-92-136, Sept. 29, 1992); Resolution Trust Corporation: Affordable Multifamily Housing Program Has Improved but More Can Be Done (GAO/GGD-92-137, Sept. 29, 1992); and Affordable Housing Disposition Program at Selected Offices, RTC Office of Inspector General (Audit Report A93-023, Apr. 13, 1993).

offices—the Southeastern Consolidated Office and the Tulsa Consolidated Office—did not fully meet their AHDP objectives because internal control procedures were not adequate. For these two offices, RTC did not have reasonable assurance that buyers were eligible to purchase single-family properties. Also, RTC could not ensure that properties were adequately marketed or listed with clearinghouses and that all AHDP supporting documentation was kept in property files. Finally, RTC did not have procedures to monitor multifamily occupancy requirements to ensure that rental opportunities were provided only to eligible individuals.

Objective, Scope, and Methodology

The RTC Completion Act of 1993 directed us to determine the effectiveness of RTC's AHDP in providing affordable home ownership and rental housing for very low-, lower-, and moderate-income families. In response to the mandate and subsequent discussions with your Committees and Subcommittees, we agreed to (1) assess RTC's progress in providing home ownership and rental opportunities for very low-, lower-, and moderate-income families since we last reported in September 1992; (2) assess RTC's procedures for ensuring that purchasers of AHDP properties comply with all AHDP requirements, including occupancy requirements; and (3) identify RTC's costs of administering AHDP. We also agreed to provide information on the plans to unify RTC's and FDIC's AHDP.

To accomplish the first objective, we obtained and analyzed RTC statistics on the number of single- and multifamily properties sold from January 1990 through June 30, 1994. Due to time constraints, we used RTC data as provided to us; we did not verify the accuracy or reliability of the data we obtained.

To assess RTC's procedures for ensuring that purchasers of AHDP comply with income and occupancy requirements, we examined the policies and procedures used under the program to sell eligible single- and multifamily properties. We also interviewed RTC officials in headquarters as well as the Dallas and Denver field offices to obtain their views on the usefulness of AHDP policies and procedures in helping them achieve the goals of the program. We selected these two field offices because of their geographic dispersion and because they had sold over half of the AHDP properties since inception of the program. However, the results of our work cannot be projected to other RTC field offices. We also interviewed representatives from nonprofit and for-profit organizations as well as state monitoring agencies in Texas and Colorado to obtain their perspectives on AHDP.

To supplement our interviews with RTC AHDP officials, we developed a data collection instrument to obtain information on the implementation of RTC internal controls governing the sale of single-family properties. We randomly selected 103 of the 8,722 single-family property sales in RTC's Dallas field office during 1993. Through this sample, we sought to verify the implementation of RTC procedures used to ensure that single-family properties were sold to income-eligible families and that purchasers occupied the properties for at least 1 year. We did not independently verify the information we received.

To identify RTC's AHDP cost, we attempted to determine any difference between the costs incurred by RTC in selling properties under AHDP and its regular disposition program. To determine a difference would require knowledge of what RTC could have sold AHDP property for in an unrestricted market. We could then compare this price to the sales price obtained by selling properties under AHDP. These data were not available from RTC. Nonetheless, we collected and reviewed available RTC data on administrative costs associated with operating AHDP from 1990 through July 1994.

Finally, to determine the status of RTC's and FDIC's plan for unifying their affordable housing programs, we reviewed the plan and interviewed RTC and FDIC officials.

