

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE INSPECTOR GENERAL**

**AUDIT OF THE DISTRICT'S  
CONDOMINIUM CONVERSION FEES**



**CHARLES J. WILLOUGHBY  
INSPECTOR GENERAL**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Inspector General**

Inspector General



February 17, 2012

Mr. John E. Hall  
Director  
Department of Housing and Community Development  
1800 Martin Luther King, Jr. Avenue, S.E.  
Washington, D.C. 20020

Dear Mr. Hall:

Enclosed is our final report summarizing the results of the District of Columbia Office of the Inspector General's (OIG) *Audit of the District's Condominium Conversion Fees* (OIG No. 08-1-18CR). This audit covered condominium conversion transactions handled during the period of October 1, 2004, through January 14, 2010.

Our audit disclosed that the Department of Housing and Community Development (DHCD) lacked adequate management controls to consistently ensure compliance with the District laws and regulations governing the condominium conversion process. We directed 41 recommendations to DHCD for actions necessary to correct identified deficiencies. Audit objectives, conclusions, and summary of recommendations are presented in the Executive Summary section of this report.

DHCD provided a response to a draft of this report on September 9, 2011. DHCD's response generally agrees with the report's conclusions and recommendations. The OIG considers DHCD's comments to Recommendations 1, 13, 14, 30, 33, 34, 36, and 38-40 to be nonresponsive, and, therefore, these recommendations are unresolved. We request that DHCD reconsider its position taken on these unresolved recommendations and provide an additional response to us by March 9, 2012.

We commend DHCD for taking corrective actions to close Recommendations 18, 22, and 23. In addition, we consider corrective actions planned by DHCD with estimated completion dates to be responsive and meet the intent of the remaining recommendations. The full text of DHCD's response is included at Exhibit D.

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We appreciate the cooperation and courtesies extended to our staff during this audit. If you have questions or desire an exit conference prior to preparing your response, please contact me or Ronald King, Assistant Inspector General for Audits, at (202) 727-2540.

Sincerely,



Charles J. Willoughby  
Inspector General

CJW/sw

Enclosure

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**AUDIT OF THE DISTRICT'S  
CONDOMINIUM CONVERSION FEES**

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**AUDIT OF THE DISTRICT'S  
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**ACRONYMS**

AFO	Agency Fiscal Officer
CASD	Rental Conversion and Sale Division
CCCSB	Condominium and Cooperative Conversion Sales Branch
CCF	Condominium Conversion Fee
DCRA	Department of Consumer and Regulatory Affairs
DCMR	District of Columbia Municipal Regulations
DHCD	Department of Housing and Community Development
FTE	Full-Time Equivalent
FY	Fiscal Year
GAO	Government Accountability Office
HAPP	Housing Assistance Payment Program
HRA	Housing Regulation Administrator
IT	Information Technology
LID	Low-income Disabled
LIE	Low-income Elderly
LIND	Low-income Non-disabled
LINE	Low-income Non-elderly
MOU	Memorandum of Understanding
NE	Non-elderly
NHA	Not a Housing Accommodation
OAG	Office of Attorney General
OCFO	Office of the Chief Financial Officer

**AUDIT OF THE DISTRICT'S  
CONDOMINIUM CONVERSION FEES**

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**ACRONYMS (cont'd)**

OCTO	Office of the Chief Technology Officer
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OTA	Office of the Tenant Advocate
OTR	Office of Tax and Revenue
RACD	Rental Accommodations and Conversion Division
RAD	Rental Accommodations Division
RFP	Request for Proposals
ROD	Recorder of Deeds
ROI	Return on Investment
SDLC	Systems Development Life Cycle

## **EXECUTIVE SUMMARY**

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### **OVERVIEW**

The District of Columbia Office of the Inspector General (OIG) has completed an audit of the *District's Condominium Conversion Fees*. Our audit covered the period of October 1, 2004, through January 14, 2010.

The District of Columbia Department of Consumer and Regulatory Affairs (DCRA) had responsibility for the management of CCF program, which was formally transferred to the Department of Housing and Community Development (DHCD), effective October 1, 2007. The District of Columbia regulations require a registration fee of \$37 per unit from owners who wish to convert their properties to condominium units. Additionally, the regulations require a conversion fee of five percent of the declared sales price of each unit, unless a reduction is warranted based on the owner's declared intent to sell units to low-income, non-elderly tenants.

The audit objectives were to determine whether: (1) owners obtained proper permits to convert vacant and occupied buildings to condominiums; (2) the District collected the applicable conversion fee relative to the sales price of each converted unit; (3) an effective mechanism for collecting required conversion fees was in place; (4) reductions of condominium conversion fees were in compliance with applicable laws and regulations; and (5) the District established internal controls to safeguard collected conversion fees against fraud, waste, and abuse.

### **CONCLUSIONS**

DHCD lacked adequate management controls to ensure that: (1) vacant and occupied properties were properly certified prior to conversion to condominiums; (2) all conversion fees due were timely collected and deposited; (3) reductions of conversion fees were handled in accordance with applicable statutory provisions; (4) formal policies and procedures were implemented to ensure consistent and proper handling of conversion fee transactions; (5) accurate and complete conversion fee data were maintained for control purposes; and (6) appropriate monitoring, auditing, and reporting mechanisms were used to minimize the risks of fraud, waste, and abuse in the District's condominium conversion process. These and other matters requiring management attention are detailed in the following sections of this report.

### **SUMMARY OF RECOMMENDATIONS**

We directed 41 recommendations to DHCD that we believe are necessary to address deficiencies identified during the audit. The recommendations focus on strengthening management controls to improve the: (1) District's collection of condominium conversion fees; (2) accuracy and completeness of conversion fee data; (3) timeliness of receiving and depositing conversion fees; and (4) effectiveness of compliance oversight. A summary of potential benefits resulting from this audit is included at Exhibit A.

## INTRODUCTION

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### BACKGROUND

This audit was originally included in our *Fiscal Year 2008 Audit and Inspection Plan*. Engagement letters were jointly issued to DHCD and DCRA in May 2008. We held entrance conferences with DHCD and DCRA management on May 30, 2008, and June 9, 2008. However, audit fieldwork did not start until November 2008. Changes in key personnel coupled with DHCD's move to a new facility and deficient recordkeeping practices contributed to the delay in completing the audit. Thus, we included the audit in our Audit and Inspection Plans for fiscal years 2009 and 2010 as an ongoing project.

#### *Department of Housing and Community Development (DHCD)*

DHCD creates and preserves opportunities for affordable housing, promotes economic development, and revitalizes underserved communities in the District of Columbia. DHCD carries out these activities by strategically leveraging public funds with private and nonprofit partners for low-to-moderate income District residents to promote the preservation, rehabilitation, and development of affordable housing in order to increase home ownership and support community and commercial initiatives.

DHCD's Housing Regulation Administrator (HRA) regulates residential rental housing in the District of Columbia (D.C.) through the administration of:

- The Rental Housing Act of 1985, codified as amended at D.C. Code §§ 42-3501.01 – 3509.08 (2010);
- The Condominium Act of 1976 Technical and Clarifying Amendment Act, codified as amended at D.C. Code §§ 42-1901.01 – 1904.18 (2010) (Condominium Act); and
- The Rental Housing Conversion and Sale Act of 1980, codified as amended at D.C. Code §§ 42-3401.01 – 3405.13 (2010) (Conversion Act).

In addition to operating the DHCD Housing Center, HRA provides administrative support to the District's Rent Administrator and the Rental Conversion and Sale Administrator to fulfill their statutory and regulatory responsibilities. HRA operates through the following two divisions:

- **Rental Conversion and Sale Division (CASD)**, which administers the District's tenant opportunity to purchase program, regulates the conversion of properties to condominiums and cooperatives, registers condominium and cooperative projects, and administers the structural defect warranty claim program. These activities are governed by the Condominium Act and Conversion Act cited above, as well as the District's regulations for the conversion and sale of rental housing properties (Title 14 of D.C. Municipal Regulations, Chapter 47). CASD has three fees associated with its statutory and regulatory responsibilities – conversion, certification, and registration fees. Statutory

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## INTRODUCTION

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provisions and regulations applicable to each of these fees are detailed in the criteria section below.

- **Rental Accommodations Division (RAD)** administers the District’s rent stabilization program. RAD is responsible for registering and licensing rental housing; administering rent adjustments procedures; processing landlord and tenant petitions; providing conciliation services; and serving as a repository of landlord/tenant petitions and notices to vacate and all rental property records. These activities are governed by the Rental Housing Act of 1985, as amended.

### *Department of Consumer and Regulatory Affairs (DCRA)*

DCRA’s mission is to protect the health, safety, economic interests, and quality of life of residents, businesses, and visitors in the District of Columbia by: (1) issuing licenses and permits; (2) conducting inspections of the District’s rental housing on a routine basis; (3) enforcing building, housing, and safety codes; (4) regulating land use and development; and (5) providing consumer education and advocacy services.

Prior to October 2007, DCRA was delegated authority to administer the three acts cited above. DCRA operated the Rental Accommodations and Conversion Division (RACD), which consisted of the Office of the Rent Administrator and the Condominium and Cooperative Conversion and Sales Branch (CCCSB). As CASD’s predecessor, CCCSB implemented the Condominium and Conversion Acts. In July 2007, the D.C. Council enacted the Rental Housing Operations Transfer Amendment Act of 2007 in the Fiscal Year 2008 Budget Support Act of 2007 (D.C. Law 17-0020). This legislation created HRA, RAD, and CASD, and effective October 1, 2007, “all positions, property, records, and unexpended balances of appropriations, allocations, assessments, and other funds available or to be made available to [DCRA] relating to [RACD’s] duties and functions” were transferred to DHCD.

### *Office of the Tenant Advocate (OTA)*

OTA advocates for the rights and interests of the District’s tenants. OTA’s services include the following:

- Education and outreach to the tenant community about laws, rules, and other policy matters involving rental housing and tenant rights;
- Representation of tenants’ interests on legislative, regulatory, and judicial matters;
- Advice to tenants on filing complaints and petitions regarding disputes with landlords;
- Tenant referrals to attorneys or legal services for those who seek representation in administrative or judicial actions; and
- Funding for legal representation in certain instances.

## INTRODUCTION

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### CRITERIA

The statutory provisions and regulations applicable to conversion fees for the period of our audit include the following:

- Conversion Act, D.C. Code §§ 42-3401.03–3402.02, 42-3402.08, 42-3402.10, 42-3403.04, 42-3403.07 (2010);
- Conversion and Sale of Rental Housing Regulations, 14 DCMR § 4700;
- Fiscal Year 2007 Budget Support Act of 2006, Title II, Subtitle M, Vacancy Conversion Fee Clarification Amendment Act of 2006 (D.C. Law 16-192);
- Conversion Fee Clarification Emergency Amendment Act of 2008 (D.C. Act 17-305) (repealed by D.C. Act 17-354); *see also* Conversion Fee Clarification Temporary Amendment Act of 2008 (D.C. Law 17-162) (repealed by D.C. Law 17-191); and
- Vacancy Exemption Repeal Emergency Amendment Act of 2008 (D.C. Act 17-0354, enacted April 17, 2008, and effective as of April 1, 2008) (Emergency Act); *see also* Vacancy Exemption Repeal Temporary Amendment Act of 2008 (D.C. Act 17-0385) (enacted May 20, 2008, became D.C. Law 17-191, effective July 18, 2008, expired February 28, 2009).

### Conversion Act and Conversion Fees

The Conversion Act consists of two programs: (1) registration of sales of residential rental housing; and (2) the conversion of property use into cooperatives or condominiums. This audit focused on CASD's collection and tracking of condominium conversion fees collected by DCRA and DHCD under the Conversion Act.

Payment of conversion and certification fees are mandated by D.C. Code §§ 42-3402.04 - .05. Condominium registration fees are mandated by D.C. Code § 42-1904.03. CASD collects conversion fees, and acknowledges receipt of certification and registration fees. DHCD's Agency Fiscal Officer deposits conversion fees into the Housing Assistance Fund (HAF), which is jointly administered and managed by OTA and DHCD. Effective October 1, 2008, D. C. Code § 42-2857.01(e) requires that certification and registration fees be deposited into the DHCD Unified Fund.

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## INTRODUCTION

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D.C. Code § 42-3402.04 requires that an owner seeking to convert property use to a cooperative or condominium must pay a 5 percent<sup>1</sup> conversion fee based on the sales price of each condominium unit or cooperative share within the housing accommodation. The conversion fee is due and payable at the time of settlement for each unit or cooperative share. An owner may request a reduction in the conversion fee rate if the owner expresses intent to sell or give a long-term lease (i.e., 5 or more years) to a low-income, non-elderly tenant (LINE) or low-income, non-disabled tenant (LIND). Among other considerations, the reduction is computed according to a scale set out in 14 DCMR § 4704.9. The DCMR further provides that when the units or shares are sold out, the owner must furnish a final accounting justifying the conversion fee reduction.

Currently, CASD receives conversion fee checks and transmits those checks to DHCD's Agency Fiscal Officer, who deposits the funds into the HAF in accordance with D.C. Code § 42-3403.07. HAF funds are allocated each fiscal year as follows: one-third applied toward funding emergency housing and tenant relocation assistance; one-third for the Home Purchase Assistance Program (HPAP) to provide relocation and housing assistance payments for displaced tenants; and one-third for OTA's administrative and operating costs.

### Summary of Conversion Fee Legislative Changes

The Conversion Act was substantively amended by the *Vacancy Exemption Repeal Temporary Amendment Act of 2008* (D.C. Law 17-191) (Temporary Act) and the *Vacancy Exemption Repeal Clarification Temporary Amendment Act of 2008* (D.C. Law 17-274) (Temporary Clarification Act). Under the Temporary Act, an owner applying for a vacancy exemption certification was subject to payment of a 5 percent conversion fee based on the sales price of each condominium unit or cooperative share. The Temporary Act applied only to vacancy exemption applications submitted on or after April 1, 2008. Only condominium units or cooperative shares sold to specific categories of buyers (e.g., low-income purchasers, low-income former tenants who resided in the building at least 1 year prior to conversion, elderly or disabled tenants, or long-term leases for units or shares to low-income tenants) were exempted from conversion fees. The definition of "low-income" tracked the definition set out in Section 101(5) of the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Code § 6-1041.01(5)).

Under the Temporary Clarification Act, properties consisting of four units or less were eligible for exemption from conversion fees, if they were fully vacant and registered as vacant properties with DCRA's Vacant Properties Unit on or before July 1, 2008, and for which the imposition of conversion fees would pose a hardship.<sup>2</sup>

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<sup>1</sup> As of June 5, 2003, Title XVI of the Fiscal Year 2003 Budget Support Amendment Act of 2002 (D.C. Law 14-307), increased the conversion fee rate from 4 to 5 percent.

<sup>2</sup> The Temporary Clarification Act defined "hardship" as "a reduction in the profitability of sale of a condominium or cooperative unit." D.C. Law 17-0274, Section 2(a).

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## INTRODUCTION

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Conversion fees must be collected by an escrow agent, lessor, or the lessor's agent, and remitted to CASD within 30 business days of settlement along with a copy of the recordation and transfer tax return reflecting the sales price.

### **Conversion Fee Provisions Prior to Temporary Act**

Prior to April 1, 2008, owners could request a reduction in the conversion fee rate if the owner declared an intent to sell or provide a long-term lease for condominium units or cooperative shares to 51% of LINE<sup>3</sup> purchasers or renters. 14 DCMR § 4704.7. The reduction was based on the number of qualifying tenants residing in the housing accommodation at the time of conversion. D.C. Code § 42-3402.04(b) (West, Westlaw through June 20, 2007; *see also* 14 DCMR § 4704.9. Further, the D.C. Code permitted reductions for units or shares sold or leased to LINE purchasers or tenants regardless of where those purchasers or tenants previously resided. *Id.*; *see also* 14 DCMR §§ 4704.1 - .15. The reduced conversion fee rate was based on a sliding scale ranging from 5 percent of the sales price down to \$50 per unit or cooperative share.

CASD qualifies tenants using tenants' voter qualification forms, which are submitted in advance of a tenant election. Tenants self-certify, among other information, their age, disability, and income for the past 12 months. CASD reviews the voter qualification forms and determines which tenants qualify for benefits under the Conversion Act. Each tenant is then classified as a LINE, low-income disabled (LID), low-income elderly (LIE), or non-elderly (NE) tenant. Further, tenants who move into a housing accommodation subsequent to the conversion election are eligible to apply for benefits under the Conversion Act. CASD has the discretion to set the conversion fee rate based on the number of qualified LINE tenants or purchasers.

Within 5 business days after settlement on condominium units or cooperative shares, the owner must submit copies of the Recorder of Deeds (ROD) recordation and transfer tax return<sup>4</sup> reflecting the sales price of each unit or share sold. 14 DCMR § 4704.11. Upon settlement of all units in the condominium or cooperative, the owner is required to submit a final accounting justifying the reduced conversion fee rate. 14 DCMR § 4704.12. If the unit or share sold for less than the declared sales price (i.e., the owner overpaid the conversion fee), the owner may apply for a refund. Likewise, if the owner underpaid the conversion fee or failed to justify the reduction, then the additional amount must be paid. Regulations authorize CASD to file a lien against the property in order to collect the balance of unpaid fees. 14 DCMR §§ 4704.13 - .14.

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<sup>3</sup> Prior to April 1, 2008, the definition of "low-income" was a sliding scale, determined by the number of household members, based on the lower income guidelines as determined by HUD. *See* D.C. Code § 42-3401.03(12) (West, Westlaw through June 20, 2007). "Elderly" tenants are defined as being 62 years or older at the time of the conversion. *Id.* § 42-3402.08(c) (2007); *see also* 14 DCMR § 4706. A tenant qualifies as "disabled" by meeting criteria established by the Americans with Disabilities Act of 1990, 42 U.S.C. § 12102(2)(A), 29 C.F.R. § 1630.2(g)(1), and presenting a physician's certificate.

<sup>4</sup> Transfers of cooperative shares are not recorded in the Office of the Recorder of Deeds. Therefore, CASD accepts photocopies of HUD-1 Settlement Statements as evidence of the declared sales price of the cooperative shares

## INTRODUCTION

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### Certification Fees

D.C. Code § 42-3402.05 provides that “[a]n owner who seeks to convert [the use of a housing accommodation to a condominium or cooperative] must pay the Mayor a certification fee. The Mayor is authorized to collect and establish the amount of the fee. The certification fee shall be sufficient to cover the cost of administering [conversion procedures].” Title 14 DCMR §§ 4701.7 and 4717.1(d) required a certification fee of \$25.00 per occupied unit or \$200.00,<sup>5</sup> whichever is greater, to accompany the request for election filed with CASD. When converting a residential tenant-occupied property into a condominium or cooperative, the owner must apply for a tenant election. The applicant also reports the number of units to be converted from rental use to ownership. The owner pays the certification fee to the D.C. Treasurer at DHCD at the time the tenant election application is filed with CASD, obtains a receipt, and shows the receipt as proof of payment to CASD before processing further requests.

### Registration Fees

D.C. Code § 42-1904.03(d) provides that “[e]ach application shall be accompanied by a fee in an amount determined by the Mayor. The amount of such fee shall be established at a rate adequate to cover the costs related to processing such application and to provide additional funds to be available to defray the costs of administering [condominiums in the District].” The housing provider pays the registration fee to the D.C. Treasurer at DHCD when filing a condominium registration application. The registration fee was \$37.00 per unit<sup>6</sup> (including residential units, convertible units, and residential parking units). The payor is given a receipt, which must show proof of payment to CASD before processing further requests.

### Tracking and Correcting Material Weaknesses

Best practices reflected in OMB Circular A-123, Management’s Responsibility for Internal Control, indicate that a material weakness identified by independent auditors could:

- significantly impair the fulfillment of an agency component’s mission;
- deprive the public of needed services;
- violate statutory or regulatory requirements;
- significantly weaken safeguards against waste, loss, unauthorized use or misappropriation of public funds, property, or other assets; and
- impact management’s or users’ decisions or conclusions based on an error or misstatement in a financial report.

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<sup>5</sup> Currently, the certification fee is set at \$100 per occupied unit or \$800, whichever is greater. 14 DCMR § 4717.1(d).

<sup>6</sup> The condominium registration fee is currently set at \$100 per residential/parking unit.