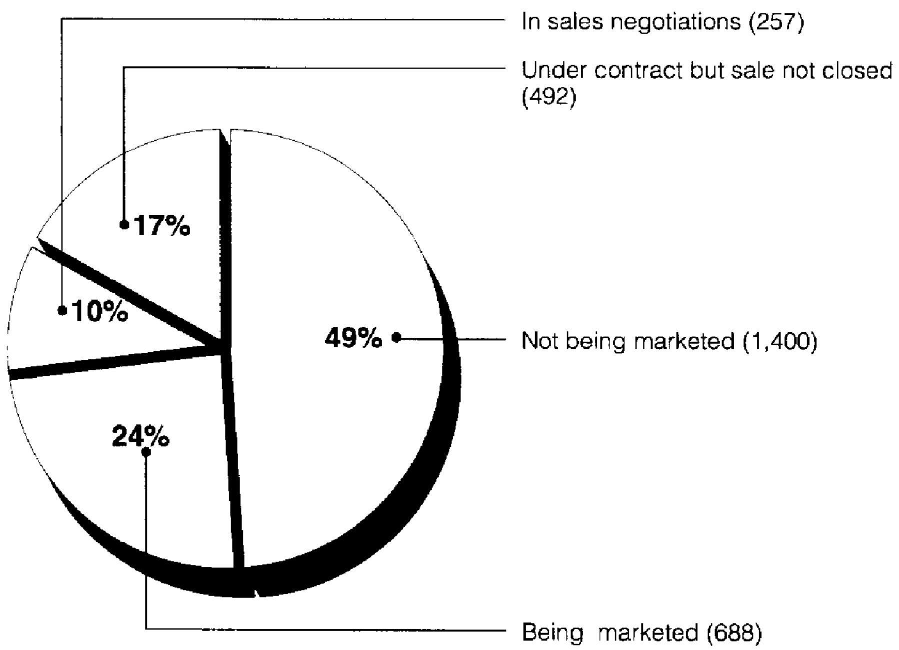
We did our work between February and August 1994 in accordance with generally accepted government auditing standards. On September 12, 1994, we discussed a draft of this report with officials at RTC's headquarters responsible for managing the program, including the Director of AHDP. These officials generally agreed with our findings and recommendations. We have incorporated their comments where appropriate.

Progress Continues in Single-Family Program

Overall, RTC had marketed 33,716 single-family properties under AHDP. Since we last reported on AHDP in September 1992, RTC had sold an additional 11,798 single-family properties. As of June 30, 1994, RTC had sold 21,327 single-family properties for a total sales revenue of $584 million (see app. II for a summary of RTC's AHDP single-family sales). Another 2,837 single-family properties were in AHDP's inventory. According to AHDP officials, the remaining 9,552 were sold outside AHDP because no acceptable offer was received before the AHDP marketing period expired.

However, RTC faces several challenges as it attempts to sell the remaining 2,837 single-family properties in its AHDP inventory. As shown in figure 1, almost half of the single-family properties in the AHDP inventory were not being marketed as of June 30, 1994. According to the Director of AHDP, this was primarily because the properties were not properly prepared for marketing in accordance with RTC procedures. Under these procedures, marketing cannot begin until all required documents and reviews (i.e., deed, title searches, appraisals, environmental reviews, and legal correspondence summarizing litigation affecting marketability) are completed.

Figure 1: Status of 2,837 Single-Family Properties in the AHDP Inventory as of June 30, 1994



Source: GAO analysis of RTC AHDP reports.

On the basis of concerns we raised, RTC has implemented actions to improve AHDP single-family property sales. For example, RTC improved its procedures to ensure that single-family properties are sold to income-eligible buyers and that they comply with the 1-year occupancy requirement. In June 1992, RTC directed its field offices to require that buyers provide evidence of their income, such as copies of income tax returns or recent pay statements, to demonstrate their eligibility. RTC also required that RTC staff, including contractors, reconfirm income eligibility when the specific property to be purchased is selected and ascertain from buyers whether their income has changed since initial qualifications. Our limited test in RTC's Dallas field office showed that during 1993, 100 of the 103 single-family properties in our sample were sold to income-eligible families. However, in the remaining 3 cases, we were not able to determine whether the single-family property was sold to an eligible buyer because the documentation was not available in the files we reviewed.

RTC also has implemented a process to review program violators. As of June 30, 1994, 704 requests for litigation services had been made to RTC's Legal Services Division. The nature of these requests included litigation matters such as program violations, implementation of LURAS, and civil litigation. Of the 704 requests, 28 were dismissed because a determination was made that they did not warrant civil action. Forty-two cases were under investigation, and 634 were being reviewed to determine whether litigation was warranted. Data provided by RTC on September 13, 1994, showed that about 34 percent (218 of the 634) of the cases had been resolved and completed.

Multifamily Sales Increased but Program Problems Remain

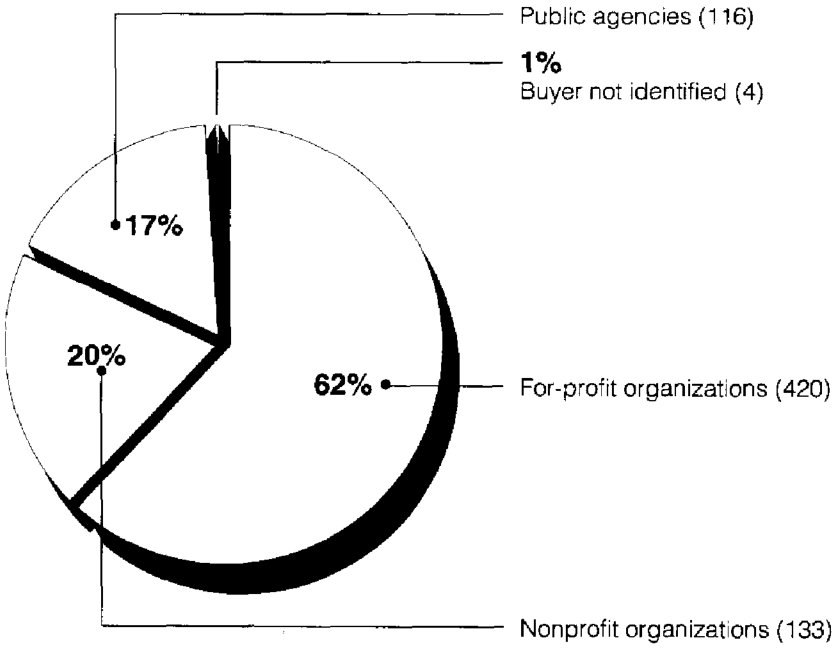
Although sales of multifamily properties increased over the past 2 years, RTC data showed that only 45 percent of the housing units set aside for very low- and lower-income families were occupied by eligible households. Several problems hamper RTC's ability to ensure that occupancy requirements are achieved. First, complete data on the occupancy of housing units set aside for very low- and lower-income families were not available. Second, the law and RTC regulations do not specify how and when property owners are to meet occupancy requirements. Third, sufficient enforcement actions for not complying with the LURA may not be available. Finally, RTC has no assurance that LURAS were executed, recorded, and kept for all multifamily properties sold under AHDP.

Multifamily Property Sales Increased Since 1992

RTC marketed 1,245 multifamily properties under AHDP from January 1990 through June 1994. When we last reported on this program in September 1992, RTC had sold less than 21 percent (184 of 865) of the multifamily properties that it had offered for sale. Since then, RTC has sold another 489 properties, bringing its total sales to 673 multifamily properties for a total sales revenue of $767 million (see app. II for a summary of AHDP's multifamily sales). As of June 30, 1994, 267 multifamily properties were available for sale. According to AHDP officials, the remaining 305 multifamily properties were sold outside AHDP because no acceptable offer was received before the AHDP marketing period expired.

Overall, the majority of the multifamily properties were sold to for-profit organizations, as shown in figure 2. However, in May 1992, RTC began its direct sales program and since then has sold all eligible multifamily properties to public agencies and nonprofit organizations exclusively. Nevertheless, some of these properties subsequently have been sold to for-profit organizations by public agencies and RTC does not have authority to prohibit such resales. For example, 17 percent (8 of 47) of the multifamily properties sold by RTC's Dallas field office to public agencies as of July 1994 were subsequently resold to for-profit organizations. Additionally, one of the multifamily properties sold by RTC's Denver field office to a public agency was resold to a for-profit organization.

Figure 2: Purchasers of 673 Multifamily Properties Sold as of June 30, 1994



Source: GAO analysis of RTC AHDP reports.