## INTRODUCTION

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The Circular provides guidance to agency managers on improving the accountability and effectiveness of their programs and operations by establishing, assessing, correcting, and reporting on management controls. When material weaknesses are identified, a corrective action plan with milestones should be developed; progress should be periodically assessed and reported to management; and management should track progress to ensure timely and effective results. The last milestone in the plan should be validation that corrective action has resolved any identified weakness. The Circular also suggests that management's corrective action process for material weaknesses should:

- Provide for appointment of an overall corrective action accountability official from senior management.
- Carefully consider whether systemic problems exist that adversely affect controls, and organizational or program lines. Senior officials and managers of other functional offices are encouraged to get involved in identifying and ensuring correction of systemic deficiencies related to their respective functions.
- Require prompt resolution and corrective actions, as they reflect positively on the agency's commitment to recognizing and addressing management problems.
- Maintain accurate records of corrective action status through the entire process of resolution to allow for verification of remediation efforts.
- Ensure corrective actions are consistent with laws, regulations, policies, procedures, and other administrative directives.
- Ensure that performance appraisals of appropriate officials reflect effectiveness in resolving or correcting material weaknesses.

## OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether: (1) owners obtained proper permits to convert vacant and occupied buildings into condominiums; (2) the District collected the applicable conversion fee relative to the declared sales price of each converted unit; (3) an effective mechanism for collection of required conversion fees was in place; (4) reductions of condominium conversion fees were in compliance with applicable laws and regulations; and (5) the District established internal controls to safeguard collected conversion fees against fraud, waste, and abuse.

Our review covered condominium conversions during the period October 1, 2004, through January 14, 2010. We accomplished our audit objectives using the following methodology in gathering data and conducting tests:

- Interviewed responsible DHCD and DCRA officials to obtain a general understanding of the processes used for administrating and monitoring the District's condominium conversion process.
- Met with DHCD, ROD, and D.C. Office of Tax and Revenue (OTR) officials to obtain and review financial records related to condominium conversions.

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- Reviewed applicable laws and regulations governing the collection and management of condominium conversion fees.
- Requested copies of policies and procedures governing the administration and monitoring of the District's condominium conversion process.
- Reviewed the condominium conversion process and documentation maintained by DHCD and DCRA.
- Evaluated the adequacy of controls over cash receipts, including the timeliness of deposits and effectiveness of supervisory review.
- Reconciled DHCD's records to relevant transactions reflected in the databases maintained by ROD and OTR to obtain a comprehensive listing of condominium conversion transactions.
- Verified condominium conversion transactions for accuracy, reasonableness, and compliance with applicable laws and regulations.
- Reviewed other relevant documentation as necessary.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## INTRODUCTION

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### RESULTS OF PRIOR INDEPENDENT AUDIT

On September 30, 2006, F.S. Taylor & Associates, P.C., an independent accounting firm, issued a report after review of the condominium conversion records for the period January 1, 2000 through June 30, 2006. The review was performed at the request of DCRA's Office of Ethics and Integrity. The independent auditors completed the review by conducting agreed-upon procedures in accordance with the attestation standards established by the American Institute of Certified Public Accountants (AICPA). The original scope was to determine whether there were fees due to the District from condominium sales between January 1, 2000, and June 30, 2006.

The report identified 82 condominium conversions and noted sales for 36 of those condominiums, containing 832 of 1,037 registered residential units. The corresponding conversion fees associated with the sales of these units totaled \$6.3 million. However, as of June 30, 2006, DCRA had collected only \$778,993 in conversion fees since fiscal year (FY) 2002. There was no information available from DCRA on fees collected prior to FY 2002. Thus, the report concluded that if no conversion fees were collected prior to FY 2002, DCRA had uncollected conversion fees of \$5.5 million as of June 30, 2006.

On April 20, 2006, DCRA's general counsel prepared a formal memorandum analyzing legal defenses or impediments to DCRA's collection of delinquent conversion fees estimated at \$5.5 million by the independent auditors. In addition, DCRA prepared an action plan outlining the steps to collect delinquent fees. However, management noted that CASD was minimally staffed at that time and could not mount a concerted and effective collection effort. At the end of our audit, we did not receive any information from either DCRA or DHCD on the status of collecting these delinquent conversion fees.

Other audit observations noted in the report were:

- Applications for condominium conversion and related public offering statements submitted by owners for DCRA review and approval were not secured against unauthorized access and removal due to the lack of storage space.
- Files of critical condominium information related to properties were not maintained in a consistent manner such that the documentation was readily available for each condominium.
- Registration fees of \$37 per unit had not been reviewed to determine whether they were sufficient to defray related administrative costs associated with the services.
- A comprehensive system with detailed information about registered condominium properties was lacking. There were no reliable statistical data for management review, reporting, and analysis.

## INTRODUCTION

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- Policies and procedures manual documenting the condominium conversion process and procedures was nonexistent.
- Periodic quality control review of the condominium conversion process and records was not being conducted to resolve identified administrative issues.

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## FINDINGS AND RECOMMENDATIONS

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<b>FINDING 1: ORGANIZATIONAL CONTROLS</b>
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### SYNOPSIS

Our audit found that the DHCD-CASD is not effectively fulfilling its statutory and regulatory responsibilities associated with the District's condominium conversion process. CASD lacks adequate organizational controls to ensure that: (1) measurable performance objectives are established; (2) condominium conversion operations are efficiently and effectively performed; (3) relevant records are reliable and accurate; (4) management's directives are properly carried out; and (5) operational activities are continually monitored to ensure that findings of audits and other reviews are promptly resolved.

We attribute these conditions to DHCD's failure to establish annual performance plans or objectives, implement a cost-effective information management system, ensure sufficient staffing levels, and implement formal policies and procedures to provide reasonable assurance that CASD's objectives are achieved. As a result, CASD is at risk of failing to accomplish its primary responsibility to review, enforce, collect, and manage fees associated with the District's condominium conversion process.

### DISCUSSION

The conversion, certification, and registration fees are the three fees associated with the statutes CASD administers. Specifically, CASD administers:

- The Conversion Act (codified at D.C. Code §§ 42-3401.01-3405.13) regulates, among other things, tenant opportunity to purchase rights, tenant first rights of refusal, offer of sale notices, notices of transfer, and the conversion of property to condominiums or cooperatives. This Act mandates the collection of both conversion and certification fees.
- The Condominium Act (codified at D.C. Code §§ 42-1901.01-1904.18) regulates condominium formation and registration of condominium units before a developer may offer units to interested buyers.
- The Conversion and Sale of Rental Housing Regulations (14 DCMR Chapter 47), which set forth rules to implement the provisions of the Conversion Act.

CASD also administers the *Housing Assistance Payment Program* (HAPP), under which persons may be eligible for financial assistance if displaced because of the conversion of their apartment building to a condominium or cooperative.

## FINDINGS AND RECOMMENDATIONS

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Fulfilling these statutory and regulatory responsibilities entails establishing and implementing organizational controls<sup>7</sup> that ensure: (1) recordation and maintenance of comprehensive condominium information; (2) timely collection and deposit of correct conversion fees; (3) generation of reliable statistical data for management review, reporting, and analysis; and (4) prevention of fraud, waste, and abuse involving revenue from the conversion process. Our audit found that CASD lacked these controls, which was further compounded by the lack of an automated system for monitoring and reporting the District's condominium conversion activities.

Risk management is an important element of the internal control framework. It helps agencies identify risks that may prevent achievement of objectives and take necessary action to manage those risks. Thus, setting goals and objectives is a precondition to organizational controls.

### OPERATIONAL GOALS AND OBJECTIVES

As part of the District's performance-based accountability program, DHCD established strategic and annual objectives for its operations covering the period under review. However, annual goals and objectives were not established for the District's condominium conversion process, despite the fact that the area is a major revenue-generating source. This condition is incongruent with the District's performance-based management approach and an internal control framework that comprises the plans, methods, and procedures used to meet missions, goals, and objectives of major programs or units within the agency.

Additionally, without clear operational objectives, management will not be able to measure and report on CASD's progress toward achieving performance standards. This condition inhibits management's ability to compare actual performance of the condominium conversion function to planned or expected results.

Establishing and implementing operational objectives for the District's condominium conversion process will strengthen DHCD's organizational controls and provide reasonable assurance that CASD's objectives are achieved in the following categories:

- effectiveness and efficiency of the condominium conversion operations, including the use of CASD's resources;
- reliability of financial reporting, including reports on budget execution, income statements, and other reports for internal and external use;
- compliance with laws and regulations governing the District's condominium conversion process; and

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<sup>7</sup> The term "organizational control" in this report is synonymous with the term "internal control" or "management control" (as used in OMB Circular A-123) and covers all aspects of an agency's programmatic, financial, and compliance operations.

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## FINDINGS AND RECOMMENDATIONS

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- prevention and prompt detection of errors, irregularities, loss, unauthorized use, and misappropriation of the agency's assets, including revenue generated from the condominium conversion process.

### **POLICIES AND PROCEDURES DOCUMENTATION**

Management had not formalized and communicated policies and procedures governing key condominium conversion activities to CASD employees. The absence of a policies and procedures manual documenting CASD's key processes makes it difficult to ensure that appropriate actions are consistently taken.

Formal policies and procedures are critical control activities that enforce management's directives, such as the process of adhering to the statutory and regulatory requirements for condominium conversions. Documenting functional-level policies and procedures and making the documentation accessible to employees helps provide day-to-day guidance to staff, facilitate training of new employees, promote continuity of essential activities in the event of prolonged employee absences or turnover, and promote accountability for stewardship of government resources. Finding 3 of this report discusses the benefits of formal policies and procedures in greater detail.

### **INFORMATION MANAGEMENT SYSTEM**

We noted at the beginning of our audit that neither DCRA nor DHCD had implemented an information technology (IT) management solution to track and manage detailed condominium information, including internal and external reporting of the District's condominium conversion activities. DHCD indicated that it was in the process of acquiring an IT management system at an estimated cost of \$1 million. In response to our inquiry, DHCD management indicated that a return on investment (ROI) analysis was not conducted, but that one would be completed and submitted to the OIG for review. However, as of the date of this report, we have not received DHCD's ROI analysis.

We learned that DHCD tracks condominium information on disparate Excel and database files maintained by several CASD personnel. On July 27, 2010, the CASD Administrator indicated that the list of registered condominium projects for the period under our review was incomplete. The Administrator further noted that CASD had a catastrophic electronic data loss when its primary registration file became corrupted between late 2008 and early 2009, and that the unit has attempted to reconstruct its electronic records since then without the use of a centralized information management system.

In August 2010, management submitted a copy of the Memorandum of Understanding (MOU) between DHCD and the Office of the Chief Technology Officer (OCTO) setting forth the terms and conditions of the agreement to implement DHCD's *Case Management Tracking System and*

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## FINDINGS AND RECOMMENDATIONS

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*Inclusionary Zoning Program (CMTZ/IZ) IT solution.* This MOU was executed on March 31, 2010. Although the date of the MOU was outside the scope of our review, we noted that the proposed system would cost DHCD approximately \$500,000, with \$385,000 of capital funds already expended in FY 2010. We also noted that management had not adopted a structured system development methodology governing the agency's process of acquiring, implementing, testing, and maintaining computerized information systems and related technology. We further noted that the system requirements, including the general and application controls, had not yet been defined and documented.

These conditions indicate that the agency lacks adequate organizational controls over its information management systems. As a result, management will not have reliable operational and financial data needed to determine whether CASD is meeting its performance standards and control objectives for effective and efficient use of government resources.

Comprehensive and reliable operating information is required to develop financial reports covering a broad range of data from registered condominium projects to collection of conversion fees and tracking of delinquent owners for enforcement purposes. Financial information is necessary to: (1) develop financial statements for periodic external reporting; (2) make operating decisions on a day-to-day basis; (3) monitor performance for compliance with laws, regulations, policies, and procedures; and (4) allocate resources to achieve effective program results. Thus, implementing an effective IT management solution with appropriate general and application controls<sup>8</sup> is critical to achieving useful and reliable information that is continuously recorded and communicated to program managers involved in the District's condominium conversion process.

### STAFFING AND MANAGEMENT OF WORKLOAD

CASD lacks appropriate staffing to effectively and efficiently conduct condominium conversion operations and monitor related compliance requirements. DHCD officials have not conducted an assessment of CASD's operations to determine whether it has sufficient staffing levels to discharge its statutory responsibilities. GAO's Standards for Internal Control in the Federal Government (GAO/AIMD-00-21.3.1) (Nov. 1999) indicate that operational success is not possible without the right personnel with the right training, tools, structure, incentives, responsibilities, and supervision.<sup>9</sup>

Because CASD lacks a central information management system to track all registered condominium properties, CASD personnel must manually identify those properties not in full compliance with the statutory requirements for appropriate enforcement actions. This process is time consuming and requires additional staffing in order to maintain the workload at a

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<sup>8</sup> General controls ensure effective functioning of information systems, including backup and recovery procedures, contingency and disaster planning, and access security that protects from unauthorized access and use. Application controls ensure completeness, accuracy, authorization, and validity of all transactions during the processing of data within the application software.

<sup>9</sup> *Id.* at 13.

## **FINDINGS AND RECOMMENDATIONS**

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manageable level. Additionally, management was not able to verify the accuracy and completeness of our detailed condominium data reconciliations (see Finding 3) due to staffing constraints.

CASD has seven budgeted full-time equivalent (FTE) positions. CASD operated mostly with three FTEs, including the CASD Administrator, during the period under audit. The Rental Conversion and Sale Specialist position, which had been vacant since 2007, was reclassified in March 2008 as a Housing Resource Specialist to support DHCD's implementation of Inclusionary Zoning within the Housing Resource Center. Several experienced CASD personnel, including the Program Specialist, left for other job opportunities. Unfilled positions, staff turnover, and prolonged employee absences reduced the staffing levels at CASD, rendering achievement of CASD's statutory responsibilities difficult. For instance, staffing challenges required the CASD Administrator to juggle supervisory duties with performing the responsibilities of vacant positions and absent employees.

On November 12, 2010, management indicated that an ideal staffing level for CASD would be nine FTEs. According to management, this figure takes into account the anticipated future needs when economic conditions improve and condominium development increases. The two additional positions consist of a third full-time Rental Conversion and Sale Specialist and a second Contact Representative. Management believes that the additional FTEs would not require additional local funds if CASD is allowed to keep more of the special purpose revenue that it generates.

### **MONITORING OF FUNCTIONAL ACTIVITIES**

We found no evidence that ongoing monitoring, which includes regular management and supervisory reviews, comparisons, reconciliations, and other control activities, was conducted in the normal course of CASD operations. For instance, CASD had to create missing condominium files and send enforcement letters to owners who failed to pay proper conversion fees or meet warranty security requirements, only after our requests for supporting documentation of test sample items uncovered these deficiencies.

In addition, DCRA and DHCD did not address most of the findings reflected in the independent audit report issued on September 30, 2006, by F.S. Taylor and Associates, P.C. F.S. Taylor and Associates made 19 specific recommendations to improve the District's condominium conversion process. We agree with their recommendations, including the use of an automated system for monitoring and reporting conversion activities, and have included some of them in our recommendations.

We further found that since the transfer of the condominium conversion function and personnel from DCRA to DHCD, effective October 1, 2007, CASD had not conducted any self-assessment or review of the design and effectiveness of organizational controls over the condominium conversion process.

## **FINDINGS AND RECOMMENDATIONS**

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These conditions affecting CASD operations indicate that organizational controls need strengthening to ensure effective monitoring of the District's condominium conversion program.

### **RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS**

We recommend that the Director, DHCD:

1. Establish clear and measurable annual performance objectives for the condominium conversion process that support DHCD's mission and strategic objectives.

#### **DHCD RESPONSE**

DHCD stated that the conversion process is driven by statutory deadlines, and that its business practice is to complete conversion processes before statutory deadlines whenever feasible.

#### **OIG COMMENT**

The OIG considered DHCD's comments to be unresponsive to this recommendation. Objectives stated in generalities, such as "to complete conversion processes before statutory deadlines whenever feasible," do not strengthen management controls. The recommendation addresses the need for clear and measurable annual program objectives that provide a basis for setting priorities, organizing work, assessing progress, and reporting results. Therefore, we request that DHCD provide us with a response that includes actions planned and a target completion date for this recommendation by March 9, 2012.

2. Document policies and procedures governing various condominium conversion activities, including compliance with statutory requirements, utilization of review procedures, authorization of all transactions, and maintenance of required documentation.

#### **DHCD RESPONSE**

DHCD agreed with the recommendation and indicated in its response that the agency will investigate obtaining additional staffing support and marshaling resources to facilitate the creation of a condominium policies and procedures manual.

#### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

## FINDINGS AND RECOMMENDATIONS

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3. Update the policies and procedures manual periodically to reflect changes in statutory requirements and administrative practices.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that there is no impediment to updating the condominium conversion policies and procedures manual after it is drafted.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

4. Adopt a structured system development methodology for the acquisition, testing, and maintenance of the agency's mission-critical computerized information systems and related technology.

### DHCD RESPONSE

DHCD agreed with the recommendation. DHCD's response indicates that the agency is implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO), and that OCTO contracted with Accela to implement the IT solution for the IZ Program. The response further indicates that DHCD will assess whether the Accela technology solution can be expanded for use by CASD for improved case management capacity, and that this assessment will occur over the next 9-12 months as a part of the overall operational assessment of the agency.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

5. Implement a centralized information management system with appropriate general and application controls to track and manage detailed condominium information for review, reporting, analysis, monitoring, and enforcement.

### DHCD RESPONSE

DHCD agreed with the recommendation. As noted in DHCD's response to Recommendation 4, the agency will conduct an assessment to determine whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

## FINDINGS AND RECOMMENDATIONS

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6. Establish adequate staffing levels to support the current and anticipated workload associated with the District's condominium conversion operations.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and stated that the agency will conduct a comprehensive operations review, including an evaluation of CASD's staffing concerns in FY 2012.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

7. Perform ongoing monitoring of condominium conversion process to ensure established controls are functioning as intended, identified errors or irregularities are promptly addressed, and supervisory reviews are routinely documented.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and stated that the agency will conduct a comprehensive operations review, including an evaluation of condominium conversion monitoring controls, in FY 2012. The response further indicates that CASD implemented a checklist for condominium conversion file documentation prior to the issuance of the OIG audit report, and that by December 31, 2011, the CASD administrator will conduct and document file reviews prior to signing conversion certification or rejection orders.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

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## FINDINGS AND RECOMMENDATIONS

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<b>FINDING 2: REGISTERED CONDOMINIUM CONVERSIONS</b>
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### SYNOPSIS

Our audit found that payments of correct registration fees for condominium conversions were made to the District government in most instances. However, DHCD failed to establish adequate internal control procedures to ensure supporting documentation was maintained for all registered and rejected condominiums. Without adequate and appropriate supporting documentation, we were unable to determine whether the applications for registration of condominiums were processed in accordance with the D.C. Code. Additionally, good business practices require that supporting documentation be maintained to verify the propriety of all financial transactions.

DHCD had not developed a formal checklist or guidelines for recordkeeping to ensure the accuracy, completeness, and consistency of supporting documentation for all registered and rejected condominiums. Additionally, access to property records in the new storage room was unregulated, which increases the risk that critical condominium property information will be lost or misplaced.

We attribute these conditions to DHCD's failure to establish and implement formal policies and procedures to provide reasonable assurance that control objectives for the proper registration of condominium conversions and maintenance of appropriate supporting documentation are achieved. As a result, DHCD is at risk of failing to accomplish its statutory responsibilities to ensure that: (1) no new condominium unit can legally be offered for sale by a developer until all applicable requirements are met; and (2) questionable or fraudulent activities in the condominium registration process are promptly detected and addressed.

### DISCUSSION

Title 42 D.C. Code Chapter 19 (the Condominium Act) sets forth the requirements for registering a condominium conversion. The D.C. Code states that prior to the sale of any condominium unit, information must be provided in the application for registration, including the public offering statement and provides for application fees and administrative costs.

Developers or owners typically hire attorneys to prepare and file the required registration documents for a new condominium project or conversion. The legal documents required to establish or register a condominium in the District of Columbia include:

- Application for Condominium Conversion or Registration;
- Public Offering Statement;
- Purchase Agreement for each unit sale;
- Condominium Declaration; and

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## FINDINGS AND RECOMMENDATIONS

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- Condominium By-Laws.

Registration of property as a condominium requires DHCD's review and approval of a completed application for registration. After approval of the application for registration, DHCD assigns a registration number to the condominium and transmits an approval letter to the owner that identifies the initial application number and assigned registration number.