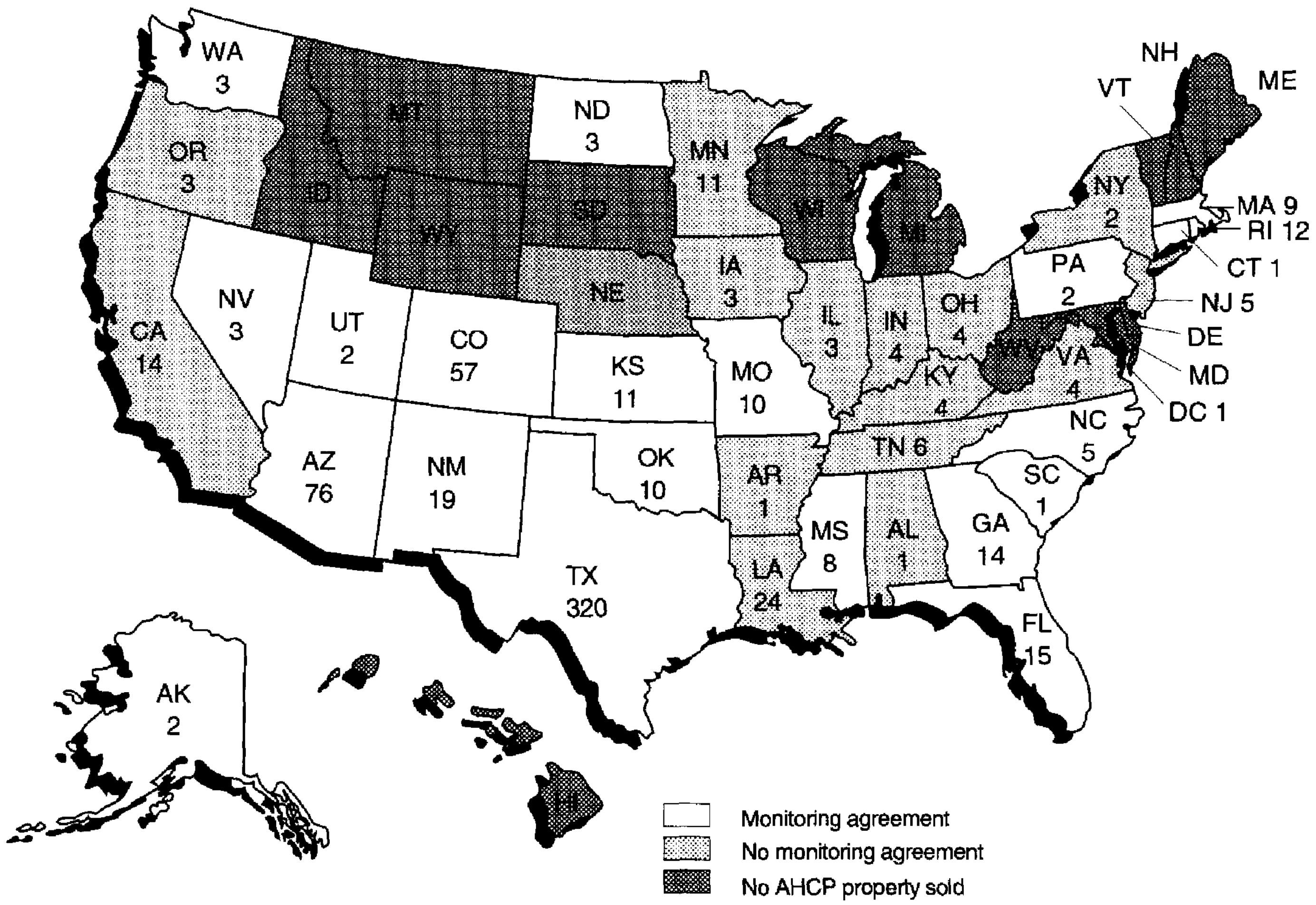
The Director of AHDP said that such resales may expand the ability of public agencies to provide more affordable housing in their communities because they may require that 50 percent of the units be set aside for lower-income families compared to RTC's 35 percent set-aside requirement. Under AHDP procedures, if a public agency resells the multifamily property within 2 years, 50 percent of the profits earned on the sale are to be shared with RTC. The 50 percent that the public agency retains is to be reinvested in low-income housing, according to RTC.

Complete Data on Status of Multifamily Occupancy Requirements Were Not Available

As of August 1994, RTC did not have complete data to assess property owners' compliance with multifamily occupancy requirements. Without such data, RTC has no assurance that the occupancy requirements were being met. The Director of AHDP estimated that such data would be available after November 1994, when the computer software for the state housing agencies is scheduled to be completed.

To ensure that the purchasers of multifamily properties comply with the occupancy requirements, RTC entered into agreements with state agencies to serve as monitoring agents. As of July 1994, RTC had entered into agreements with 23 of the 37 states where multifamily properties were sold (see fig. 3). However, while RTC is working to get the remaining states to serve as monitoring agencies, purchasers of multifamily properties are not being monitored for compliance with occupancy requirements in states such as California and Louisiana, where 14 and 24 multifamily properties were sold, respectively. Further, RTC had received compliance monitoring reports from only 8 of the 23 states with which it had monitoring agreements.

Figure 3: States With Multifamily Property Sales and RTC Monitoring Agreements as of June 30, 1994

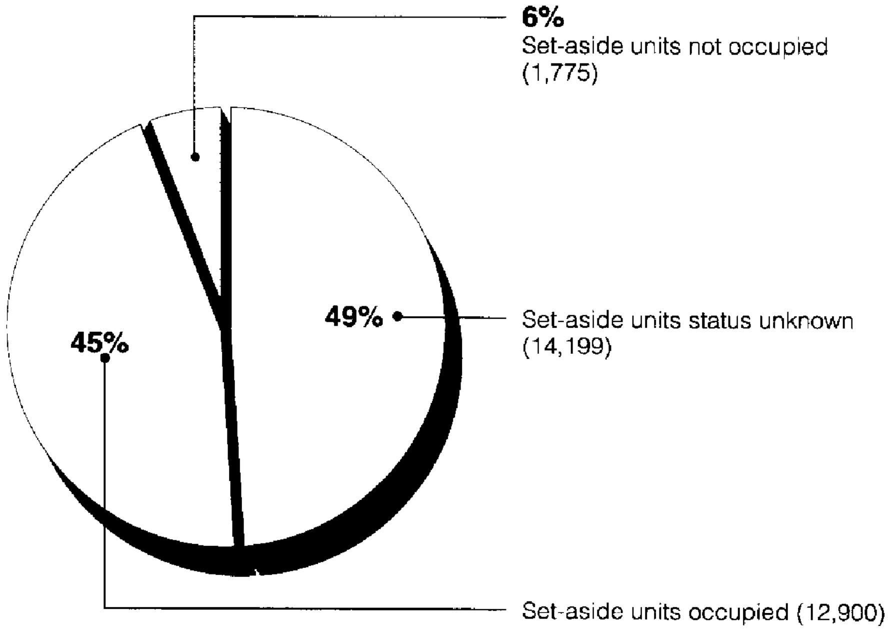


Note: We did not verify the states' data, and we do not know whether they are representative of nationwide program results.

Source: RTC AHDP.

We discussed our concerns about the lack of complete data with AHDP officials. As a result, AHDP officials telephoned the other 15 states that had not provided reports to obtain information on actual unit occupancy.[7] These data showed that very low- and lower-income families occupied about 45 percent (12,900 of 28,874) of the required set-aside units as shown in figure 4.

Figure 4: Set-Aside Units Occupied by Very Low- or Lower-Income Families as of June 1994



Note: The total number of required set-aside units was 28,874.

Source: RTC AHDP.

Law and Regulations Do Not State How Occupancy Requirements Are to Be Met

Although 35 percent of the units in a multifamily property are required to be set aside for very low- and lower-income families, the law does not state how or when this is to be achieved. Further, the law does not allow for the fulfillment of AHDP objectives through the displacement of existing tenants. Specifically, the act states:

[7]These 15 states signed monitoring agreements with RTC early in 1994 and had not submitted compliance monitoring reports because RTC does not require them to file reports until 6 months after the agreements are signed.