At the time of our review, the condominium registration fee was \$37 per unit.<sup>10</sup> Registered condominiums can be classified as:

- **Vacancy** – Conversion of a vacant residential building. DHCD issues a *Certification of Vacancy Exemption* based on an application from the owner for exemption from conversion fees and an inspection of the property.
- **Commercial Building** – Classifying a vacant commercial building as “Not a Housing Accommodation” (NHA). DHCD issues a vacancy exemption certification based on an application for exemption from conversion fees and an inspection of the property.
- **New Construction** – Property owner applies for registration as new construction.
- **Election** – Conversion of residential property into a condominium based on the results of a tenant election. DHCD provides a letter of certification regarding the election results.
- **In Lieu of Election** – Conversion of residential property by owner in lieu of tenant election. DHCD certifies that tenants did not respond within the required time period to hold an election regarding the owner's intent to convert the property into a condominium and provides a letter of certification.
- **Out of State** – Foreign condominium selling in the District of Columbia registers with DHCD and provide a public offering statement.
- **Cooperative Exemption** – Cooperative that converts to a condominium.

In order to track and account for condominium conversions, CASD used to maintain a log containing the date of initial contact with a customer, the assigned application number, and property address. After registration approval, CASD recorded the registration number in this log. Several properties/buildings could be registered by the owner as one condominium. For instance, properties at 101 District Avenue NE, 105 District Avenue NE, and 110 District Avenue NE could be registered by the owner as one condominium known as the District Avenue NE Condominium. However, due to inadequate CASD security measures, the logs were lost and unavailable for review during our audit.

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<sup>10</sup> As of October 1, 2010, the condominium registration fee was raised to \$100 per unit.

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## FINDINGS AND RECOMMENDATIONS

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CASD also maintains files of registration applications and public offering statements received. The building owner places the application for registration and the public offering statement in a notebook and these notebooks are currently maintained in the file room near CASD. We noted that DHCD personnel and visitors had unregulated access to the room and condominium registration files.

### RECORDKEEPING PRACTICES

The notebooks of applications and public offering statements are not filed in any clearly-defined order in the new storage room. In addition, because access to the documents is not restricted, documents are removed by other DHCD personnel for use without notifying CASD staff. As a result, CASD staff spends an inordinate amount of time searching for these files when needed for review and other purposes.

DHCD did not maintain files of critical condominium information related to registered and unregistered properties in a consistent manner such that the documentation is readily available for each condominium. This documentation includes letters of certification, approvals, inspection reports, applications for exemptions, notices of filing, and documentation of fees paid. DHCD's letters of approval and other correspondence are often filed in different parts of the binders and notebooks along with applications or public offering statements. Legal documents filed manually in an inconsistent manner can be easily lost or misplaced, and require an inordinate amount of time to locate. We noted numerous instances during our review in which file documentation could not be located. We also noted that documentation for registration and other fees paid for several items in our sample of registered condominium conversions was not available.

CASD does not maintain comprehensive information about registered condominium properties. CASD attempted to develop a spreadsheet that includes the application number, property address, and registration in addition to other detailed information about registered condominium properties. However, the spreadsheet data are not routinely compared or reconciled for accuracy and completeness. We noted missing registration numbers for properties and other missing details or inaccuracies that could be resolved through regular review and reconciliation.

The lack of documented policies and procedures to consistently maintain and safeguard critical condominium records in CASD's custody contributed to these conditions. The lack of controls restricting the number of individuals who can access and use condominium registration files increases the risk of unauthorized removal of property records from the storage room. In addition, the likelihood of detecting who removed the property records becomes more difficult when many individuals have unregulated access. These conditions make it difficult for DHCD to develop and maintain reliable statistical data on registered condominium properties for management review, reporting, and analysis.

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## FINDINGS AND RECOMMENDATIONS

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### REVIEW OF REGISTERED CONDOMINIUMS

Our objective was to determine whether condominium conversions were properly registered with payment of the correct registration fees and maintenance of appropriate supporting documentation, as required by statute. Accomplishing this objective required review of CASD's records reflecting the population of condominiums for which applications for registration and public offering statements had been submitted and registration numbers assigned. However, as noted previously, DCRA and DHCD did not maintain a complete and accurate listing of registered condominiums to enable us to establish the population of registered properties from October 1, 2004, through January 14, 2010.

We deemed it impractical to inspect each condominium application and public offering statement file located in DHCD's new main storage area. CASD personnel previously indicated that some of the files might be lost and that a complete listing of registered condominiums was not readily available. Therefore, we had to rely on our prepared listing of registered and sold condominium properties based on records from various sources, such as CASD, Recorder of Deeds, and OTR's Real Property Sales Database, to select a non-representative sample for review.

In our non-representative sample of 25 properties, we found that 4 sample items were outside the scope of our review. Thus, we only had 21 valid sample items. For the 21 valid sample items, we recalculated the registration fees and requested supporting documentation from CASD for these fees. CASD personnel searched and submitted the supporting documentation for the properties on file that they were able to find.

For each selected property, we examined the file for the following documentation:

- Signed, dated, and notarized application for condominium registration (D.C. Code §§ 42-1904.03 and 42-1904.05).
- Signed, dated, and notarized copy of the public offering statement (D.C. Code § 42-1904.04).
- Signed and dated letter of approval (D.C. Code § 42-1904.06(b)).
- Notice of filing timely issued to the applicant (i.e., within 5 business days from the receipt of the application for registration) (D.C. Code § 42-1904.06(a)).
- Formal approval or rejection of the application timely processed (i.e., within 60 days from the date of the notice of filing) as required (D.C. Code § 42-1904.06(a)).
- Correct registration fee paid by the applicant (\$37 per unit) (D.C. Code § 42-1904.03(d)).
- Assigned registration number identified in the application records for tracking purposes.
- Certificate of Good Standing issued by the DCRA Corporation Division.
- Certificate of Compliance/Exemption to convert housing accommodation to condominium (e.g., tenant election certification).

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## FINDINGS AND RECOMMENDATIONS

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Our review indicated the following conditions:

- DHCD could not locate files for 10 of 21 (48 percent) sample items. Lack of accurate and complete supporting documentation made it impossible to determine whether registration of these properties was handled in accordance with the provisions of D.C. Code §§ 42-1904.03, 42-1904.05, and 42-1904.06.
- Five of 11 files (45 percent) reviewed lack notices of filing. In the absence of this critical supporting documentation, we could not determine whether DHCD handled condominium registrations in accordance with D.C. Code § 42-1904.06.
- Of the 6 property files containing notices of filing, 1 (17 percent) was processed 14 days after the receipt of the application for the registration of condominium. This was not in compliance with D.C. Code § 42-1904.06(a), which requires that a notice of filing be issued to the applicant within 5 business days from receipt of the application.
- One of 11 files (9 percent) reviewed lacked dated and signed letter of approval or rejection. For 6 property files containing both notices of filing and letters of approval, we found that 3 (50 percent) registration applications were processed within a timeframe ranging from 70 to 166 days after issuance of notices of filing. These conditions were not in compliance with D.C. Code § 42-1904.06(a), which requires that DHCD enter an order registering the condominium or rejecting the registration within 60 days from the date of the notice of filing. There was no indication in the files that the delays were due to failure to meet the requirements of D.C. Code § 42-1904.05, as provided by D.C. Code § 42-1904.06(c).
- Three of 11 files (27 percent) reviewed lacked a signed, dated, and notarized copy of the public offering statement. D.C. Code § 42-1904.03 requires that each application for registration of the condominium be filed as prescribed by the Mayor's rules and contain the public offering statement among other required documents and information. Similarly, D.C. Code § 42-1904.05 permits review of the application for registration documentation to determine whether the statutory requirements for the public offering statements have been satisfied. We found no evidence that CASD management routinely performed and documented these reviews.
- Five of 11 files (45 percent) reviewed lacked a copy of the *Certificate of Good Standing* issued by DCRA's Corporations Division. In addition, we did not find a copy of the *Certificate of Compliance/Exemption* to convert in 1 of 11 files (9 percent) reviewed.
- The correct registration fee of \$37 per unit was not paid in 1 of 11 (9 percent) files reviewed. We found no documented evidence indicating that the required registration fee of \$1,887 was paid for 51 condominium units. Additionally, in 8 instances (78 percent),

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## FINDINGS AND RECOMMENDATIONS

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adequate supporting documentation for payment of registration fees, such as copies of checks received and receipts, was not found on file.

Due to these conditions, we could not verify that all condominium properties selected for review were properly registered with payment of the correct registration fees. The lack of standardized processes and practices increases the potential for fraud, waste, and abuse in the District's condominium registration process. In view of these concerns, organizational controls need to be strengthened to ensure that required legal documentation is maintained to support proper registration of all condominium conversions and account for all revenues generated from the condominium registration process.

### RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS

We recommend that the Director, DHCD:

8. Establish a formal file maintenance checklist for all registered and unregistered condominium properties, and update in a consistent manner.

#### DHCD RESPONSE

DHCD agreed with the recommendation. DHCD's response indicates that CASD will prepare and implement a file maintenance checklist procedure for condominium registration applications.

#### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

9. Develop a policies and procedures manual that governs the registration of condominiums.

#### DHCD RESPONSE

DHCD agreed with the recommendation and stated that CASD will prepare a condominium registration policies and procedures manual.

#### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

10. Conduct and document regular, supervisory reviews to ensure that correct registration fees are paid and each condominium registration file contains all required documents, including notice of filing, letter of approval or rejection, public offering statement, and proof of payment.

## FINDINGS AND RECOMMENDATIONS

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### DHCD RESPONSE

DHCD agreed with the recommendation. DHCD's response indicates that the CASD administrator will conduct and document file reviews prior to signing registration or rejection orders.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

11. Utilize an integrated management system with adequate backup procedures to maintain complete and accurate records of all registration applications received and processed, including detailed information about the properties, such as the condominium name, receipt of application date, number of condominium units, proof registration fee payment, classification of the condominium conversion, public offering statement receipt date, date of registration, and registration number assigned.

### DHCD RESPONSE

DHCD agreed with the recommendation. As noted in DHCD's response to Recommendation 4, the agency will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity. Pending the acquisition and implementation of an integrated management system, the response further indicates that CASD is currently completing its registration application records to recover from its substantive data loss in 2006-2007, and plans to convert its Microsoft Excel spreadsheets to a Microsoft Access database.

### OIG COMMENT

Actions taken by DHCD are responsive and meet the intent of the recommendation.

12. Generate monthly management reports to fully account for revenue generated from the registration of condominiums, and ensure that the reports are routinely reconciled to supporting documentation.

### DHCD RESPONSE

DHCD agreed with the recommendation and stated that CASD will coordinate with DHCD-AFO staff to develop and generate monthly revenue reports. In addition, DHCD's response indicates that CASD and DHCD-AFO staffs will meet monthly to reconcile administrative and financial records.

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## FINDINGS AND RECOMMENDATIONS

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### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

13. Establish physical access control policies that identify and limit the number of individuals granted access to critical condominium files.

### DHCD RESPONSE

DHCD disagreed with the recommendation and stated that CASD has two storage rooms for its records: (1) a large file room located immediately adjacent to CASD's workplace that remains locked with access to the CASD staff only; and (2) a second smaller file room inside CASD's office area that also remains locked with access limited to the CASD staff members.

### OIG COMMENT

We consider DHCD's comments unresponsive to this recommendation. Access to critical condominium files was not restricted to appropriate individuals during our review. This explains why certain files were missing in some instances, and time consuming efforts were required to locate other files. In addition, DHCD's comments did not address establishing policies to formalize its physical access controls over critical condominium files. Therefore, we request that DHCD provide us with a completion date for such policies by March 9, 2012.

14. Track and utilize appropriate cost accounting data to determine whether the current registration fee is sufficient to recover costs associated with processing applications and related administrative activities.

### DHCD RESPONSE

DHCD disagreed with the recommendation, stating that the registration fee was increased to \$100 per residential condominium unit and \$100 per parking unit, effective September 24, 2010.

### OIG COMMENT

DHCD's comments did not adequately address this recommendation. The registration fee was \$37 per residential condominium unit and per parking unit during most of the period of our review, and DHCD did not provide any documentation showing the basis for the recent increase. Thus, we could not determine whether the recent increase was based on verifiable cost accounting data. Any increase or decrease in the registration fee that does not account for cost accounting data will not ensure that the fee is sufficient to recover costs associated with processing applications and related administrative activities. Therefore, we request that DHCD provide us with a revised response, including a completion date for this recommendation, by March 9, 2012.

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15. Consider the use of imaging technology to scan all legal documents required for a condominium start-up filing to facilitate secure document storage and efficient retrieval.

### **DHCD RESPONSE**

DHCD agreed with the recommendation. DHCD's response indicates that this recommendation will be considered as a part of its IT solution detailed in its response to Recommendation 4.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

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<b>FINDING 3: CONDOMINIUM CONVERSION FEES</b>
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### SYNOPSIS

DHCD has several control deficiencies related to handling of the District's condominium conversion fees. Specifically, we found: (1) conversion fees due from all applicable units sold were not promptly collected; (2) sales of condominium units were not routinely monitored to identify conversion fees that were due; (3) formal policies and procedures were not implemented to guide employees in effective discharge of their statutory responsibilities; (4) controls over recording, transfer, deposit, review, and reconciliation of cash transactions were inadequate; and (5) reliable statistical data of condominium sales were not maintained for management review and analysis. These conditions were not in compliance with District's laws and regulations governing conversion fees.

These control deficiencies increase the risk that compliance failures, material errors, fraud, and other improprieties in the handling of the District's condominium conversion fees may not be prevented or detected on a timely basis. As a result, significant conversion fee revenue will be lost and financial results will not be accurately reported for informed decision-making. We attribute these control deficiencies to lack of documented policies and procedures, reductions in staffing, use of untrained cash handling personnel, heavy reliance on error-prone manual processes, and a lack of effective management oversight.

Revenue recognition and recovery processes are dependent on information from multiple sources and typically cannot be executed in isolation. DHCD could achieve more accurate results and establish better controls by automating the full conversion fee revenue recognition process, from recovery through enforcement, and the reporting function.

### DISCUSSION

D.C. Code § 42-3402.04(a-1) (2010) sets forth the requirements for payment of condominium conversion fees. It states that owners who convert housing accommodations, including vacant buildings, into condominiums must pay conversion fees representing 5 percent of the sales price for each condominium unit within the housing accommodations, unless a fee exemption or reduction is warranted based on the owner's declared intent to sell to low-income, elderly, or disabled tenants. The conversion fee rate was increased from 4 percent to 5 percent in June 2003. In addition, D.C. Code § 42-3402.04 (b-1) (2010) states that the full payment of conversion fees shall be no later than at the time of settlement on the individual condominium units.

We reviewed CASD's processes and records to determine whether: (1) conversion fees due from the sale of condominium units were promptly collected; (2) sales of condominium units were monitored to identify conversion fees that were due; (3) policies and procedures were developed

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to effectively implement statutory and regulatory provisions governing conversion fees; (4) adequate controls were maintained over cash receipts; and (5) reliable statistical data of condominium sales was maintained for management review and analysis.

As stated previously, DHCD did not have a complete and accurate listing of condominium units sold with corresponding sales prices during the period from October 1, 2004, through January 14, 2010. Therefore, we developed a listing of registered and sold condominium properties based on records from CASD, Recorder of Deeds, and OTR's Real Property Sales Database. Using the five percent conversion fee rate, we calculated the conversion fees for units sold and compared them to actual fees collected by CASD. In instances where the calculated fees due were significantly less than fees collected, we reviewed DHCD's certification letters and other supporting documentation to determine whether the fees actually assessed and collected for condominium units sold were justified and consistent with applicable statutory provisions.

### PRIOR INDEPENDENT AUDIT

According to F.S. Taylor & Associates' September 2006 audit report, 82 condominium properties were identified and classified as conversions due to elections and in lieu of elections during the review period. Sales were noted for 36 of those properties with 832 of 1,037 registered residential units sold through June 2006. The corresponding conversion fees associated with the sales of these units was \$6.3 million. However, as of June 30, 2006, DCRA had collected only \$778,993 in conversion fees since FY 2002. There was no information available from DCRA on fees collected prior to FY 2002. Thus, the report concluded that if no conversion fees were collected prior to FY 2002, DCRA had uncollected conversion fees of \$5.5 million as of June 30, 2006.

On April 20, 2006, DCRA's general counsel prepared a formal memorandum analyzing legal defenses or impediments to the collection of these delinquent conversion fees. We were unable to obtain any information from DCRA and DHCD on collecting these delinquent conversion fees. DHCD management indicated that CASD lacked sufficient labor and resources to mount concerted and effective collection efforts.

### POLICIES AND PROCEDURES

DHCD did not document policies and procedures governing the collection and management of condominium conversion fees. Policies and procedures documentation is needed for the following reasons:

- **Operational Needs:** Policies and procedures ensure that key conversion processes are performed in a consistent way that meets both the District's and agency's needs.
- **Risk Management:** Established policies and procedures are identified by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) as a critical control

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activity needed to manage risks. The COSO framework helps governmental entities assess and enhance their internal control systems to better achieve their established objectives.

- **Continuous Improvement:** Procedures improve work processes by implementing a Plan-Do-Check-Act (PDCA) approach by building important internal communication practices.
- **Compliance:** Well-defined and documented processes along with records that demonstrate process capability can demonstrate an effective internal control system compliant with relevant laws, regulations, and standards.
- **Accountability:** Clearly written, available policies and procedures are one of the fundamental elements of any system in which individuals and units are held accountable for adherence to laws, regulations, and directives.
- **Cost Effectiveness:** Making written policies and procedures readily available and identifying a single office or position within an office results in (1) fewer processing errors; (2) improved recordkeeping practices; and (3) less time spent to consistently and accurately answer process-related questions.
- **Ease of Access:** An up-to-date policies and procedures manual enables responsible users to have access to information they need to make informed decisions.

In addition, because of frequent and significant changes in statutory requirements governing conversion fees, updating the policies and procedures manual will train and equip CASD personnel to more effectively and efficiently discharge their fiduciary responsibilities.

### STATUTORY AND REGULATORY COMPLIANCE MONITORING

We noted important statutory and regulatory changes that were not timely and appropriately implemented. Specifically:

- In October 2007, all condominium conversion functions were transferred from DCRA to DHCD. CASD personnel indicated that they did not have access to DCRA's condominium conversion records. However, DCRA officials disputed this claim.
- Title 14 DCMR § 4704.1 authorizes collection of conversion fees within 15 business days of the confirmation of the results of an election, or verification in lieu of election, if the owner is not a tenant organization. However, CASD's official correspondence to the owner certifying the tenant election or conversion in lieu of election states that conversion fees must be submitted with Recorder of Deeds Form FP-7 within 5-30 days

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after settlement. Not only does the form contradict District regulations, but extending the submission date results in lost interest income for the District.

- Although the conversion fee rate increased in June 2003 from 4 percent to 5 percent of the sales price for each condominium unit, CASD did not immediately implement the change until several years later, resulting in a loss of potential conversion fee revenue.
- Title 14 DCMR § 4704.3 requires CASD to certify compliance within 10 business days of receipt of the conversion fee from the owner. This requirement has not been revised, but CASD had been certifying compliance long before the conversion fees for the first condominium units sold were received, causing confusion in administrative practices coupled with a loss of potential conversion fee revenue.
- Title 14 DCMR § 4704.6, requiring owners to pay a conversion fee representing 4 percent of the anticipated sales price for each unit, has not been revised to coincide with the increase to 5 percent reflected in D.C. Code § 42-3402.04(a-1). This inconsistency in statutory and regulatory requirements can lead to confusion and loss of potential revenue.
- According to D.C. Code § 42-3401.01(a)(7), the D.C. Council found that previous conversion controls have not been sufficiently effective in preserving rental housing, particularly for those who cannot afford homeownership and tenants who are most directly affected by the conversion should be provided with sufficient accurate information about its relative advantages and disadvantages. In addition, D.C. Code § 42-3401.02(5) states that one of the statutory purposes of Chapter 34, Rental Housing Conversion and Sale, is to provide relocation assistance for lower income tenants who are displaced. CASD has not been tracking and reporting reliable statistical data regarding the number of registered properties that are either occupied, residential properties; vacant residential properties; or new construction of condominiums. The F.S. Taylor & Associates, P.C. audit (page 13) indicated that 90 percent of the registered properties were from conversions of vacant residential properties, commercial buildings, and new construction of condominiums, which were not required to pay conversion fees that could support the District's effort to assist with affordable housing. CASD should consider tracking and reporting reliable statistical data that demonstrate how collection of conversion fees is helping to address the legislative purposes detailed in the Conversion Act.

These conditions reinforce the need for a formal policies and procedures manual. The manual will require periodic updates in order to provide clarity to employees responsible for ensuring compliance with the statutory and regulatory provisions governing conversion fees.

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### RECONCILIATION OF CASD AND OTR RECORDS

We reconciled records of condominium sales maintained by CASD to related records reflected in OTR's Real Property Sales Database for the period under review. This audit step was necessary because CASD did not maintain accurate and complete records of condominium sales for which conversion fees were due. We identified discrepancies and asked management to verify the accuracy and completeness of our reconciled data. In response, CASD provided documentation, but noted that the requested verification could not be performed due to staffing and time constraints.

Our reconciliation process and review of relevant documents submitted in response to our requests indicated the following conditions:

- We found that 1,988 condominium units were sold, with recorded contract sale prices for 1,688 (84.9 percent) transactions totaling \$705,933,574. Using the 5 percent conversion rate, we estimated that conversion fees totaling \$35,300,589 were due. However, CASD collected only \$4,743,605 (13 percent) from the sale of 842 units (49.9 percent) for which there were recorded contract sale prices. This indicates potential lost income of up to \$30,556,984 from conversion fees, without taking into account additional lost income from 300 (15.1 percent) transactions that lacked recorded sale prices and evidence of authorized fee exemptions or reductions.
- Of the 1,988 transactions reviewed, 126 (6.3 percent) of CASD's transactions were reconciled to OTR's records without exceptions, and 274 (13.8 percent) were reconciled with some exceptions noted. In addition, 624 (31.4 percent) and 964 (48.5 percent) transactions were only found in CASD's or OTR's records, respectively, and therefore could not be reconciled.
- We found that 304 of 1,024 (29.7 percent) transactions in CASD's records did not have settlement dates. By contrast, we found that only 5 of 1,364 (0.4 percent) transactions did not have settlement dates in OTR's records of condominium sales.
- CASD relied on property owners or their agents for notification of settlements and remittance of conversion fees as condominium units were sold because CASD lacked a mechanism to track the actual conveyance date.
- CASD did not have a mechanism for performing routine reconciliations of its condominium fee data to relevant records maintained by external entities in order to enhance the reliability of data for compliance and reporting purposes.
- There was no evidence of coordination between CASD and other agencies, such as OTR and the Recorder of Deeds (ROD), to improve the accuracy and completeness of

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condominium sales information for control purposes, including timely detection of past due conversion fees. OTR's Real Property Sales Database contains all condominium sales for which conversion fees are due. Additionally, D.C. Code § 42-3402.04 (West, Westlaw through June 20, 2007 amendments) states that ROD shall not record a deed for a condominium unit until the declared conversion fee for the unit is paid in full. Thus, effective coordination between CASD and these agencies could have provided controls to minimize the risk of conversion fee revenue loss due to undetected condominium sales.

These conditions militated against effective enforcement of statutory provisions governing conversion fees; timely identification and collection of conversion fees due; and protection of the District's financial resources against fraud, waste, and mismanagement. The magnitude of potential lost income due to ineffective monitoring of condominium fees requires immediate management attention. We believe that the lack of documented policies and procedures, an integrated information management system, and management oversight caused these conditions.

### REVIEW OF POSTED CONVERSION FEE REVENUE

CASD's Program Support Specialist, who handles the cash collection function, maintained a spreadsheet to track condominium fees received. We obtained a copy of this electronic document from the Program Support Specialist on December 9, 2008. The spreadsheet included all receipts processed in FYs 2005, 2006, 2007, and 2008.

DHCD's AFO also used a spreadsheet to track conversion fee receipts submitted by CASD for deposit with the D.C. Treasurer. DHCD's AFO was able to submit only the FY 2008 data for our review, stating that all data prior to FY 2008 were recorded by DCRA's AFO. However, DCRA's AFO had previously indicated that such data were not tracked. Despite repeated requests, we were not able to obtain FY 2009 and 2010 data.

For FY 2008, the Program Support Specialist's spreadsheet shows 214 cash receipt transactions totaling \$2,286,717. In contrast, the AFO's data show receipts totaling \$1,537,892, an unexplained difference of \$748,825.

In addition, comparison between CASD's administrative records of conversion fees received during FYs 2005-2008 and deposits posted in the District's general ledger system, known as the System of Accounting and Reporting (SOAR), indicated discrepancies as shown in Table I below.

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FY	SOAR Figures	DHCD Figures	Variance
<b>2005</b>	\$304,814.00	\$331,628.40	(\$26,814.40)
<b>2006</b>	\$595,618.80	\$517,033.91	\$78,584.89
<b>2007</b>	\$1,467,643.86	\$1,411,348.00	\$56,295.86
<b>2008</b>	\$2,354,943.31	\$2,286,717.19	\$68,226.12
<b>Totals</b>	<b>\$4,723,019.97</b>	<b>\$4,546,727.50</b>	<b>\$203,106.87</b>

We noted that the AFO’s figure for FY 2008 was \$817,051 less than the conversion fee revenue posted in SOAR, as shown in Table II below.

FY	SOAR Figure	AFO Figure	Variance
<b>2008</b>	\$2,354,943.31	\$1,537,892.03	(\$817,051.28)

These significant discrepancies indicate that the District lacks adequate controls to provide complete, timely, reliable, and consistent conversion fee revenue information for decision-makers and the public. Effective financial management holds financial and program managers accountable for actions taken, control over the government’s financial resources, and protection of assets. These requirements will not be met if transactions are not routinely reconciled to identify, investigate, and resolve significant discrepancies in reported financial results.

### CONVERSION FEE PAYMENTS

Review of the condominium sales records maintained by CASD indicated that conversion fees for 261 of 616 (42 percent) transactions with valid settlement dates were submitted to the District more than 30 days after settlement. For these transactions, CASD received conversion fees, on average, 209 days after the settlement date. Based on the total contract sale prices of units (\$66,419,488), CASD collected only 2.2 percent of conversion fees (\$1,428,322) instead of 5 percent (or \$2,057,127) as statutorily required. We also noted that conversion fees were not routinely submitted with required copies of recordation and transfer tax forms. In many instances, CASD requested copies of the required documentation after receipt of the conversion fees.

These conditions were not in compliance with statutory provisions governing the conversion fees. Specifically, D.C. Code § 42-3402.04(b-1) (2010) requires payment of conversion fees at the time of settlement on individual condominium units. Effective March 25, 2009, this subsection was revised to require the: (1) full payment of the conversion fee into an escrow account at the time of settlement on the sale of the condominium unit; and (2) escrow agent to submit the conversion fee to CASD within 30 business days of settlement, together with a copy of the recordation and transfer tax form reflecting the sales price of each condominium unit.

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In addition, these conditions demonstrated that controls were not sufficiently effective in preventing loss of substantial conversion fee revenue due to noncompliance with statutory requirements. CASD did not produce any analysis or report demonstrating how the lost conversion fee revenue met the statutory requirements for fee reduction and contributed to the purchase or lease of condominium units by qualified low-income tenants.

### ISSUANCE OF ENFORCEMENT LETTERS

DHCD did not have effective compliance monitoring and enforcement mechanisms in place. CASD issued 43 preliminary noncompliance notices to owners on September 24, 2008, for failure to remit conversion fees for units sold. There was no specific evidence of similar notices issued before or after that date.

The notices did not specify the dates the units were sold, amount of conversion fees due, and penalties for failure to timely post conversion fees. In addition, the notices did not indicate whether the affected properties were previously cited for failure to post the required conversion fees. Effective March 25, 2009, D.C. Code § 42-3402.04(b-1) (2010) authorizes the District to impose civil fines, penalties, and fees for failure to pay the conversion fees in accordance with statutory requirements. Title 14 DCMR § 4704.14 also authorizes CASD to file a lien against the property in order to collect the balance of unpaid conversion fees.

At the time of our audit, CASD lacked documented procedures over the enforcement of delinquent conversion fees. In addition, because CASD did not maintain any supporting documentation, we could not determine the length of time the conversion fees were past due and reasons for delay in following up on delinquent fees.

We noted several instances where CASD initiated enforcement actions in response to its inability to locate relevant supporting documentation for properties we selected for review. Relying on auditors' inquiries and requests for information to identify and initiate enforcement actions indicates CASD's lack of routine monitoring of condominium sales to identify and address irregularities.

These conditions weaken the District's ability to effectively recover lost income from conversion fees through civil enforcement actions. Additionally, these conditions require management to adopt an administrative mechanism or system for monitoring sales of converted condominium units that are not in compliance with statutory requirements and from which conversion fees are due.

A routine manual review of the District's Real Property Sales Database and ROD records can verify statutory compliance. However, to ensure the efficient development of this data, a less labor-intensive and more structured mechanism should be explored, such as direct electronic notification by ROD to CASD on all condominium sales.

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### MANAGEMENT OF CASH RECEIPTS

Conversion fee checks are made payable to the “D.C. Treasurer,” and are either hand-delivered or sent via first-class mail to CASD. The CASD Program Support Specialist is required to: (1) date-stamp the checks and accompanying documentation upon receipt; (2) complete a three-part pressure copy receipt; (3) issue the white copy to the remitter, attach the yellow copy to the check, and retain the pink copy in an expandable file folder by month; (4) record check and documentation on mail log; and (5) submit the checks and documentation to the CASD Administrator.

The CASD Administrator then: (1) records detailed payment information in a separate spreadsheet for each property; (2) creates a conversion fee file for each property; (3) makes and files copies of the checks, yellow receipts, and other documents in the conversion files; (4) prepares transmittal memoranda to the budget officer reflecting payments received; and (5) hand-delivers the memoranda with original checks and receipt copies to the Housing Regulation Administrator (HRA). HRA, in turn, hand-delivers the transmittal memoranda, checks, and receipts to DHCD’s AFO for deposit with the D.C. Treasurer.

Our review of CASD’s conversion fee collection practices indicated the following conditions:

- CASD did not timely receive and deposit conversion fees. We reviewed 616 cash receipt transactions from October 2004 through January 2009 and noted that: (1) CASD received 599 condominium conversion fee payments, on average, 100 days after settlement; (2) HRA submitted 327 cash receipts to DHCD’s AFO for deposit, on average, 23 days after receiving condominium fee payments; and (3) DHCD’s AFO required 12 additional days, on average, to deposit receipts with the D.C. Treasurer. In short, payments were held, on average, 135 days after receipt prior to deposit with the D.C. Treasurer. Using the average interest rates received on the District’s investment portfolio that compared well with the effective Federal Fund rates during the periods under review, we estimated the District lost \$101,806 in interest income on about \$8.3 million deposits reviewed.
- Standard pre-numbered receipts were not used to record payments received for conversion fees. CASD recorded payments received on different types of receipt forms without tracking numbers. As a result, it was difficult to determine whether all funds received were presented for deposit because actual receipts could be improperly voided without detection.
- CASD used three different types of cash receipt forms for recording conversion fees – “Rental Unit Registration Fee Payment Receipt,” “Conversion Fee Payment Receipt,” and “Application Registration Fee Payment Receipt.” The Program Support Specialist indicated that CASD used those receipt forms because it did not create its own receipts.

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Using different receipt forms for the same revenue stream causes confusion in processing payments and deposits.

- Nonstandard receipts were not accurately and consistently completed with pertinent information, such as the: (1) date of the transaction; (2) amount received; (3) name of property or payer; (4) method of payment; (5) reason for payment; and (6) signature or initials of the person preparing the receipt. We also noted errors in the recorded amounts received and object codes listed. This condition makes reconciliation between the number of units sold and the funds collected much harder to perform.
- Individual accountability for cash was not consistently maintained by ensuring that transfers of receipts between two employees were jointly verified and documented. Lack of individual accountability throughout all cash handling operations makes it difficult to identify and resolve irregularities associated with funds received and deposited.
- Cash receipt transactions were not regularly reconciled to relevant internal and external records for accuracy and completeness by a supervisory employee not directly involved in receiving and recording receipts. This practice increases the risk of undetected irregularities or fraudulent transactions involving cash receipts.
- We noted numerous instances in which cash receipt documentation, including copies of checks received and receipts issued, was missing from conversion fee files maintained by the CASD Administrator. Without documented support, CASD increases the risk that recorded conversion fee amounts may not be accurate, properly classified, or reliably reported.
- DCRA's AFO indicated that \$1,467,644, \$595,619, and \$304,818 in cash revenues were deposited into the condominium conversion fund in FYs 2007, 2006, and 2005, respectively; however, the AFO did not track conversion fees by property address and units sold, and supporting documents for fees collected and deposited were nonexistent. This makes it difficult to determine whether all funds received were deposited in full, and whether errors or irregularities occurred during the processing of cash receipts.
- Our inquiries about cash receipts led CASD to issue a memorandum on February 2, 2009, alerting DCRA's AFO that warranty cash escrow deposits had been misapplied or incorrectly posted as conversion fees in the HAF. Regular reconciliations could have detected and rectified such errors and other irregularities in a timely manner.
- We found no specific evidence that periodic reports of cash receipts processed and deposited in the OTA account were submitted for management review. Submission of reports to both DHCD and OTA management not only fulfills statutory responsibilities, but also serves to inform all stakeholders of CASD's cash collection activities and assist them in their oversight responsibilities.

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These conditions indicate control deficiencies related to processing cash transactions, maintaining supporting documents, and ensuring reliable reporting of conversion fee revenue. CASD management represented that most of these conditions resulted from reductions in staffing, assuming additional responsibilities, and using untrained personnel.

GAO's Standards for Internal Control in the Federal Government (GAO/AIMD-00-21.3.1) (Nov. 1999) requires that in the management of human capital, "management should ensure that skill needs are continually assessed" and "[t]raining should be aimed at developing and retaining employee skill levels to meet changing organizational needs."<sup>11</sup> It also states that "[q]ualified and continuous supervision should be provided to ensure that internal control objectives are achieved."<sup>12</sup> Inadequate training and supervision of staff with cash handling responsibilities increases the agency's risk that significant errors will occur. Finally, it states that "all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination."<sup>13</sup>

### ALLOCATION OF CONVERSION FEES

D.C. Code § 42-3403.07(a) (2010) stipulates that all funds from the collection of condominium and cooperative conversion fees shall be deposited into the Housing Assistance Fund (HAF) without regard to fiscal year limitation. HAF deposits are to be used each fiscal year as follows:

- An amount not to exceed one-third to fund OTA's emergency housing and tenant relocation assistance;
- An amount not to exceed one-third to fund DHCD's Home Purchase Assistance Program (HPAP), and relocation and housing assistance payments for displaced tenants; and
- An amount not to exceed one-third for OTA's annual administrative and operating costs.

There was no statutory provision allocating portions of collected conversion fees to support CASD's annual administrative and operating costs. In addition, we did not receive any periodic or annual reports from OTA and DHCD showing actual allocation of the conversion fee revenues to determine compliance.

These conditions indicate that the existing statutory provision needs to be revised to ensure that portions of the collected conversion fees are appropriately allocated to support CASD's annual administrative and operating costs. Certification and registration fees deposited in the DHCD Unified Fund are insufficient to cover CASD's annual administrative and operating costs. Using portions of the conversion fee revenue would address CASD's operating needs, including

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<sup>11</sup> *Id.* at 13.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 15.

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staffing constraints addressed in Finding 1 of this report. In addition, periodic reports reflecting actual allocations should be generated to demonstrate compliance with the D.C. Code.

### **RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS**

We recommend that the Director, DHCD take the following actions:

16. Collaborate with DCRA and OAG to investigate and report on the final resolution of uncollected conversion fees totaling \$5.5 million from the prior independent audit of the District's condominium conversion fees.

#### **DHCD RESPONSE**

DHCD agreed with the recommendation and stated that the agency will consult with the OAG regarding debt collection efforts, statute of limitations, and other relevant legal considerations. DHCD's response further indicates that CASD was not able to conduct a concerted debt collection effort without additional staffing resources.

#### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation. The April 20, 2006, DCRA legal opinion regarding settlement of past due condominium conversion fees provides that: (1) the statute of limitations and estoppel defenses probably would not bar the District from collection of delinquent condominium conversion fees; and (2) none of the potential legal defenses appeared to be clearly detrimental to the District's ability to assert claims that the fees are owed.

17. Document policies and procedures for the collection, management, and reporting of the District's condominium conversion fees.

#### **DHCD RESPONSE**

DHCD agreed with the recommendation. DHCD's response indicates that CASD will coordinate with OAG and DHCD-AFO to develop collection policies, procedures, and practices subject to legislative authority in enacted budget support act.

#### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

18. Track all statutory and regulatory changes to ensure prompt implementation of new requirements in administrative practices.

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### DHCD RESPONSE

In principle, DHCD agreed with the recommendation and stated that the recommendation is already implemented. DHCD's response indicates that the CASD administrator and DHCD legislative staff track legislative changes. The response further indicates that the CASD administrator timely implements legislative changes and solicits support from DHCD executive management as needed.

### OIG COMMENT

Actions taken by DHCD are responsive and meet the intent of the recommendation. However, DHCD should maintain and provide documentation to support its assertions concerning corrective actions taken with reference to this recommendation.

19. Investigate and resolve discrepancies associated with condominium fee revenue reflected in CASD's administrative records, Agency Fiscal Officer's data, and the District's general ledger system, including the unexplained difference of \$748,825 in conversion fees collected and deposited in FY 2008.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that CASD will coordinate with DHCD-AFO to investigate and resolve any revenue fee collection discrepancies.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

20. Arrange for training in relevant cash handling procedures for staff responsible for processing cash transactions and provide supervision to ensure that transactions are properly handled.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that CASD will coordinate with DHCD-AFO for the provision of appropriate training to responsible staff members.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

21. Provide continuing oversight of the maintenance of conversion fee files to ensure that information in the files is complete, current, and correct.

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### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that CASD will undertake a comprehensive operations review. The response indicates that this review will include an evaluation of CASD's conversion fee files.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

22. Implement the use of a standard, pre-numbered receipt form and require that the receipt of condominium fee payments is clearly and completely documented on this form.

### DHCD RESPONSE

In principle, DHCD agreed with the recommendation and stated that the recommendation is already implemented as a result of substantive changes in the statutory fee schedule. Specifically, CASD started using an updated and detailed receipt form approved by DHCD-AFO to document all fee remittances, as of September 24, 2010.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

23. Streamline the cash collection process to minimize loss of interest income through timely deposit of conversion fee payments received.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that CASD has implemented a procedure to deposit all checks on the same day received or by the next business day.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation. We commend DHCD for adopting this good business practice.

24. Establish an electronic interface with information systems managed by OTR and ROD to efficiently monitor sales of condominium units for purposes of identifying and collecting conversion fees due.

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### DHCD RESPONSE

DHCD agreed with the recommendation and offered a nonmonetary solution that would require CASD approval on deed conveyances prior to submitting any deeds to ROD such that the conversion fees could be captured prior to the deeds being recorded by ROD.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation. The OIG agrees with DHCD's proposed proactive solution that facilitates efficient collection of conversion fees due.

25. Initiate collection of all past due conversion fees estimated at \$30.6 million for condominium units sold during the period October 1, 2004, through September 30, 2010, and file liens against properties with unpaid balances of more than 30 business days.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that the agency will coordinate with the OAG regarding debt collection efforts, statute of limitations, and other relevant legal considerations. However, DHCD also expressed disagreement with the OIG's estimate of \$30.6 million of outstanding conversion fees due to legal considerations for collecting fees predating 2008, including the applicable statute of limitation.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation. DHCD did not provide us with any documentation or analysis to support its disagreement with our estimate. As noted in this report, DHCD declined to verify the reliability and validity of data that formed the basis for our estimate due to staffing and time constraints. In addition, DCRA obtained a legal opinion dated April 20, 2006, which details legal considerations associated with the collection of past-due condominium conversion fees. Specifically, this legal memorandum noted that:

- (1) Past-due conversion fees may be collected through the same invoicing and, if necessary, civil litigation procedures which the District typically utilizes for other debts owed.
- (2) The statute of limitations and estoppel probably would not bar the District from collection of delinquent conversion fees.
- (3) The District could legally place liens against the individual condominium units.

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- (4) None of the potential legal defenses appear to be clearly detrimental to the District's ability to assert claims that the fees are owed. The greatest impediments may be the length and cost of litigation, the possibility that some developers no longer have sufficient assets to pay the fees or judgments, and the possibility that the corporations will have been dissolved.

DCRA's General Counsel reinforced the above legal conclusions in her email of October 6, 2006 to the current CASD administrator.

26. Automate critical tasks in the conversion fee revenue recognition and reporting workflow by using an integrated information management system.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and stated that this recommendation will be addressed as part of its overall IT solution for improved case management capacity.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

27. Generate monthly management reports to fully account for revenue generated conversion fees and submit the reports to all stakeholders.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and indicated that CASD will coordinate with DHCD-AFO staff to develop and generate appropriate revenue reports.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

28. Consider requesting revision of D.C. Code § 42-3403.07 to ensure that portions of the collected conversion fees are allocated to support CASD's annual administrative and operating costs.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and indicated that the agency will consider making legislative change recommendations.