"No purchaser of an eligible multifamily housing property may terminate the occupancy of any person residing in that property on the date of purchase for purposes of meeting the lower income occupancy requirement . . . "

The law further provides that the purchaser of the multifamily property is deemed to be in compliance with the 35-percent set-aside requirement "if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met."

Neither RTC nor the state monitoring agencies have established time frames for multifamily property owners to comply with set-aside requirements. According to RTC officials and state agencies, time frames were not being imposed on purchasers of multifamily properties because the law does not allow the fulfillment of AHDP objectives through the displacement of existing tenants. Even though many of these buildings were acquired by purchasers that RTC said it believed would provide maximum housing for lower-income families, the status of approximately 49 percent (14,199 of 28,874) of the total set-aside units was not known as of June 30, 1994. In addition, as of June 1994, RTC did not have information on the number of set-aside units that were not being met as a result of the existing tenant protection provision of the law.

Sufficient Enforcement Actions for Noncompliance With Multifamily Set-Aside Requirements May Not Exist

Achieving and maintaining the set-aside requirements in the LURA are critical to achieving the AHDP objectives as envisioned by Congress. Thus, it is important to have sufficient enforcement actions to compel multifamily property owners to comply with LURA requirements.

As of June 30, 1994, only 26 percent (158 of 614)[8] of the owners of multifamily properties requiring LURAs were in full compliance with occupancy requirements. On September 13, 1994, RTC reported that another 121 properties were working toward full compliance but was not able to provide the status on the remaining 335 multifamily properties. Several factors such as income, level of occupancy at the time of purchase, and property rehabilitation needs may affect the rate at which property owners move into compliance. However, RTC acknowledged that several multifamily properties that were sold during 1990 have not yet reached full compliance.

[8]RTC reports that 59 of the 673 multifamily properties sales did not require LURAs because they were conveyed or sold in bulk sale. Under a bulk sale, the 35 percent set-aside requirement applies to the entire purchase.

RTC's compliance monitoring program includes two primary phases: precompliance and compliance. The precompliance phase begins when a buyer purchases an AHDP property and continues until the owner certifies full compliance with the requirements specified in the LURA. Under the precompliance phase, it is possible for a property owner to remain in precompliance for the 40- to 50-year life of the property without being penalized for not satisfying the requirements in the LURA. However, if a property owner that is in precompliance does not rent the next available unit to an income-eligible household, a $50 fine may be assessed by the state monitoring agency.

Once the state monitoring agency has acknowledged that the property owner has achieved full compliance with the LURA requirements, the property is considered in the compliance phase. When property owners fall out of compliance, a state monitoring agency may impose actions ranging from issuing a notice of noncompliance to charging the owner a fine of $50 per year for each set-aside unit not occupied by very low- or lower-income families. The maximum fine charged for noncompliance cannot exceed the annual monitoring fee.[9] Once the maximum fine has been assessed, no additional fines for noncompliance can be charged until the next year. However, charging a $50 noncompliance fine may not be sufficient to compel some property owners to comply with occupancy requirements because of their ability to quickly recapture the $50 per unit fine through higher rents. RTC AHDP officials said they also have the authority to take legal actions against multifamily property owners for noncompliance. However, RTC's Legal Services Division said that this authority has not yet been tested. This recourse may not be available in all states because of variations in state real estate laws.

Nonetheless, an official from one of RTC's state monitoring agencies said that stiffer fines are needed to encourage property owners to comply with the occupancy requirements specified in the LURAS. Another state monitoring agency official said that monitoring and training alone will not move owners into full compliance. Further, RTC AHDP officials acknowledge that the $50 per unit fine may not be sufficient in all cases.

[9]The annual monitoring fee is $50 per set-aside unit and is calculated based on the number of such units in the building.

RTC Lacks Assurance That All AHDP Properties Have LURAs

RTC could not locate or needed to make legal corrections to 113 (or about 18 percent) of the 614 multifamily sales with mandated LURAs that required the purchaser and any subsequent owner to rent the set-aside units to very low- and lower-income families.[10] RTC requires that multifamily set-aside units remain dedicated throughout the useful life of the property (generally 40 to 50 years). To ensure that this happens, RTC requires that purchasers execute a LURA, which is contained in the deed or other recorded instrument, binding the purchaser and subsequent owners for the full term of the LURA. The LURAs also provide that RTC and state monitoring agencies shall monitor compliance with the occupancy requirements.

However, RTC cannot monitor purchasers' compliance with occupancy requirements in those cases where it cannot locate the LURAs. Although RTC was searching for the LURAs, at least 113 multifamily properties were not being monitored as of August 1994. RTC recognizes the seriousness of this condition and said its Legal Services Division and field office staffs were working to resolve it.

Difficult to Determine Cost to Sell AHDP Properties

We were unable to determine the cost of selling properties under AHDP primarily because RTC continues to be hampered by data problems. To determine the cost incurred by RTC in selling AHDP properties would require knowledge of what RTC could have sold the AHDP property for in an unrestricted private sector market. For example, the calculation of losses, if any, would require using appraisals to compare existing sales of similar properties in similar markets during the same time the AHDP property was sold.

Additionally, data are needed on a number of factors, including (1) sales price for comparable property sold by RTC in its regular disposition program, (2) length of time to sell properties outside AHDP, and (3) property holding costs. These data were not maintained by RTC and would be difficult to collect. Even with such data, however, we could only estimate the cost of selling AHDP properties, including any losses.

Nonetheless, RTC was able to provide us with the administrative costs of operating AHDP. These costs include expenditures such as salary and travel but not property holding costs. RTC reports that the administrative costs for AHDP averaged $11.8 million for calendar years 1991 through 1993 and

[10] In addition to the 113 multifamily LURAs, RTC could not find another 1,934 single-family LURAs that required the owners or those occupying the property to reside in it as their principal residence for at least 1 year.

were $6.8 million through July 1994. These administrative costs are shown in table 2.

Table 1: AHDP Administrative Costs

Dollars in millions

Calendar year	Administrative costs
1990	[a]
1991	$11.1
1992	$13.5
1993	$10.7
1994[b]	$6.8

[a]Data for 1990 were not available from RTC.

[b]Data for 1994 are as of July.

Source: RTC AHDP reports.

RTC and FDIC Have Developed a Plan for Unifying AHDP

As required by the RTC Completion Act, on April 22, 1994, RTC and FDIC entered into an agreement to unify their affordable housing programs.[11] This agreement is designed to provide a general framework for addressing program unification actions to be taken by RTC and FDIC before FDIC assumes responsibility for managing both programs, which is scheduled to occur no later than October 1995.

The plan for the unified program, to the extent practical, includes such elements as the use of RTC's seller financing for both single- and multifamily properties and its direct sales program for public agencies and nonprofit organizations. Also, FDIC's accounting procedures, to the extent practical, are to be used to ensure that AHDP expenditures are accounted for properly. Finally, the plan also provides that RTC and FDIC shall, to the extent practical, consolidate enforcement activities for monitoring compliance with single- and multifamily LURAs for properties sold affordably.

Additionally, during the transition period, RTC and FDIC are engaging in several activities to facilitate the program unification. For example, four

[11]The FDIC affordable housing program was created as part of the Federal Deposit Insurance Corporation Improvement Act of 1992 to provide housing opportunities for very low-, lower-, and moderate-income families. The program received appropriated funds totaling $5 million in fiscal year 1993 and $7 million in fiscal year 1994. Under FDIC's program, only single-family properties are being marketed and sold.

joint RTC and FDIC affordable housing single-family sales events were held in June and July 1994. These sales were held in Connecticut, Massachusetts, and California and involved 313 single-family properties. RTC also marketed 10 multifamily properties for FDIC during 1994.

Conclusions

RTC's AHDP has achieved mixed results in providing affordable home ownership and rental housing opportunities to very low-, lower-, and moderate-income families. Progress continues in the sales of both single- and multifamily properties and the development of procedures over the single-family program. Additionally, RTC and FDIC have developed a plan for the unification of their respective programs.