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### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

29. Complete annual reports reflecting actual allocation of HAF funds to demonstrate compliance with the requirements of D.C. Code § 42-3403.07.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and indicated that CASD will coordinate with DHCD-AFO staff to develop and generate appropriate HAF reports.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

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## FINDINGS AND RECOMMENDATIONS

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<b>FINDING 4:    REDUCED CONDOMINIUM CONVERSION FEES</b>
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### SYNOPSIS

Our review of selected properties indicated that reduced conversion fees were not handled in compliance with D.C. Code § 42-3402.04 (West, Westlaw through May 11, 2006 amendments) and 14 DCMR § 4704. Failure to submit a signed and notarized final accounting of units sold, as required by 14 DCMR § 4704.12, makes it difficult to determine whether all the approved reductions were justified. In addition, the lack of supporting documentation, including complete and accurate information of all properties with reduced conversion fee rates, increases the risk that the District may not make informed decisions about the effectiveness of past practices of authorizing reduced conversion fees and monitoring related activities for regulatory compliance.

### DISCUSSION

D.C. Code § 42-3402.04(b-1) (West, Westlaw through May 11, 2006 amendments) states that a conversion fee of five percent of the sales price for each condominium unit must be paid in full no later than at the time of settlement on the individual unit, unless a reduction is warranted based on the declared owner's intention to sell to LINE tenants. Reduction of conversion fees to as low as \$50 per unit is permitted under 14 DCMR § 4704.9, based on the number of eligible LINE tenants residing in the housing accommodation prior to conversion. In accordance with the D.C. Code in effect in May 2006, DHCD was required to certify eligibility of the tenants and determine the appropriate reduced fee rate for the property. In addition, 14 DCRM § 4704.12 requires a final accounting to be submitted by the owner to show that the reduced fee rate was justified based on the actual sales. Effective March 25, 2009, D.C. Code § 42-3402.04(b) was amended and currently provides criteria for exemption of a conversion fee for a condominium unit.

To determine whether reduced conversion fees were processed in accordance with the applicable legal provisions, we selected a non-representative sample of 15 properties with fees reduced from the mandatory five percent conversion fee rate, and reviewed the relevant supporting documentation maintained by DHCD. We selected sample items from our reconciled listing of registered and sold condominium properties. None of the properties with supporting documentation were converted prior to May 2006.

Our review of 15 sample items indicated the following conditions:

- CASD could not find files for 3 properties. Missing files serve to the detriment of effective compliance monitoring and enforcement.
- Ten files lacked signed letters from DHCD to owners certifying reduced conversion fee rates and explaining the reasons for such reductions. In two instances, the owners

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determined their own reduced conversion rates and sought CASD's concurrence with the determination. These irregularities were not detected for several months due to CASD's inefficient compliance monitoring process.

- Supporting documents for reduced conversion fee rates were missing from all 12 property files reviewed. Independent verification of the propriety of reduced conversion fee rates is of limited use due to the lack of supporting documentation.
- The owners of all properties reviewed did not pay conversion fees prior to or at the time of settlement as required by D.C. Code § 42-3402.04. In one instance, CASD made a calculation error in determining a reduced conversion fee rate, which took several months for CASD to identify and remedy.
- None of the owners submitted a final accounting of units sold to justify the reduction of the conversion fee rate. Failure to timely submit the required final accounting prevents the District from filing a lien against the property in order to collect the balance of unpaid conversion fees and results in potential loss of income to the District.
- CASD did not maintain a complete, accurate, and current listing of condominium properties approved for reduced conversion fees to facilitate efficient and effective compliance monitoring.

Reduced conversion fees were not processed in accordance with applicable D.C. law and regulations. Specifically, our review found that all 15 properties with reduced conversion fee rates were not in compliance with D.C. Code § 42-3402.04 and 14 DCMR § 4704. Failure to submit a signed and notarized final accounting of units sold, as required by 14 DCMR § 4704.12, makes it difficult to determine whether all the approved reductions were justified. In addition, the lack of supporting documentation increases the risk that the District may not make informed decisions about the effectiveness of past practices of authorizing reduced conversion fees and monitoring related activities for regulatory compliance.

### RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIT COMMENTS

We recommend that the Director, DHCD:

30. Maintain complete and accurate information of all condominium properties approved for reduced conversion fees.

### DHCD RESPONSE

DHCD disagreed with the recommendation and indicated that CASD currently maintains records and documents of projects granted reduced conversion fee rates.

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### **OIG COMMENT**

The OIG considered DHCD's comments to be nonresponsive to this recommendation. Our findings related to missing files and documents supporting reduced conversion fees contradict DHCD's assertion that CASD maintains records and documents for all condominium properties granted reduced conversion fee rates. Therefore, we request DHCD reconsider its response and provide a target completion date to address this recommendation by March 9, 2012.

31. Review all reductions of conversion fees for compliance with the statutory requirements, and take appropriate enforcement actions against noncompliant property owners.

### **DHCD RESPONSE**

DHCD agreed with the recommendation and indicated that the agency will undertake a comprehensive operations review, including an evaluation of CASD's operations and resources.

### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

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<b>FINDING 5: VACANCY EXEMPTIONS</b>
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### SYNOPSIS

Our review of selected property files indicated that applications for vacancy exemptions were properly signed, notarized, dated, and maintained in property files. However, the review also indicated that improvements in the handling of vacancy exemptions are needed to ensure compliance with the requirements of D.C. Code § 42-3402.10 that were in effect during FYs 2005-2008. Specifically, we noted: (1) instances in which signed inspection reports and photographs were missing from property files; (2) CASD approved one property for vacancy exemption even though the property was not certified as vacant; and (3) CASD did not utilize appropriate monitoring, auditing, and reporting mechanisms to timely detect and address noncompliance activities. Lack of formal policies and effective compliance oversight related to vacancy exemptions contributed to these conditions.

### DISCUSSION

D.C. Code § 42-3402.10 (West, Westlaw through May 11, 2006 amendments) allowed exemption from the condominium conversion fee required by the Conversion Act's Conversion Procedures if the conversion to a condominium or cooperative status was for a housing accommodation that was fully vacant as of the date of application for vacancy exemption. The D.C. Code required that the owner submit an application for vacancy exemption in order to qualify for the exemption.

On August 8, 2006, the Fiscal Year 2007 Budget Support Emergency Act of 2006, A16-477, went into effect. Title II of the law included Subtitle M, the Vacancy Conversion Fee Clarification Emergency Amendment Act of 2006. Subtitle M provided that converted vacant properties were no longer exempt from conversion fees. Upon registration of a housing accommodation as a condominium, a lien would be recorded against converted property in the amount of the declared conversion fee. Subtitle M required that the conversion fee shall be apportioned among the units, and must be paid at the time of settlement of each unit. The ROD could not record a deed until the declared conversion fee for a subject unit was paid in full. The conversion fee was due in full on all unsold units within 2 years from the condominium registration date. Act 16-477 expired on November 6, 2006.

D.C. Law 16-192 (effective March 2, 2007) and D.C. Law 17-354 (effective March 25, 2009) subsequently rewrote the provisions addressing vacancy exemptions.

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### TRACKING LEGISLATIVE CHANGES AFFECTING VACANCY EXEMPTIONS

CASD did not maintain accurate and complete records of vacancy exemption applications processed under statutory provisions in effect at the time the applications were submitted. This condition negatively impacted effective compliance monitoring to minimize improper handling of vacancy exemption applications and prevent loss of conversion fee revenue.

After the emergency legislation noted above, the Conversion Act (D.C. Code §§ 42-3401.01 – 3405.13) was substantively amended by the *Vacancy Exemption Repeal Temporary Amendment Act of 2008* (D.C. Law 17-191) (Temporary Act) and the *Vacancy Exemption Repeal Clarification Temporary Amendment Act of 2008* (D.C. Law 17-274) (Temporary Clarification Act). Under the Temporary Act, an owner applying for a vacancy exemption certification was subject to payment of a 5 percent conversion fee based on the sales price of each condominium unit or cooperative share. The Temporary Act also provided that vacancy exemption applications submitted on or before March 31, 2008, were subject to the former version of the Conversion Act and applications submitted on or after April 1, 2008, were subject to the new temporary legislation. Only condominium units or cooperative shares sold to specific categories of buyers (e.g., low-income purchasers, low-income former tenants who resided in the building at least 1 year prior to conversion, elderly or disabled tenants, or long-term leases for units or shares to low-income tenants) were exempted from conversion fees. The definition of “low-income” tracked the definition set out in Section 101(5) of the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Code § 6-1041.01(5)).

Under the Temporary Clarification Act, properties consisting of 4 units or less were eligible for exemption from conversion fees, if they registered as vacant properties with DCRA’s Vacant Properties Unit on or before July 1, 2008, and for which the imposition of conversion fees would pose a hardship.

### VACANCY EXEMPTIONS REVIEW

An exemption from conversion fees was available for properties that had been certified as vacant property by CASD before conversion and registration as vacant with DCRA. The process required that the owner complete an *Application for Vacancy Exemption for Conversion to Condominium or Cooperative*. CASD reviewed the application and requested an inspection of the vacant property. The inspector completed a report of the observed status of the property as either vacant or occupied, and took a photograph of the premises. Both the report and photograph were signed by the inspector and submitted to CASD along with a summary report of the property inspected. If the inspector determined that the property was vacant, CASD then approved the application for the exemption and issued a certificate of vacancy exemption. Conversely, if the inspector determined that the property was not vacant, the request for vacancy

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exemption is denied and a denial of the request is issued by CASD. Once a denial is issued, the owner must wait 1 year before submitting another request for vacancy exemption.

To determine whether the vacancy exemptions were processed in compliance with the requirements of D.C. Code § 42-3402.10 discussed above, and appropriate documentation was maintained to support each approved exemption, we selected and reviewed a non-representative sample of 15 properties classified by CASD as receiving vacancy exemptions on its list of condominium conversions occurring during FYs 2005 through 2008. For each selected property, we examined the following documentation as verification of vacancy exemption:

- Application for Vacancy Exemption for Conversion to Condominium or Cooperative;
- Inspection report and/or photograph signed by the DCRA/DHCD inspector indicating that the property was vacant; and
- DCRA/DHCD Certification Letter for Vacancy Exemption.

In addition to these procedures, we interviewed CASD personnel about the procedures for handling vacancy exemptions.

CASD was able to locate and submit files for all 15 properties selected for review. All applications for vacancy exemptions were properly signed, notarized, dated, and maintained in property files. However, our review of the files and interviews with the CASD personnel indicated the following conditions:

- Inspection reports and photographs were not found on file in two instances. D.C. Code § 42-3402.10 (West, Westlaw through June 20, 2007) required the District to investigate all requests for vacancy exemptions and photographically document the vacant status of at least 25% of the total number of randomly selected units in the housing accommodation.
- In four instances, the inspection reports were not signed by the inspector to certify that the properties were vacant.
- In one instance, the signed inspection report indicated that the property was not vacant; nevertheless, CASD approved the owner's application for a vacancy exemption.
- CASD did not standardize its vacancy exemption certification letters. Some letters included detailed information about changes to statutory provisions governing vacancy exemptions, while others lacked the same detailed information.

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- D.C. Law 16-192 (effective March 2, 2007) stated that all vacancy exemptions shall expire 90 days after certification.<sup>14</sup> We found no evidence that CASD was consistently monitoring the 90 day timeframe for compliance with the D.C. Code. In addition, correspondence to owners regarding approval of vacancy exemption did not include the language from the certification letters to indicate that the owner has a 90 day timeframe for completion of the property conversion application process.
- Statutory provisions related to vacancy exemptions underwent numerous legislative amendments between July 2006 and March 2009. CASD did not maintain a complete list of registered properties that received vacancy exemptions during this period.

### RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS

We recommend that the Director, DHCD:

32. Document policies related to vacancy exemptions to ensure appropriate and uniform implementation of applicable statutory requirements.

#### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that CASD will investigate obtaining additional staffing resources to support efforts to create a vacancy exemptions policies and procedures manual.

#### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

33. Track and account for all condominium properties approved for vacancy exemptions under specific statutory provisions.

#### DHCD RESPONSE

DHCD disagreed with the recommendation and indicated that CASD tracks all vacancy exemption certifications. DHCD also noted that prior to August 2006, CASD's records were poorly maintained and substantively incomplete, lost, misfiled, or purged. DHCD's response further indicates that the current administration has made concerted efforts to properly maintain records and ensure that records are complete and organized.

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<sup>14</sup> D.C. Law 17-354, enacted on March 25, 2009, increased the time period to 180 days, but was not applicable to the 15 properties reviewed.

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### OIG COMMENT

The OIG considered DHCD's comments to be nonresponsive to this recommendation. DHCD did not provide any documentation to support its assertion. CASD did not maintain a database or spreadsheet listing all condominium properties approved for vacancy exemption under specific statutory provisions in effect at the time of approval. In addition, the OIG did not find any evidence that the vacancy exemption files were reviewed for accuracy and completeness. DHCD's response did not address recordkeeping deficiencies found during the audit. Therefore, we request that DHCD provide a revised response with a target completion date for this recommendation by March 9, 2012.

34. Maintain applications for exemption, letters of certification, approvals, and signed inspection reports in a consistent manner such that the documentation is available for each condominium property approved for vacancy exemption.

### DHCD RESPONSE

DHCD disagreed with the recommendation and indicated that CASD maintains these documents in a consistent manner under the current administration.

### OIG COMMENT

The OIG considered DHCD's comments to be nonresponsive to this recommendation. The response neither addressed recordkeeping deficiencies noted in this report, nor explained why such deficiencies were found during the audit under the same CASD administrator. Therefore, we request that DHCD provide a revised response with corrective actions and a target completion date for addressing this recommendation by March 9, 2012.

35. Consider scanning files of critical information related to all properties approved for vacancy exemptions to facilitate secure storage and efficient retrieval.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that this recommendation will be addressed as a part of its overall IT solution.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

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## FINDINGS AND RECOMMENDATIONS

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<b>FINDING 6: WARRANTY BONDS</b>
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### SYNOPSIS

Management controls were inadequate to ensure that warranty securities against structural defects were routinely obtained in accordance with D.C. Code § 42-1903.16(e)(1) (2010) as an integral part of the application for registration of condominium conversion and maintained on file. Our review of 20 selected properties indicated that: (1) 45 percent of the files were missing; (2) 60 percent of the properties did not post the required warranty bonds, letters of credit, or other acceptable securities; and (3) 91 percent of the files found did not contain complete and clear documentation of compliance with the warranty security requirements.

### DISCUSSION

D.C. Code § 42-1903.16(b) requires each seller to “warrant against structural defects in each of the units for 2 years from the date each unit is first conveyed to a bona fide purchaser, and all of the common elements for 2 years.” In addition, D.C. Code § 42-1903.16(e)(1) states that prior to the first sale of a residential unit, the seller “shall post a bond or letter of credit with the Mayor in the amount of 10% of the estimated construction or conversion costs, or shall provide any other form of security the Mayor shall approve to satisfy any costs that arise from the [seller’s] failure to satisfy the requirements of this section.”

DHCD-CASD requires each application for registration containing a public offering statement to identify the type of security for warranty to be posted, the amount of the security, and the estimated construction/conversion cost. CASD accepts and maintains the documentation for the warranty security provided by the condominium owner.

### WARRANTY BONDS REVIEW

To determine whether management controls were adequate to ensure effective compliance with warranty security requirements, we selected a non-representative sample of 20 properties from the list of properties we developed using both CASD and OTR records. We subsequently reviewed the warranty security files for the properties CASD provided, to identify the type, amount, and expiration date of each security.

We also reviewed the file for the date of the initial sales activity for the condominium units to determine which condominium needed warranty bonds/letters of credit as of September 30, 2009, and whether the properties obtained warranty bonds within 2 years of conveyance. Lastly, we inspected each condominium file to determine whether the amount of the security as noted in the application and public offering statement was at least 10 percent of the stated construction and conversion costs.

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Our review of the 20 selected condominium properties and interviews with CASD personnel indicated the following conditions:

- CASD could not locate warranty security files for 9 (45 percent) condominium properties. Of the 11 files found, 10 (91 percent) did not contain complete and clear documentation showing compliance with the warranty bond requirements specified in D.C. Code § 42-1903.16. Details such as initial sale dates, warranty types, amounts, and expiration dates were missing for most of the properties.
- Owners of condominium units in 12 of 20 (60 percent) properties reviewed did not post warranty bonds, letters of credit, or other securities in the amount of 10 percent of the estimated construction or conversion costs as required by D.C. Code § 42-1903.16(e)(1).
- Due to the lack of a mechanism for identifying sales of condominium units, CASD was not able to consistently ascertain whether there were condominium properties that were not in compliance with the requirement for warranty security. Monitoring condominium sales can be accomplished through manual review of the D.C. Real Property Sales Database and ROD records to determine whether there are condominium properties selling units, which have not posted a warranty bond, letter of credit, or other acceptable security for warranty of structural defects. An automated solution should be explored in lieu of the cumbersome, time-consuming manual process.
- CASD has not developed a system of monitoring the amount and type of warranty security to be provided by the owner, as noted from the application for registration and public offering statement, and the amount of the security actually delivered. This internal control is needed to ensure that the security actually provided by the owner is greater than or equal to 10 percent of the estimated construction/conversion costs noted in the application and public offering statement. In addition, this monitoring system helps ensure that letters of intent to provide warranty security, which are accepted in the registration process, are properly identified for replacement with adequate warranty security prior to sales of units.
- CASD had not implemented a minimum warranty security amount for all condominium properties. In some instances, condominium properties indicated that there were no construction or conversion costs to be incurred, as the units were being offered “as is,” with no warranty security required as provided for by D.C. Code § 42-1903.16(d)(2).
- CASD did not develop a policy to clarify the period for which warranty security can be required in accordance with D.C. Code § 42-1903.16. CASD personnel previously indicated that a warranty bond or letter of credit cannot be required longer than 5 years regardless of the timeline required for the 2-year warranty period to elapse after commencement as set forth in D.C. Code § 42-1903.16(b). This could result in some

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sales that would not have a full 2-year warranty period if the 2-year period extends beyond the 5-year period timeline. CASD should consult legal counsel for clarification of this important timeline for the warranty security requirement.

- CASD officials did not closely monitor each warranty bond's expiration date to ensure compliance with D.C. Code § 42-1903.16. If claims for structural defects are pending at the time the bond would normally expire, CASD must require that the security be maintained (as set forth in D.C. Code § 42-1903.16(e)(2)) until all claims have been finally resolved.

These conditions indicate that management controls were inadequate to ensure that warranty securities against structural defects were routinely obtained in accordance with D.C. Code § 42-1903.16(e)(1), as an integral part of the application for registration of condominium conversion and maintained on file.

### RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS

We recommend that the Director, DHCD:

36. Maintain complete and clear records to demonstrate compliance with the District's warranty security requirements.

#### DHCD RESPONSE

DHCD disagreed with the recommendation and indicated that CASD maintain its records in a complete and clear manner.

#### OIG COMMENT

The OIG considered DHCD's comments to be nonresponsive to this recommendation. Our audit indicated that CASD was not maintaining complete and clear records to demonstrate compliance with the District's warranty security requirements. We did not receive any verifiable information or documentation to support DHCD's assertion that CASD is maintaining its records in a complete and clear manner, unless such assertion refers to corrective actions taken after this audit. Therefore, we request that DHCD provide us a revised response with a target completion date for this recommendation by March 9, 2012.

37. Implement an automated mechanism for identifying sales of condominium units and ascertaining whether condominiums are in compliance with warranty security requirements.

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### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that the agency will investigate one of the two nonmonetary solutions that could: (1) require the CASD approval on deed conveyances prior to submitting any deeds to ROD in order to capture warranty security prior to deed recording; or (2) effect legislative changes requiring settlement agents to collect warranty security at the time of the first unit conveyance or escrow a cash equivalent of the required amount until the declarant submits a letter of credit or bond to CASD.

### OIG COMMENT

Action taken by DHCD is responsive and meets the intent of the recommendation.

38. Implement a system to monitor the amount and type of security required from each property owner, and the actual security amount posted.

### DHCD RESPONSE

DHCD disagreed with the recommendation and indicated that CASD monitors the amount and type of security posted, and maintains an Access file of security information.

### OIG COMMENT

The OIG considered DHCD's comments to be nonresponsive to this recommendation. Audit findings in this section would not have been made had the agency implemented a system for monitoring the amount and type of security required from each property owner, as well as the actual security amount posted. Therefore, we request DHCD provide us a revised response with a target completion date for this recommendation by March 9, 2012.

39. Establish and implement a standard, minimum warranty security amount for all condominiums in order to satisfy the requirements of D.C. Code § 42-1903.16(e)(1) (2010).

### DHCD RESPONSE

DHCD disagreed with the recommendation and indicated that the recommendation exceeds the scope of CASD's authority under the condominium statute.

### OIG COMMENT

The OIG considered DHCD's comments to be nonresponsive to this recommendation. The recommendation relates to all condominiums subject to the warranty security requirements under

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the specific statute cited. There are instances where applicable condominium properties indicate no construction or conversion costs to be incurred as the units are being conveyed “as is,” and, therefore, no warranty security would be required (D.C. Code § 42-1903.16(d)(2) (2010)). This recommendation proposes that DHCD consider whether a minimum warranty security amount should be required for all condominiums subject to the warranty security requirements.

40. Obtain a legal interpretation from the D.C. Office of Attorney General regarding the period for which a warranty bond or letter of credit is required to be maintained in accordance with D.C. Code §§ 42-1903.16(b) & (e)(1) (2010).

### DHCD RESPONSE

DHCD disagreed with the recommendation. According to DHCD, the Condominium Act provides that if a declarant has not sold a condominium unit within 5 years unit after the date of conveyance of the first unit to a third party purchaser, then the declarant may sell that unit as a *resale* unit that is exempt from the structural defects warranty requirement.

### OIG COMMENT

The OIG considered DHCD’s comments to be nonresponsive to this recommendation. D.C. Code § 42-1903.16(b) provides that a “declarant shall warrant against structural defects in each of the units for 2 years from the date each unit is first conveyed to a bona fide purchaser, and all of the common elements for 2 years.” In addition, D.C. Code § 42-1903.16(e)(1) states: “At the end of 5 years from the conveyance of the first residential unit to a purchaser, and provided one year has passed following the transfer of control by the declarant, the declarant may sell unsold residential units as resale units, in which event no warranty against structural defects in the units under this section shall be required and the bond shall be reduced pro rata as to those unsold units.” If a bond or letter of credit cannot be required longer than 5 years regardless of the timeline required for the 2-year warranty period for the conveyance of units sold, there will be instances where some sales would not have a full 2-year warranty period if the 2-year period extends beyond the 5-year timeline. For this reason, the recommendation proposes that DHCD request the OAG to provide clarification of this important timeline for the warranty security requirement. Therefore, we request DHCD reconsider its response, with a target completion date for this recommendation by March 9, 2012.

41. Monitor the expiration dates of warranty bonds or letters of credit to ensure compliance with D.C. Code § 42-1903.16(e)(1) (2010), and request extensions as needed.

### DHCD RESPONSE

DHCD agreed with the recommendation and indicated that the agency will undertake a comprehensive operations review, including an evaluation of CASD’s operations and resources.

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### **OIG COMMENT**

Action taken by DHCD is responsive and meets the intent of the recommendation.

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS  
RESULTING FROM AUDIT**

<b>Recommendations</b>				
<b>No.</b>	<b>Description of Benefit</b>	<b>Amount and Type of Benefit</b>	<b>Estimated Completion Date</b>	<b>Status<sup>15</sup></b>
1	<b>Internal Control.</b> Establishes performance standards to measure effectiveness and efficiency of conversion process.	Non-Monetary	TBD	Unresolved
2	<b>Internal Control.</b> Standardizes processes and practices to minimize potential for fraud, waste, and abuse in the conversion process.	Non-Monetary	9/7/2012	Closed
3	<b>Internal Control.</b> Updates policies and procedures manual to reflect changes in statutory and administrative practices.	Non-Monetary	9/7/2012	Closed
4	<b>Internal Control.</b> Ensures that a new information management system with adequate controls is implemented.	Non-Monetary	9/7/2012	Closed
5	<b>Compliance, Economy and Efficiency.</b> Ensures effective compliance monitoring, analysis, and reporting.	Non-Monetary	9/7/2012	Closed
6	<b>Economy and Efficiency.</b> Ensures adequate staffing levels are maintained to administer statutory responsibilities.	Non-Monetary	9/7/2012	Closed
7	<b>Compliance and Internal Control.</b> Ensures routine supervisory review of conversion activities to timely identify and address irregularities.	Non-Monetary	12/31/2011	Closed

<sup>15</sup> This column provides the status of a recommendation as of the report date. For final reports, “Open” means management and the OIG are in agreement on the action to be taken, but action is not complete. “Closed” means management has advised that the action necessary to correct the condition is complete. If a completion date was not provided, the date of management’s response is used. “Unresolved” means that management has neither agreed to take the recommended action nor proposed satisfactory alternative actions to correct the condition.

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS  
RESULTING FROM AUDIT**

<b>Recommendations (continued)</b>				
<b>No.</b>	<b>Description of Benefit</b>	<b>Amount and Type of Benefit</b>	<b>Estimated Completion Date</b>	<b>Status</b>
8	<b>Internal Control.</b> Improves the availability, consistency, and organization of conversion records.	Non-Monetary	9/7/2012	Closed
9	<b>Internal Control.</b> Standardizes administrative processes and practices for the registration of condominiums.	Non-Monetary	9/7/2012	Closed
10	<b>Compliance, Internal Control.</b> Ensures that condominium registration activities are carried out as mandated.	Non-Monetary	9/7/2012	Closed
11	<b>Internal Control.</b> Facilitates effective compliance oversight of condominium registration activities.	Non-Monetary	9/7/2012	Closed
12	<b>Internal Control.</b> Provides safeguards for accurate reporting of revenue from the condominium registration process.	Non-Monetary	9/7/2012	Closed
13	<b>Internal Control.</b> Provides for limited access to secure areas where critical condominium files are maintained.	Non-Monetary	TBD	Unresolved
14	<b>Economy and Efficiency.</b> Ensures recovery of additional funds to defray administrative costs of processing registration applications.	Monetary	TBD	Unresolved

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS  
RESULTING FROM AUDIT**

<b>Recommendations (continued)</b>				
<b>No.</b>	<b>Description of Benefit</b>	<b>Amount and Type of Benefit</b>	<b>Estimated Completion Date</b>	<b>Status</b>
15	<b>Internal Control, Economy and Efficiency.</b> Saves storage space, secures critical files, and ensures efficient retrieval of records for review.	Non-Monetary	9/7/2012	Closed
16	<b>Compliance, Internal Control.</b> Ensures recovery of lost conversion fee revenue and prevents recurrence.	Monetary \$5.5 Million	9/7/2012	Closed
17	<b>Internal Control.</b> Standardizes processes and practices for the collection of condominium fees.	Non-Monetary	9/7/2012	Closed
18	<b>Compliance.</b> Ensures prompt implementation of new statutory and regulatory requirements.	Non-Monetary	9/9/2011	Closed
19	<b>Internal Control, Economy and Efficiency.</b> Ensures recovery of lost conversion fee revenue.	Monetary \$748,825	9/7/2012	Closed
20	<b>Internal Control.</b> Ensures cash receipts are handled by well-trained CASD personnel.	Non-Monetary	9/7/2012	Closed
21	<b>Internal Control.</b> Creates a mechanism to continuously review conversion fee files for accuracy and completeness.	Non-Monetary	9/7/2012	Closed

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS  
RESULTING FROM AUDIT**

<b>Recommendations (continued)</b>				
<b>No.</b>	<b>Description of Benefit</b>	<b>Amount and Type of Benefit</b>	<b>Estimated Completion Date</b>	<b>Status</b>
22	<b>Internal Control.</b> Provides safeguards to track and account for all cash receipt transactions.	Non-Monetary	9/9/2011	Closed
23	<b>Internal Control.</b> Generates interest income from timely deposit of conversion fees.	Monetary \$101,806	9/9/2011	Closed
24	<b>Compliance, Internal Control.</b> Ensures compliance with laws and regulations by improving the reliability of conversion fee records.	Non-Monetary	TBD	Open
25	<b>Compliance, Economy and Efficiency.</b> Achieves recovery of lost conversion fee revenue and ensures compliance with conversion fee laws.	Monetary \$30.6 million	9/7/2012	Closed
26	<b>Internal Control, Economy and Efficiency.</b> Improves the efficiency and effectiveness of revenue generating operations by eliminating cumbersome manual processes.	Non-Monetary	9/7/2012	Closed
27	<b>Internal Control.</b> Provides reliable management reports to facilitate informed decision-making.	Non-Monetary	9/7/2012	Closed
28	<b>Compliance.</b> Allocates part of condominium fees to support CASD's annual administrative and operating costs through requested legislative amendments.	Non-Monetary	9/7/2012	Closed

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS  
RESULTING FROM AUDIT**

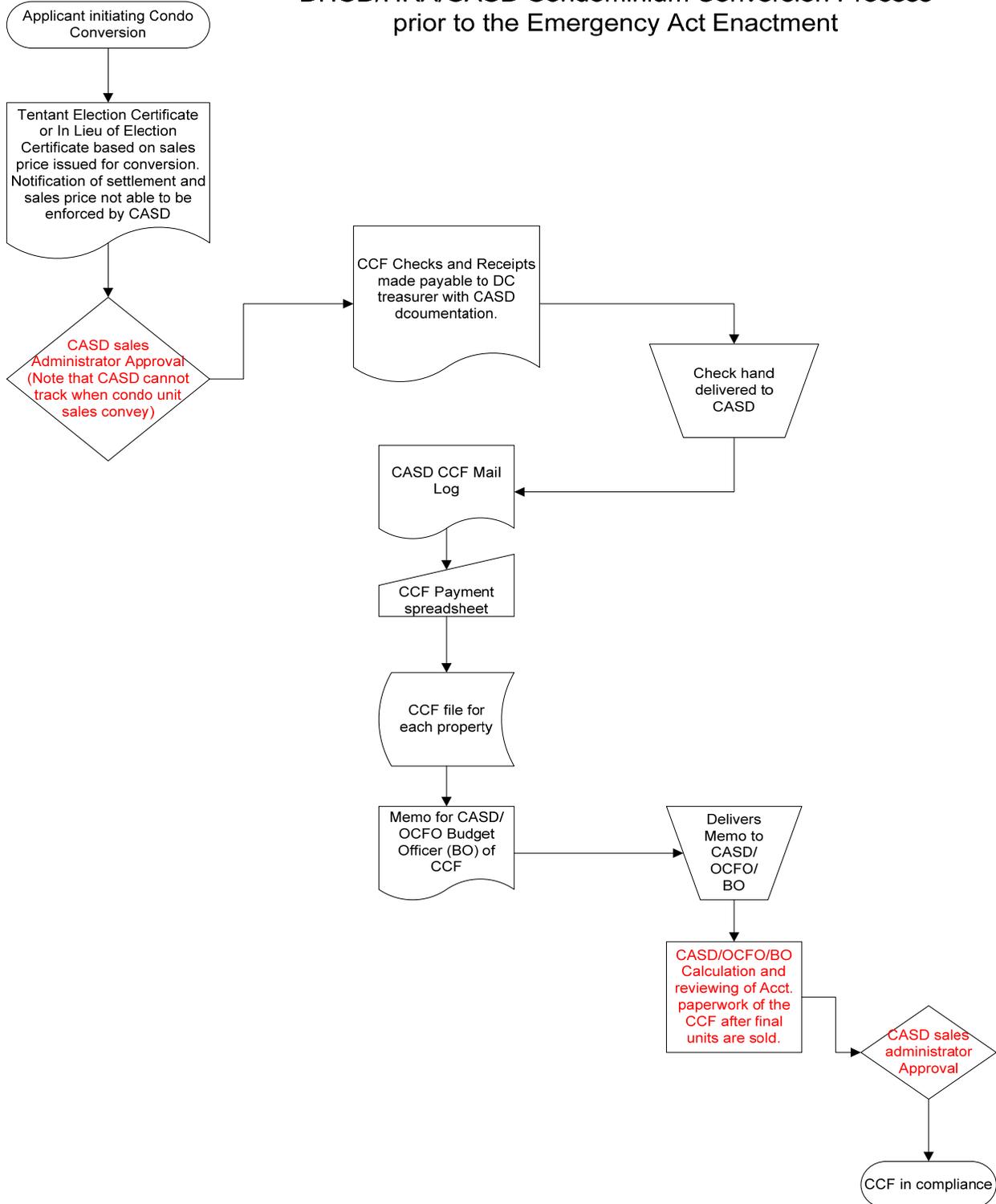
<b>Recommendations (continued)</b>				
<b>No.</b>	<b>Description of Benefit</b>	<b>Amount and Type of Benefit</b>	<b>Estimated Completion Date</b>	<b>Status</b>
29	<b>Compliance.</b> Creates reports that demonstrate compliance with statutory provisions governing the use of Housing Assistance Fund.	Non-Monetary	9/7/2012	Closed
30	<b>Compliance, Internal Control.</b> Achieves and demonstrates compliance with laws for reduced conversion fees.	Non-Monetary	TBD	Unresolved
31	<b>Compliance.</b> Identifies properties that fail to justify reduced conversion fees and executes appropriate enforcement action.	Non-Monetary	9/7/2012	Closed
32	<b>Internal Control.</b> Standardizes processes and practices for the proper handling of vacancy exemptions.	Non-Monetary	9/7/2012	Closed
33	<b>Internal Control.</b> Ensures that vacancy exemptions approved under various statutory requirements are tracked and accounted for control purposes.	Non-Monetary	TBD	Unresolved
34	<b>Compliance, Internal Control.</b> Provides supporting documentation for all approved vacancy exemptions.	Non-Monetary	TBD	Unresolved
35	<b>Internal Control, Economy and Efficiency.</b> Saves storage space, secures critical vacancy exemption files, and ensures efficient retrieval of records.	Non-Monetary	9/7/2012	Closed

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS  
RESULTING FROM AUDIT**

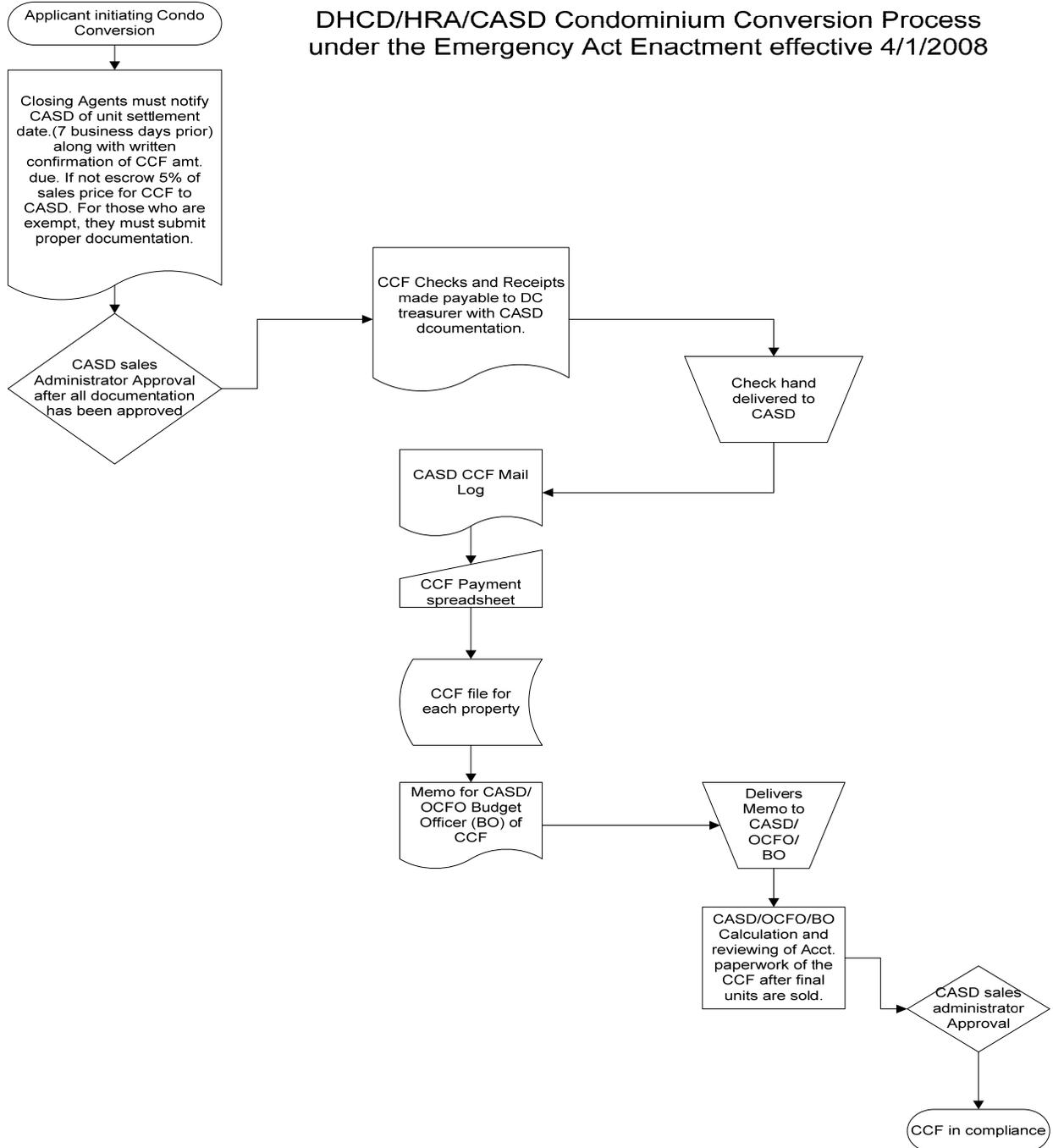
<b>Recommendations (continued)</b>				
<b>No.</b>	<b>Description of Benefit</b>	<b>Amount and Type of Benefit</b>	<b>Estimated Completion Date</b>	<b>Status</b>
36	<b>Compliance.</b> Demonstrates effective compliance with the District's warranty security requirements.	Non-Monetary	TBD	Unresolved
37	<b>Internal Control.</b> Provides for prompt identification of condominium sales to determine compliance with warranty security requirements.	Non-Monetary	TBD	Open
38	<b>Internal Control.</b> Monitors the amount and type of warranty security required from owners for comparison to actual security posted.	Non-Monetary	TBD	Unresolved
39	<b>Internal Control.</b> Simplifies the District's warranty security requirements.	Non-Monetary	TBD	Unresolved
40	<b>Internal Control.</b> Clarifies the legal interpretation of the period for maintaining warranty bonds or letters of credit to ensure effective compliance.	Non-Monetary	TBD	Unresolved
41	<b>Compliance.</b> Achieves effective compliance with warranty security requirements.	Non-Monetary	9/7/2012	Closed

## EXHIBIT B: THE CONDOMINIUM CONVERSION PROCESS PRIOR TO THE EMERGENCY ACT

DHCD/HRA/CASD Condominium Conversion Process  
prior to the Emergency Act Enactment



## EXHIBIT C: THE CONDOMINIUM CONVERSION PROCESS AFTER THE EMERGENCY ACT



**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Department of Housing and Community Development



September 9, 2011

Inspector General Charles J. Willoughby  
Office of the Inspector General  
Government of the District of Columbia  
717 14th Street, N.W.  
Washington, D.C. 20005

Reference: Department of Housing and Community Development Comments and Responses to the Office of the Inspector General's (OIG) Draft Report Summarizing the *Audit of the District's Condominium conversion Fees* (OIG No. 08-1-18CR)

Dear Mr. Willoughby:

The Department of Housing and Community Development (DHCD) reviewed OIG's Draft Report Summarizing the *Audit of the District's Condominium conversion Fees* (OIG No. 08-1-18CR). Enclosed with this letter you will find two tables. The first table reflects the agency's comments or responses to the draft audit report. The second table responds to your request of the agency's planned actions, target dates, disagreement with a specific recommendation, or an alternative solution proposal. Please note that DHCD provided a copy of the report to the Department of Consumer and Regulatory Affairs (DCRA) for that agency's review and comment, however DCRA has not furnished any response to DHCD.

Thank you in advance for your consideration. If you require further information, I may be reached on 202-442-7200.

Sincerely,

A handwritten signature in cursive script that reads "John E. Hall".