However, RTC cannot ensure that buyers of AHDP multifamily properties comply with occupancy requirements because

- complete information to assess the occupancy status of each property was not available;
- specific time frames that could help encourage multifamily property owners to comply with occupancy requirements were not established;
- enforcement actions to compel multifamily property owners into compliance with occupancy requirements may be insufficient; and
- control over execution and protection of all LURAS, both single- and multifamily, was inadequate.

An effective compliance monitoring program is critical to ensuring that multifamily property owners achieve and maintain the set-aside requirements in the LURA for the 40- to 50-year life of a property. Thus, we believe that RTC's ability to effectively oversee its monitoring compliance program would be improved by obtaining complete information on occupancy status of each multifamily property, establishing specific time frames to comply with occupancy requirements, determining if stiffer penalties for noncompliance are needed, and ensuring that LURAS are properly recorded.

Recommendations

We recommend that RTC's Deputy and Acting Chief Executive Officer require the Director of AHDP to

- establish specific time frames for each multifamily property to comply with occupancy requirements, although an exemption should be provided when the failure to comply is caused by the law that prohibits displacing existing tenants;

- ensure that complete information on the status of occupancy requirements is maintained;
- determine if stiffer penalties are warranted to encourage property owners to comply with occupancy requirements; and
- ensure that all LURAS are accounted for, executed, and recorded.

Also, we recommend that the RTC/FDIC Transition Task Force consider the issues identified in this report, especially the weaknesses in RTC's compliance monitoring program for multifamily properties. If RTC and FDIC decide to use RTC's compliance monitoring program, we believe that certain aspects of it should be reviewed as discussed in our recommendations above.

Agency Comments

On September 12, 1994, we discussed the information in this report with RTC AHDP officials, including the Director. Generally, they agreed with our findings and recommendations. The majority of their comments clarified or updated information on AHDP processes and procedures. We included this information in the report where appropriate.

We are sending copies of this report to interested congressional committees and members, the Chairman of the Thrift Depositor Protection Oversight Board, the Chairman of the Affordable Housing Advisory Board, and the Deputy and Acting Chief Executive Officer of RTC. We will also provide copies to others upon request.

Major contributors to this report are listed in appendix III. If you have any questions, please contact me on (202) 736-0479.

Gaston L. Gianni

Gaston L. Gianni, Jr.
Associate Director, Government
Business Operations Issues

Contents

Abbreviations

AHDP	Affordable Housing Disposition Program
FDIC	Federal Deposit Insurance Corporation
FHLBA	Federal Home Loan Bank Act
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
IG	Inspector General
LURA	land use restriction agreement
RTC	Resolution Trust Corporation

RTC AHDP Staff Allocations

RTC AHDP location	Number of staff by calendar year 1992	1993	1994[a]
Atlanta, GA	5	8	12
Baton Rouge, LA	4	[b]	[b]
Costa Mesa, CA	3	[b]	[b]
Dallas, TX	3	12	18
Denver, CO	12	14	14
Elk Grove Village, IL	3	[b]	[b]
Houston, TX	2	[b]	[b]
Kansas City, KS	8	9	11
Newport Beach, CA	2	4	7
San Antonio, TX	3	[b]	[b]
Tampa, FL	8	[b]	[b]
Valley Forge, PA	2	6	10
Washington, DC	11	15	19
Total	**66**	**68**	**91**

Note: Data for 1990 and 1991 were not available from RTC.

[a]Information for 1994 is as of June 30.

[b]In January 1993, RTC closed six offices: Baton Rouge, LA; Costa Mesa, CA; Elk Grove Village, IL; Houston, TX; San Antonio, TX; and Tampa, FL.

Source: RTC Office of Human Resources Management.

Summary of AHDP Property Disposition, January 1990-June 30, 1994

Dollars in thousands

Disposition	Number sold	Sales value	Book value	Sales value as a percent of book value
Single-family	21,327	$583,917	$839,706	70%
Multifamily	673	$766,852	$1,265,323	61%

Sou9rce: RTC AHDP reports.

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