John E. Hall  
Director

Enclosures

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1800 Martin Luther King Jr. Ave SE, Washington, DC 20020  
Phone: (202) 442-7200 Fax: (202) 645-6160

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

**TABLE 1**  
**DHCD COMMENTS & NOTES**  
**OIG'S DRAFT CONVERSION FEE AUDIT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
i	Executive Summary, Overview	<i>The District of Columbia regulations require a registration fee of \$37 per unit from owners who wish to convert their properties to condominium units.</i>	The condominium act requires a registration fee to register all residential condominium units in the District of Columbia. The fee is charged for all residential condominium units and parking units, irrespective of whether the condominium project is a conversion property or new construction. As of September 24, 2010, the registration fee was increased to \$100 per residential condominium unit and \$100 per parking unit (Fiscal Year 2011 Budget Support Act of 2010, Housing Regulatory Administration Fees Amendment Act of 2010, D.C. Law 18-0223, enacted July 2, 2010 and effective Sept. 24, 2010).
1	Executive Summary, Overview	<i>Additionally, the regulations require a conversion fee of five percent of the declared sales price of each unit, unless a reduction is warranted based on the owner's declared intent to sell units to low-income, nonelderly tenants.</i>	The regulations are outdated and require extensive revisions. Statutory changes effected by the Conversion Fee Clarification and Technical Amendment Act of 2008 (D.C. Law 17-354, enacted Jan. 16, 2009 and effective March 25, 2009) supersede the conversion fee regulations. Under the present statutory framework, the 5% conversion fee is now imposed on all unit sales, based on the unit declared sale price. An exemption is based on the identity of the unit purchaser, not the declarant's <i>intent</i> to sell units to low income nonelderly tenants. Exemptions are available for units sold to: <ul style="list-style-type: none"> <li>▪ Low income purchasers (definition of "low income" is tracked to the Housing Production Trust Fund statutory definition);</li> <li>▪ Low income elderly or low income disabled purchasers;</li> </ul>

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
			<ul style="list-style-type: none"> <li>▪ Former tenants who resided in the building at least one year prior to the owner's conversion application and are District domiciliaries and District residents; and</li> <li>▪ Buildings which are 10 units or less and registered as vacant properties at least one year prior to the owner's conversion application.</li> </ul>
1	Introduction— Background	<i>However, audit fieldwork did not start until November 2008.</i>	Audit fieldwork commenced in June 2008.
1	Introduction— Background	<i>DHCD's Housing Regulation Administrator<sup>1</sup> (HRA) regulates residential rental Housing in the District of Columbia (D.C.) through the administration of: [the Rental Housing Act of 1985, . . . the Condominium Act, . . . and the Rental Housing Conversion and Sale Act of 1980 . . .]. In addition to operating the DHCD Housing Center, HRA provides administrative support to the District's Rent Administrator and the Rental Conversion and Sale Administrator to fulfill their statutory and regulatory responsibilities.</i>	The housing regulation administrator position was substantively amended by legislative changes in 2008 by the Housing Regulation Administration Amendment Act of 2008 (D.C. Law 17-979, enacted Jan. 23, 2009 and effective March 25, 2009). The statute requires that the rental conversion and sale administrator and the rent administrator report directly to DHCD's director. The HRA position was abolished.
3	Introduction— Criteria		Conversion fee legislation was subsequently amended by the Conversion Fee Clarification and Technical Amendment Act of 2008 (D.C. Law 17-354, enacted Jan. 16, 2009 and effective March 25, 2009).
3	Introduction— Conversion Act and Conversion Fees	<i>The statutory provisions and regulations applicable to conversion fees for the period of our audit include</i>	As of September 24, 2010, the registration fee was increased to \$100 per residential condominium unit and \$100 per parking unit (Fiscal Year 2011 Budget Support

<sup>1</sup> OIG may have meant to state Housing Regulation Administration, not Housing Regulation Administrator.

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
		<i>the following: . . .  Condominium registration fees are mandated by D.C. Code § 42-1904.03.</i>	Act of 2010, Housing Regulatory Administration Fees Amendment Act of 2010, D.C. Law 18-0223, enacted July 2, 2010 and effective Sept. 24, 2010).
12	Findings and Recommendations— Finding 1— Discussion		OIG observes lack of operational performance measures, goals and objectives, but does not articulate recommendations.
13	Findings and Recommendations— Finding 1—Policies and Procedures Documentation	<i>Management had not formalized and communicated policies and procedures governing key condominium conversion activities to CASD employees. The absence of a policies and procedures manual documenting CASD's key processes makes it difficult to ensure that appropriate actions are consistently taken.</i>	This observation relates to CASD's understaffing issue. Drafting a policies and procedures manual is a CASD performance goal, however attention and energies are directed toward processing caseload.
15	Findings and Recommendations— Finding 1— Monitoring of Functional Activities	<i>We found no evidence of ongoing monitoring, which includes regular management and supervisory reviews, comparisons, reconciliations, and other control activities, was conducted in the normal course of CASD operations.</i>	CASD's staffing levels are not conducive to ongoing monitoring. For example, the CASD Administrator performs supervisory and management tasks along with the duties and responsibilities normally assigned to a rental conversion and sale specialist. The division's caseload and meeting statutory deadlines take precedence over monitoring, reviews, reconciliations, and other control functions.
17	Findings and Recommendations— Finding 2—Synopsis	<i>DHCD failed to establish adequate internal control procedures to ensure supporting documentation was maintained for all registered and rejected condominiums.</i>	Prior to August 2006, CASD's records were poorly maintained, and were substantively incomplete, lost, misfiled, or purged. Since August 2006, the current administrator has made concerted efforts to properly maintain records, and ensure that records are complete and organized. Access to files is restricted to CASD staff, filed documents are date stamped and logged in, and promptly

**EXHIBIT D: DHCD’S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
			filed. CASD-generated documentation is also promptly filed.
17	Findings and Recommendations— Finding 2–Synopsis	<i>[A]ccess to property records in the new storage room was unregulated, which increases the risk that critical condominium property information will be lost or misplaced.</i>	This conclusion is unfounded. DHCD’s building is secure; all nonemployees are escorted while on the premises or must remain in the Housing Resource Center. CASD has 2 records rooms. A large file room is located immediately adjacent to CASD’s workspace and remains locked; only CASD staff members have access. A second smaller file room is inside CASD’s office area and remains locked with access only by CASD staff members. Original warranty security instruments are locked in a fireproof cabinet located in the HRA work space with access limited to CASD staff members.
18	Findings and Recommendations— Finding 2– Discussion	<p><i>Registered condominiums can be classified as: . . .</i></p> <p><i>Vacancy – Conversion of a vacant residential building.</i></p> <p><i>Commercial Building – Classifying a vacant commercial building as “Not a Housing Accommodation” (NHA). DHCD issues a vacancy exemption certification based on an application for exemption from conversion fees and an inspection of the property.</i></p> <p><i>Election – Conversion of residential property into a condominium based on the results of a tenant election.</i></p>	<p>Condominiums are not classified by conversion type. The legal requirement is that condominiums may be created from different property usages.</p> <p>Vacancy Exemption – Change of use from vacant (untenanted) rental housing use to condominium ownership.</p> <p>Not-a-Housing Accommodation (NHA) Exemption – Change of use from non-rental housing use to condominium ownership (e.g., cooperative, commercial property, single family homes, hotels, inns, etc.). DHCD issues an NHA Exemption Certification based on an exemption application from conversion fees and other statutory conversion procedures.</p> <p>Election – Change of use from occupied rental housing to condominium ownership based on the tenants’ consent to</p>

**EXHIBIT D: DHCD’S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
		<p><i>In Lieu of Election – Conversion of residential property by owner in lieu of tenant election.</i></p> <p><i>Out of State – Foreign condominium selling in the District of Columbia registers with DHCD and provide [sic] a public offering statement.</i></p> <p><i>Cooperative Exemption – Cooperative that converts to a condominium.</i></p>	<p>the change of use through a tenant election.</p> <p>In Lieu of Election – Change of use from occupied rental housing to condominium ownership based on the tenants’ declination to exercise their right to vote on the proposed change of use to condominium ownership.</p> <p>Out of State – A public offering statement must be filed with DHCD for the disposition of condominium units in condominiums outside of the District of Columbia.</p> <p>There is no “cooperative exemption” for change of use of cooperative ownership to condominium ownership. A cooperative which proposes to change use to condominium ownership would apply for a NHA Exemption certification.</p>
18	Findings and Recommendations— Finding 2— Discussion	<p><i>In order to track and account for condominium conversions, CASD used to maintain a log containing the date of initial contact with a customer, the assigned number, and property address. . . . However, due to inadequate CASD security measures, the logs were lost and unavailable for review.</i></p>	<p>It is unclear which logs OIG is referencing and the timeframe in which they were used by CASD. Since 2006, CASD maintains an Excel spreadsheet capturing information, including but not limited to, initial client contact, property addresses, conversion type, application types, proposed unit sale prices, registration dates, project names, number of units, declarant names and principals, and declarant attorney information. The spreadsheets (several are also password protected) are maintained on DHCD’s shared drive dedicated for HRA use and are accessed only by CASD employees.</p>
19	Findings and Recommendations— Finding 2— Discussion	<p><i>We noted that DHCD personnel and visitors had unregulated access to the room and condominium registration files.</i></p>	<p>This observation is unfounded. DHCD’s building is secure; all nonemployees are escorted while on the premises or must remain in the Housing Resource Center. CASD has 2 records rooms. A large file room is located immediately adjacent to CASD’s workspace and remains locked; only CASD staff members have access. A second smaller file</p>

**EXHIBIT D: DHCD’S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
			room is inside CASD’s office area and remains locked with access only by CASD staff members. Original warranty security instruments are locked in a fireproof cabinet located in the HRA work space with access limited to CASD staff members.
19	Findings and Recommendations— Finding 2— Recordkeeping Practices	<i>The notebooks of applications and public offering statements are not filed in any clearly-defined order in the new storage room. In addition, because access to the documents is not restricted, documents are removed by other DHCD personnel for use without notifying CASD staff. As a result, CASD staff spends an inordinate amount of time searching for these files when needed for review and other purposes.</i>	<p>These observations and conclusions are unfounded. First, CASD records are filed in street address order, and records are segregated according to type. For example, in the large fileroom, condominium registration applications are maintained in three ring notebooks or redwells and are in one part of the file room; offers of sale records are maintained in file cabinets in another part of the file room.</p> <p>Second, access to records is restricted. DHCD’s building is secure; all nonemployees are escorted while on the premises or must remain in the Housing Resource Center. CASD has 2 records rooms. A large file room is located immediately adjacent to CASD’s workspace and remains locked; only CASD staff members have access. A second smaller file room is inside CASD’s office area and remains locked with access only by CASD staff members. Original warranty security instruments are locked in a fireproof cabinet located in the HRA work space with access limited to CASD staff members.</p> <p>Finally, CASD has no experience of any non-HRA staff member removing records without permission from CASD staff.</p>
19	Findings and Recommendations— Finding 2— Recordkeeping	<i>DHCD did not maintain files of critical condominium information related to registered and unregistered properties in a consistent manner such that the</i>	Prior to August 2006, CASD’s records were poorly maintained, and were substantively incomplete, lost, misfiled, or purged. Since August 2006, the current administrator has made concerted efforts to properly

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
	Practices	<i>documentation is readily available for each condominium. . . . We noted numerous instances in which file documentation could not be located.</i>	maintain records, and ensure that records are complete and organized.
21	Findings and Recommendations— Finding 2—Review of Registered Condominiums	<b>[DHCD's comments relate to OIG's review of registered condominium observations.]</b>	<p>Missing Files or Documentation – Prior to August 2006, CASD's records were poorly maintained, and were substantively incomplete, lost, misfiled, or purged. Since August 2006, the current administrator has made concerted efforts to properly maintain records, and ensure that records are complete and organized.</p> <p>Notices of Filing – CASD strives in all instances to observe the condominium statute's requirement that notices be issued within five business days of the condominium registration application filing. The statute, however, is silent on repercussions for missing the deadline.</p> <p>Certificates of Good Standing – Submission of a certificate of good standing is neither a statutory nor regulatory requirement. A requirement for a certificate was not imposed until 2007 and is now required for all registration submissions.</p> <p>Registration Fees – OIG did not indicate which file omitted registration fees or proof of remittance and the date of omission. CASD procedure is to generate a registration fee receipt, calculate the correct fee, make a copy of the check and receipt for the file, deposit the check and fee with DHCD-AFO, enter the registration fee onto a spreadsheet and place a copy of the receipt in a central file.</p>
26	Findings and Recommendations—	<i>Title 14 DCMR § 4704.1 authorizes collection of conversion fees within 15</i>	The regulations are superseded by § 42-3402.05(b-1) of the statute which permits conversion fees to be paid no later

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
	Finding 3—Statutory and Regulatory Compliance	<i>business days of the confirmation of results of an election, or verification in lieu of election, if the owner is not a tenant organization. However, CASD's official correspondence to the owner certifying the tenant election or conversion in lieu of election states that conversion fees must be submitted with Recorder of Deeds Form FP-7 within 5-30 days after settlement. Not only does the form contradict District regulations, but extending the submission date results in lost interest income for the District.</i>	than the date of settlement. Conversion fees are based on the declared unit sale price, however after a conversion election or in lieu of election, owners seldom have established unit sale prices. Further, as a practical matter, owners typically do not have cash on-hand to pay conversion fees prior to commencing unit sales. CASD complies with the statute which permits conversion fees "be paid no later than at the time of settlement on the individual units . . . ." The regulations require revision.
27	Findings and Recommendations— Finding 3—Statutory and Regulatory Compliance	<i>Title 14 DCMR § 4704.3 requires CASD to certify compliance within 10 business days of receipt of the conversion fees from the owner. This requirement has not been revised, but CASD has been certifying compliance long before the conversion fees for the first condominium units were received, causing confusion in administrative practices coupled with a loss of potential conversion fee revenue.</i>	After a tenant election or conversion in lieu of tenant election, CASD issues a letter certifying compliance with conversion fees <u>except</u> for an owner's conversion fee payment obligation.
27	Findings and Recommendations— Finding 3—Statutory and Regulatory Compliance	<i>Title 14 DCMR § 4704.6, requiring owners to pay a conversion fee representing 4 percent of the anticipated sales price for each unit, has not been revised to coincide with the increase to 5 percent reflected in D.C. Code § 42-3402.04(a-1). This</i>	The conversion statute supersedes the regulations. Since 2004, the statute has clearly reflected a 5 percent conversion fee rate. Further, when conversion fees are remitted, CASD staff check for accuracy of the remittance and notify the owner of any discrepancies or shortages.

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
		<i>inconsistency in statutory and regulatory requirements can lead to confusion and loss of revenue.</i>	
30	Findings and Recommendations— Finding 3— Conversion Fee Payments	<i>Based on total contract sale prices of units . . . , CASD collected only 2.2 percent of conversion fees . . . instead of 5 percent . . . as statutorily required.</i>	<p>The conversion statute and regulations permitted a reduction of conversion fee rates based on the owner's intention to sell units to low income nonelderly unit purchasers. CASD would establish the conversion fee rate according to the statutory and regulatory formula at the time of the tenant election or conversion in lieu of election based on the number of occupied rental units in the housing accommodation. The reduced conversion fee rate is reflected in the collected revenue.</p> <p>The statutory conversion fee provisions were amended by Conversion Fee Clarification and Technical Amendment Act of 2008 (D.C. Law 17-354, enacted Jan. 16, 2009 and effective March 25, 2009) which imposes a 5 percent conversion fee on all unit sales, and carves out exemptions for sales to low income unit purchasers, former tenants, for small buildings consisting of 10 or fewer units.</p>
32	Findings and Recommendations— Finding 3— Management of Cash Receipts	<p><i>(1) CASD received 599 condominium conversion fee payments, on average, 100 days after settlement;</i></p> <p><i>(2) HRA [sic] submitted 327 cash receipts to DHCD's AFO for deposit, on average, 23 days after receiving condominium [sic] fee payments; and</i></p>	<p>CASD has modified its check handling procedures. On the day checks arrive, either by mail or hand delivery, the CASD staffer date stamps the check stub, prepares a receipt, copies the check and receipt, and submits the check and receipt to a DHCD-AFO staffer. The DHCD-AFO staffer signs a receipt for the check, and the CASD staffer then enters the check information into CASD's records (i.e., the physical files and the Excel spreadsheets). Checks</p>

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
		<i>(3) DHCD's AFO required 12 additional days, on average, to deposit receipts with the D.C. Treasurer.</i>	<p>received after hours are locked in a fireproof cabinet and processed the next business day. Checks received by DHCD-AFO after are locked in a fireproof safe and processed for deposit to the bank within 48 hours of receipt from CASD.</p> <p>CASD has refined its reporting providing additional data that more efficiently and effectively identifies the purpose for the payment so that the DHCD AFO can determine the proper bank and funding codes related to each check. This report is provided to the AFO as an attachment to the check. Checks received by DHCD-AFO are locked in a fireproof safe and processed for deposit to the bank within 48 hours of receipt from CASD.</p>
35	Findings and Recommendations— Finding 3— Recommendations	<i>25. Initiate collection of all past due conversion fees estimated at \$30.6 million for condominium units sold during the period October 1, 2004, through September 30, 2010, and file liens against properties with unpaid balances of more than 30 business days.</i>	<p>There is likely not \$30.6 million of foregone revenue for outstanding conversion fees. It appears that OIG assumed all properties would have been assessed at a 5 percent conversion fee rate, however many properties received a reduced conversion fee rate as permitted by regulations in effect prior to March 2009. The lien suggestion has limited applicability; it will be effective for units that remain unsold by a condominium developer, but not for sold units. It would be an impolitic policy position and legally questionable to lien a third party unit purchaser's condominium unit for an obligation incurred by the condominium developer.</p>
38	Findings and Recommendations— Finding 4— Recommendations		<p><b>Issues with reduced conversion fee rates are mooted by legislative changes</b> effected by the Conversion Fee Clarification and Technical Amendment Act of 2008 (D.C. Law 17-354, enacted Jan. 16, 2009 and effective March 25, 2009) supersede the conversion fee regulations. Under the present statutory framework, the 5% conversion fee is now</p>

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
			<p>imposed on all unit sales, based on the unit declared sale price. An exemption is based on the identity of the unit purchaser, not the declarant's <i>intent</i> to sell units to low income nonelderly tenants. Exemptions are available for units sold to:</p> <ul style="list-style-type: none"> <li>▪ Low income purchasers (definition of "low income" is tracked to the Housing Production Trust Fund statutory definition);</li> <li>▪ Low income elderly or low income disabled purchasers;</li> <li>▪ Former tenants who resided in the building at least one year prior to the owner's conversion application and are District domiciliaries and District residents; and Buildings which are 10 units or less and registered as vacant properties at least one year prior to the owner's conversion application.</li> </ul>
40	Findings and Recommendations— Finding 5—Vacancy Exemptions Review	<i>Once a denial is issued, the owner must wait 1 year before submitting another request for vacancy exemption.</i>	This is a misstatement of the conversion law. If a vacancy exemption application is denied, an owner has 20 days from the date of the rejection order to request reconsideration or else the rejection is final. If a property was tenanted, then an owner is required to comply with conversion procedures. For tenant elections, if the tenants reject the owner's request to convert use of rental housing to condominium ownership, then the owner is prohibited from requesting another tenant election for 1 year from the date of the rejection order.
41	Findings and Recommendations— Finding 5—Vacancy Exemptions Review	<i>CASD did not standardize its vacancy exemption certification letters. Some letters included detailed information about changes to statutory provisions governing vacancy exemptions, while others lacked the same detailed</i>	The vacancy exemption provisions of the conversion statute were in flux between 2006–2009; during the 3 year period, Council passed and repealed 4 versions. Consequently, implementing and administering different versions of the provision proved to be challenging.

**EXHIBIT D: DHCD’S RESPONSE TO THE DRAFT REPORT**

Pages	Section Header	OIG Statement	DHCD Comment/Notes
		<i>information.</i>	CASD’s vacancy exemption letters were standardized until the substantive legislative amendments. Once in effect, CASD provided notice to applicants of legislative changes and the imposition of conversion fees as applicable.
42	Findings and Recommendations— Finding 5—Vacancy Exemptions Review	<i>CASD did not maintain a complete list of registered properties that received vacancy exemptions during this period.</i>	This conclusion is unfounded. CASD maintains an Excel spreadsheet of all vacancy exemption issuances, including the certification or rejection dates as applicable.
44	Findings and Recommendations— Finding 6—Warranty Bonds	<i>CASD has not developed a system of monitoring the amount and type of warranty security to be provided by the owner, as noted from application for registration and public offering statement, and the amount of security actually delivered.</i>	This conclusion is unfounded. CASD maintains a spreadsheet of security instruments, noting the project name, property address, security amount, instrument type, serial number (if applicable), expiration date, instrument amendments (if applicable) and issuer. When security is filed with CASD, the instrument is reviewed for sufficiency, the correct security amount and entered onto the spreadsheet. The instrument is copied and then placed into a fireproof, locked cabinet, and a working file is created for the instrument copy.
44	Findings and Recommendations— Finding 6—Warranty Bonds	<i>CASD has not implemented a minimum warranty security amount for all condominium properties. In some instances, condominium properties indicated that there were no construction or conversion costs to be incurred, as the units were being offered “as-is,” with no warranty security required as provided for by D.C. Code § 42-1903.16(d)(2).</i>	OIG’s conclusion exceeds the scope of CASD’s authority under the condominium statute. The condominium act requires that condominium declarants provide a two year warranty against structural defects in condominium common elements and for each condominium unit. For conversion condominiums, declarants may offer the common elements and units in “as-is” condition. As provided by the condominium act, this means that a declarant is liable under the structural defect warranty only for work the declarant effected on the condominium.  In some instances, the declarant did not renovate or effect any structural work on either condominium common elements or condominium units. Therefore, there was no

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Pages	Section Header	OIG Statement	DHCD Comment/Notes
			structural defect warranty applicable in those cases.  The condominium act does not authorize CASD to impose a “minimum warranty security amount.” If a declarant has not effected any construction, repair, or renovation work in a condominium, then the structural defect warranty is not applicable.
44-45	Findings and Recommendations— Finding 6—Warranty Bonds	<i>CASD did not develop a policy to clarify the period for which warranty security can be required in accordance with D.C. Code § 42-1903.16. CASD personnel previously indicated that a warranty bond or letter of credit cannot be required longer than 5 years regardless of the timeline required for the 2-year warranty period to elapse after commencement set forth in D.C. Code § 42-1903.16(b). This could result in some sales that would not have full 2-year warranty period if the 2-year period extends beyond the 5-year period timeline. CASD should consult legal counsel for clarification of this important timeline for the warranty security requirement.</i>	OIG may not have a clear understanding of the structural defect warranty timeframe. The condominium statute provides that each declarant must provide a 2 year warranty against structural defects for condominium common elements and each condominium unit. The 2 year warranty period for common elements commences on the date of conveyance of the first condominium unit from the declarant to a bona fide third party purchaser. The 2 year warranty period for each condominium unit commences on the date of conveyance of that particular unit to a bona fide third party purchaser.  The condominium act provides that if a declarant has not sold a condominium unit within 5 years after the date of conveyance of the first condominium unit to a third party purchaser, then the declarant may sell that unit as a <i>resale</i> unit it; this is, there is no structural defect warranty requirement for that unit.
45	Findings and Recommendations— Finding 6— Recommendations	<i>39. Establish and implement a standard, minimum warranty security amount for all condominiums in order to satisfy the requirements of D.C. Code § 42-1903.16(e)(1) (2010).</i>	OIG’s recommendation exceeds the scope of CASD’s authority under the condominium statute. In some instances, declarants do not renovate or effect any structural work on either condominium common elements or condominium units. Therefore, there is no structural defect warranty applicable in those case. The condominium act does not authorize CASD to impose a “minimum warranty

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Pages	Section Header	OIG Statement	DHCD Comment/Notes
			security amount.” If a declarant has not effected any construction, repair, or renovation work in a condominium, then the structural defect warranty is not applicable.
45	Findings and Recommendations— Finding 6— Recommendations	<i>40. Obtain a legal interpretation from the D.C. Office of the Attorney General regarding the period for which a warranty bond or letter of credit is required to be maintained in accordance with D.C. Code § 42-1903.16(b) &amp; (e)(1) (2010).</i>	OIG may not have a clear understanding of the structural defect warranty timeframe. The condominium act provides that if a declarant has not sold a condominium unit within 5 years after the date of conveyance of the first condominium unit to a third party purchaser, then the declarant may sell that unit as a resale unit it; this is, there is no structural defect warranty requirement for that unit.

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TABLE 2:  
 DHCD RESPONSES  
 OIG’S DRAFT CONVERSION FEE AUDIT REPORT

No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
1.	Establish clear and measurable annual objectives for the condominium conversion process that support DHCD’s mission and strategic objectives.			The conversion process is driven by statutory deadlines. CASD’s business practice is to complete conversion processes before statutory deadlines whenever feasible and no later than statutory deadlines.
2.	Document policies and procedures governing various condominium conversion activities, including compliance with statutory requirements, utilization of review procedures, authorization of all transactions, and maintenance of required documentation.	9–12 months DHCD will investigate obtaining additional staffing support and marshaling resources for CASD, including Capital City Fellows, to support efforts to create a condominium conversion policies and procedures manual.		
3.	Update the policies and procedures manual periodically to reflect changes in statutory requirements and administrative practices.	After a condominium conversion policies and procedures manual is drafted, DHCD anticipates no impediment to updating the manual as needed.		
4.	Adopt a structured system	9–12 months		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	development methodology for the acquisition, testing, and maintenance of the agency's mission-critical computerized information systems and related technology.	DHCD is currently implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO). DHCD and OCTO entered in a memorandum of understanding whereby OCTO contracted with Accela to implement the information technology solution for the IZ Program. The IZ law requires that all inclusionary units be registered on the housing locator website established by the Affordable Housing Clearinghouse Directory Act of 2008 (14 DCMR § 2206.7). The contract between OCTO and Accela includes integrating the IZ IT solution with the housing locator. DHCD will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity. This assessment, as a part of an overall operational assessment of the		

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
		agency will occur over the next 9 to 12 months.		
5.	Implement a centralized information management system with appropriate general and application controls to track and manage detailed condominium information for review, reporting, analysis, monitoring, and enforcement.	<p><u>9-12 months</u>                      DHCD is currently implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO). DHCD and OCTO entered in a memorandum of understanding whereby OCTO contracted with Accela to implement the information technology solution for the IZ Program. The IZ law requires that all inclusionary units be registered on the housing locator website established by the Affordable Housing Clearinghouse Directory Act of 2008 (14 DCMR § 2206.7). The contract between OCTO and Accela includes integrating the IZ IT solution with the housing locator, DHCD will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management</p>		

**EXHIBIT D: DHCD'S RESPONSE TO THE DRAFT REPORT**

No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
		capacity. This assessment, as a part of an overall operational assessment of the agency will occur over the next 9 to 12 months.		
6.	Establish adequate staffing levels to support the current and anticipated workload associated with the District's condominium conversion operations.	<u>9-12 months</u> In FY 2012, DHCD will be undertaking a comprehensive operations review. The review will include an evaluation of CASD's staffing concerns.		
7.	Perform ongoing monitoring of condominium conversion process to ensure established controls are functioning as intended, identified errors or irregularities are promptly addressed, and supervisory reviews are routinely documented.	<u>9-12 months</u> In FY 2012, DHCD will be undertaking a comprehensive operations review. The review will include an evaluation of condominium conversion monitoring controls.		CASD has a checklist for condominium conversion file documentation which was implemented prior to the issuance of OIG's report. By <u>12/31/2011</u> , the CASD administrator will conduct and document file reviews prior to signing conversion certification or rejection orders.
8.	Establish a formal file maintenance checklist for all registered and unregistered condominium properties and update in a consistent manner.	<u>12/31/2011</u> CASD will prepare and implement a file maintenance checklist procedure for condominium registration applications.	CASD does not have jurisdiction over unregistered condominium projects.	
9.	Develop a policies and	<u>9-12 months</u>		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	procedures manual that governs the registration of condominiums.	CASD will prepare a condominium registration policies and procedures manual.		
10.	Conduct and document regular, supervisory reviews to ensure that all correct registration fees are paid and each condominium registration file contains all required documents, including notice of filing, letter of approval or rejection, public offering statement, and proof of payment.	<u>9-12 months</u> CASD administrator will conduct and document file reviews prior to signing registration or rejection orders.		CASD administrator conducts a file review prior to signing registration orders, however the process is not formalized.
11.	Utilize an integrated management system with adequate backup procedures to maintain complete and accurate records of all registration applications received and processed, receipt of application date, number of condominium units, proof registration fee payment, classification of the condominium conversion, public offering statement receipt date, date of registration and registration	<u>9-12 months</u> DHCD is currently implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO). DHCD and OCTO entered in a memorandum of understanding whereby OCTO contracted with Accela to implement the information technology solution for the IZ Program. The IZ law requires that all inclusionary units be registered on the housing		Until such time as an integrated management system can be acquired and implemented, CASD is presently completing its registration application records (recovery from a substantive data loss in 2006-2007) and convert its Excel spreadsheets to Access.

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	date assigned.	locator website established by the Affordable Housing Clearinghouse Directory Act of 2008 (14 DCMR § 2206.7). The contract between OCTO and Accela includes integrating the IZ IT solution with the housing locator, DHCD will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity. This assessment, as a part of an overall operational assessment of the agency will occur over the next 9 to 12 months.		
12.	Generate monthly management reports to fully account for revenue generated from the registration of condominiums, and ensure that the reports are routinely reconciled to supporting documentation.	<u>9-12 months</u> CASD will coordinate with DHCD-AFO staff to develop and generate monthly revenue reports.		CASD and DHCD-AFO staff meet monthly to reconcile administrative and financial records.
13.	Establish physical access control policies that identify and limit the number of individuals granted access to		DHCD's building is secure; all nonemployees are escorted while on the premises or must remain in the Housing	

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	critical condominium files.		Resource Center. CASD has 2 records rooms. A large file room is located immediately adjacent to CASD's workspace and remains locked; only CASD staff members have access. A second smaller file room is inside CASD's office area and remains locked with access only by CASD staff members.	
14.	Track and utilize appropriate cost accounting data to determine whether the current registration fee is sufficient to recover costs associated with processing applications and related administrative activities.		As of September 24, 2010, the registration fee was increased to \$100 per residential condominium unit and \$100 per parking unit (Fiscal Year 2011 Budget Support Act of 2010, Housing Regulatory Administration Fees Amendment Act of 2010, D.C. Law 18-0223, enacted July 2, 2010 and effective Sept. 24, 2010).	
15.	Consider the use of imaging technology to scan all legal documents required for a condominium start-up filing to facilitate secure document storage and efficient retrieval.	<u>9-12 months</u> DHCD is currently implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO). DHCD and OCTO		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
		entered in a memorandum of understanding whereby OCTO contracted with Accela to implement the information technology solution for the IZ Program. The IZ law requires that all inclusionary units be registered on the housing locator website established by the Affordable Housing Clearinghouse Directory Act of 2008 (14 DCMR § 2206.7). The contract between OCTO and Accela includes integrating the IZ IT solution with the housing locator. DHCD will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity. This assessment, as a part of an overall operational assessment of the agency will occur over the next 9 to 12 months.		
16.	Collaborate with DCRA and OAG to investigate and report on the final resolution of uncollected conversion fees	<u>9-12 months</u> DHCD will consult with OAG regarding debt collection efforts, statute of limitations,		CASD investigated the 82 properties identified as incurring conversion fee liability and determined that

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	totaling \$5.5 million from the prior independent audit of the District's condominium conversion fees.	and other relevant legal considerations.		over half of the properties had not sold units and were not required to remit conversion fees. CASD also met with DCRA General Counsel to discuss (i) retaining a debt collection service to assist with delinquent collections; and (ii) statute of limitations considerations. It was determined that many of the conversion fee debtors had dissolved, leaving no recourse for debt collection. DCRA did not provide CASD with further resources, and CASD was unable to conduct a debt collection effort without additional staffing.
17.	Document policies and procedures for collection, management, and reporting of the District's condominium conversion fees.	<u>9-12 months</u> CASD will coordinate with OAG and DHCD-AFO to develop collection policies, procedures and practices, subject to legislative authority in enacted budget support act.		
18.	Track all statutory and regulatory changes to ensure prompt implementation of new requirements in		This recommendation is already in effect. The CASD administrator and DHCD legislative staff track	

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	administrative practices.		legislative changes. The CASD administrator timely implements legislative changes and solicits support from DHCD executive management as needed.	
19.	Investigate and resolve discrepancies associated with condominium fee revenue reflected in CASD's administrative records, Agency Fiscal Officer's data, and the District's general ledger system, including the unexplained difference of \$748,825 in conversion fees collected and deposited in FY 2008.	<u>9-12 months</u> CASD will coordinate with DHCD-AFO to investigate and resolve any revenue fee collection discrepancies.		
20.	Arrange for training in relevant cash handling procedures for staff responsible for processing cash transactions and provide supervision to ensure that transactions are properly handled.	<u>9-12 months</u> CASD will coordinate with DHCD-AFO for appropriate training.		
21.	Provide continuing oversight of the maintenance of conversion fee files to ensure that information in the files is	<u>9-12 months</u> In FY 2012, DHCD will be undertaking a comprehensive operations review. The		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	complete, current, and correct.	review will include an evaluation of CASD's conversion fee files.		
22.	Implement the use of a standard, pre-numbered receipt form and require that the receipt of condominium fee payments is clearly and completed documented on this form.		This recommendation is outdated due to substantive changes in the statutory fee schedule.	As of September 24, 2010, with the statutory changes to CASD's fees, an updated and detailed receipt form (approved by DHCD's AFO) is used to document all fee remittances.
23.	Streamline the cash collection process to minimize loss of interest income through timely deposit of conversion fee payments received.			CASD implemented a procedure to deposit all checks on the same day received or by the next business day.
24.	Establish an electronic interface with information systems managed by OTR and ROD to efficiently monitor sales of condominium units for purposes of identifying and collecting conversion fees due.			A nonmonetary solution could require CASD approval on deed conveyances prior to submitting any deeds to ROD. Conversion fees could be captured prior to the deeds being recorded by ROD.
25.	Initiate collection of all past conversion fees estimated at \$30.6 million for condominium units sold during October 1, 2004, through September 30, 2010, and file liens against	<u>9-12 months</u> DHCD will consult with OAG regarding debt collection efforts, statute of limitations, and other relevant legal considerations.	DHCD disagrees with OIG's estimate of \$30.6 million of outstanding conversion fees. It is unclear whether OIG took allowable conversion fee rate reductions into consideration when	

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	properties with unpaid balances of more than 30 business days.		calculating its estimate.  There are legal considerations for collecting fees predating 2008: (i) statute of limitations; (ii) the special purpose entity-declarants may have dissolved; and (iii) placing liens against properties may trigger default actions on mortgage financing.	
26.	Automate critical tasks in conversion fee revenue recognition and reporting workflow by using an integrated information management system.	<u>9-12 months</u> DHCD is currently implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO). DHCD and OCTO entered in a memorandum of understanding whereby OCTO contracted with Accela to implement the information technology solution for the IZ Program. The IZ law requires that all inclusionary units be registered on the housing locator website established by the Affordable Housing Clearinghouse Directory Act		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
		of 2008 (14 DCMR § 2206.7). The contract between OCTO and Accela includes integrating the IZ IT solution with the housing locator. DHCD will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity. This assessment, as a part of an overall operational assessment of the agency will occur over the next 9 to 12 months.		
27.	Generate monthly management reports to fully account for revenue generated conversion fees and submit the reports to all stakeholders.	<u>9-12 months</u> CASD will coordinate with DHCD-AFO staff to develop and generate appropriate revenue reports.		
28.	Consider requesting revision of D.C. Code § 42-3403.07 to ensure that portions of the collected conversion fees are allocated to support CASD's annual administrative and operating costs.	<u>9-12 months</u> DHCD will consider making legislative change recommendations.		DHCD make this recommendation in the prior Mayoral Administration, however OPLA declined to advance the agency's recommendation.
29.	Complete annual reports reflecting actual allocation of HAF funds to demonstrate	<u>9-12 months</u> CASD will coordinate with DHCD-AFO staff to develop		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
	compliance with the requirements of D.C. Code § 42-3403.07.	and generate appropriate HAF reports.		
30.	Maintain complete and accurate information of all condominium properties approved for reduced conversion fees.		CASD currently maintains records and documents projects granted reduced conversion fee rates.	
31.	Review all reductions of conversion fees for compliance with the statutory requirements, and take appropriate enforcement actions against noncompliant property owners.	<u>9-12 months</u> In FY 2012, DHCD will be undertaking a comprehensive operations review. The review will include an evaluation of CASD's operations and resources.		
32.	Document policies related to vacancy exemptions to ensure appropriate and uniform implementation of applicable statutory requirement.	<u>9-12 months</u> DHCD will investigate obtaining additional staffing support and marshaling resources for CASD, including Capital City Fellows, to support efforts to create a vacancy exemptions policies and procedures manual.		
33.	Track and account for all condominium properties approved for vacancy exemptions under specific statutory provisions.		CASD tracks all vacancy exemption certifications. Prior to August 2006, CASD's records were poorly maintained, and were	

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
			substantively incomplete, lost, misfiled, or purged. Since August 2006, the current administrator has made concerted efforts to properly maintain records, and ensure that records are complete and organized.	
34.	Maintain applications for exemption, letters of certification, approvals, and signed inspection reports in a consistent manner such that the documentation is available for each condominium property approved for vacancy exemption.		CASD maintains its records in a consistent manner. Prior to August 2006, CASD's records were poorly maintained, and were substantively incomplete, lost, misfiled, or purged. Since August 2006, the current administrator has made concerted efforts to properly maintain records, and ensure that records are complete and organized.	
35.	Consider scanning files of critical information related to all properties approved for vacancy exemptions to facilitate secure storage and efficient retrieval.	<u>9-12 months</u> DHCD is currently implementing the District's new Inclusionary Zoning (IZ) Program with the Office of the Chief Technology Officer (OCTO). DHCD and OCTO entered in a memorandum of understanding whereby OCTO contracted with Accela		

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
		to implement the information technology solution for the IZ Program. The IZ law requires that all inclusionary units be registered on the housing locator website established by the Affordable Housing Clearinghouse Directory Act of 2008 (14 DCMR § 2206.7). The contract between OCTO and Accela includes integrating the IZ IT solution with the housing locator. DHCD will assess whether the Accela technology solution can be expanded for use by CASD to facilitate improved case management capacity. This assessment, as a part of an overall operational assessment of the agency will occur over the next 9 to 12 months.		
36.	Maintain complete and clear records to demonstrative compliance with the District's warranty security requirements.		CASD maintains its records in a complete and clear manner. Prior to August 2006, CASD's records were poorly maintained, and were substantively incomplete, lost, misfiled, or purged. Since	

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
			August 2006, the current administrator has made concerted efforts to properly maintain records, and ensure that records are complete and organized.	
37.	Implement an automated mechanism for identifying sales of condominium units and ascertaining whether condominiums are in compliance with warranty security requirements.			<p>DHCD will investigate whether a nonmonetary solution could require CASD approval on deed conveyances prior to submitting any deeds to ROD. Warranty security could be captured prior to the deeds being recorded by ROD.</p> <p>A second solution is to effect legislative changes requiring settlement agents to collect warranty security at the time of the first unit conveyance or escrow a cash equivalent of the required amount until the declarant submits a letter of credit or bond to CASD.</p>
38.	Implement a system to monitor the amount and type of security required from each property owner, and the actual security amount posted.		CASD monitors the amount and type of security posted and maintains an Access file of security information.	

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No.	Taken/Planned Actions	Target Dates for Completion of Planned Actions	Reasons for Disagreement with Findings or Recommendations	Alternative Solutions to Recommendations
39.	Establish and implement a standard, minimum warranty security amount for all condominiums in order to satisfy the requirements of D.C. Code § 42-1903.16(e)(1) (2010).		OIG's recommendation exceeds the scope of CASD's authority under the condominium statute. In some instances, declarants do not renovate or effect any structural work on either condominium common elements or condominium units. Therefore, there is no structural defect warranty applicable in those case. The condominium act does not authorize CASD to impose a "minimum warranty security amount." If a declarant has not effected any construction, repair, or renovation work in a condominium, then the structural defect warranty is not applicable.	
40.	Obtain a legal interpretation from the D.C. Office of the Attorney General regarding the period for which a warranty bond or letter of credit is required to be maintained in accordance with D.C. Code § 42-1903.16(b) & (e)(1) (2010).		OIG may not have a clear understanding of the structural defect warranty timeframe. The condominium act provides that if a declarant has not sold a condominium unit within 5 years after the date of conveyance of the first condominium unit to a third	

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			party purchaser, then the declarant may sell that unit as a <i>resale</i> unit it; this is, there is no structural defect warranty requirement for that unit.	
41.	Monitor the expiration dates of warranty bonds or letters of credit to ensure compliance with D.C. Code § 42-1903.16(e)(1) (2010), and request extensions as needed.	<u>9-12 months</u> In FY 2012, DHCD will be undertaking a comprehensive operations review. The review will include an evaluation of CASD's operations and resources.		