
**Authority Budget Office
Review Report
Yonkers Community Development
Agency
October 21, 2009**



The Authority Budget Office (ABO) is authorized by Section 27 of Chapter 766 of the Laws of 2005 (The Public Authorities Accountability Act) to review and analyze the operations, practices and reports of public authorities, and to assess compliance with various provisions of Public Authorities Law and other relevant State statutes. This includes rendering conclusions and opinions regarding the performance of public authorities and to assist these authorities improve management practices and the procedures by which their activities and financial practices are disclosed to the public.

The Authority Budget Office (ABO) is conducting a series of compliance reviews of public authorities that have not filed required reports with the State for 2007 and 2008. The Yonkers Community Development Agency (CDA) was chosen for this review because it has not filed its Budget, Annual, Audit, Procurement, or Investment reports.

The purpose of this review was to determine why the CDA is delinquent with its reports. We also reviewed its structure and operations to determine whether the CDA acts in other ways to promote accountability and transparency in the absence of filing its reports.

Background of Agency

The CDA was authorized pursuant to Title 36, Article 15-B of General Municipal Law. The CDA has a seven member Board comprised of the Mayor, who serves as the Chair, the City Council President, the Director of Planning and Development, the Corporation Counsel, the City Comptroller and two residents, appointed by the Mayor upon the advice of the City Council, who are not City employees. Although established as a public benefit corporation, the CDA operates much like an agency of city government. The Commissioner of Planning and Development acts as Secretary to the Board, city employees perform the administrative work of the CDA and city officials direct how its funds are to be allocated. The City is reimbursed by the CDA for the non-personal service costs incurred by the City. The CDA does not reimburse the City for the personnel costs of city employees performing CDA work. As of August 8, 2009, the CDA had approximately \$323,000 in an interest bearing checking account. The CDA does not have outstanding loans or debt.

The CDA was created in 1964 to develop and oversee the City's urban renewal program. However, in 1985 the City transferred the CDA's operations to the Office of Community Development within the City's Department of Planning and Development. The CDA Board continues to meet periodically to discuss and update its plans for the City's designated urban renewal areas. The CDA's plans are also reviewed and approved by the City Council. The primary purpose for the CDA today is developing and implementing long-term urban renewal and master plans for the City's downtown neighborhoods that address the loss of economic investment and the growing number of abandoned properties. The CDA currently has four active and approved plans. In order to implement these plans, the CDA acts as a property transfer agent for the City. In effect, the City transfers properties to the CDA for development. The CDA holds title to the property until the project is completed. At that point, the private developer has the option to purchase the property from the CDA, with the proceeds from the sale generally transferred to the City.

The CDA owns approximately 100 properties, including a former public library, a community center, a condominium unit, a former service garage, a City park and various parcels of vacant land. We were provided with the current property tax records for 89 of these properties indicating the estimated fair market value of these properties to be over \$52 million. City officials did not provide the property tax records for the additional properties owned by the CDA. City officials indicated that the property tax records significantly overstate the value of the property, but they could not determine a more accurate value without incurring significant costs. They stated that the CDA does engage a certified appraiser to determine the fair market value of a property at the time of a property disposal.

Given its limited responsibilities, most of the CDA's costs are for consultant services and maintaining the vacant public library. The costs of the library are primarily for heating, plumbing and county frontage taxes.

Failure to Submit Reports

We met with the Deputy Commissioner of the City Department of Planning and Development, its Director of Fiscal Services, and its Senior Project Coordinator. Although the ABO had previously notified the City that the CDA was subject to the Public Authorities Accountability Act, these individuals state that the appropriate CDA officials had not received any communications from the ABO. Moreover, City officials stated that the CDA has always complied with the reporting requirements of General Municipal Law and annually submitted its independent financial report along with the City's annual financial report to the Office of the State Comptroller. However, we contacted the State Comptroller's Office, and it has no record of receiving these reports for 2007 or 2008.

City officials recognize the need for the CDA to comply with the Act and its reporting requirements, and stated that the CDA will comply with the Public

Authorities Reporting Information System (PARIS) reporting requirements beginning with the CDA's fiscal year ending June 30, 2009. Since the conclusion of our review the CDA has taken steps to gain access to PARIS but has not begun entering required information.

Accountability and Transparency Actions

We found the CDA lacks adequate inventory controls and policies governing the disposition of real property. Section 2896 of Public Authorities Law requires public authorities to adopt property guidelines that address the use, award, monitoring and reporting of contracts for the disposal of property. The law also requires an authority to maintain a complete list of its real property and to review these properties periodically to determine which could be made available for sale. We found that the CDA has neither property disposition guidelines nor maintains a complete inventory of its property. The CDA was only able to provide information on its approximately 100 properties by relying on different sources of information to compile the list. Further, the CDA does not have a plan to actively market its properties for development or sale and does not use its web site or other public outlets for this purpose. In response to the report, City officials stated that the CDA follows General Municipal Law Article 15A Section 556 on the Disposition of Property. We believe that the CDA should adopt property guidelines applicable to its specific operations that satisfy these statutory requirements.

We also found that the CDA owns a unit in a waterfront condominium that was developed in the late 1980s as part of an urban renewal project; however there is no documentation available to show that the CDA Board approved the acquisition of this property. Further, the CDA has been providing this unit, at no charge since 2001, to a private citizen who is not employed by the City or the CDA. In addition, telephone and utility services for the tenant are being provided by the City. City officials stated that the condominium unit is being provided to the Yonkers Volunteer Lifesaving Corporation, a not-for-profit organization dedicated to providing lifesaving services on the Hudson River. This organization operated for many years on CDA property. However, with the redevelopment of this property in the late 1990s, City officials stated that the CDA was responsible for relocating the organization in accordance with the Uniform Relocation Act of 1970. However, the Uniform Relocation Act provides for payments to individual property owners displaced by urban renewal projects, and these payments are intended to compensate for the costs of relocating to alternative accommodations. As such, the law stipulates maximum payment amounts or payment periods; they are not intended to continue indefinitely. The Uniform Relocation Act does not appear to allow for the CDA to purchase permanent housing and provide it at no cost to displaced tenants who were not property owners, and we question the propriety of this arrangement.

The CDA owns a building that houses the Nepperhan Community Center. The Community Center is occupied and operated by a not-for-profit organization that is responsible for all related property expenses. The CDA and the not-for-profit organization do not have a written lease agreement detailing this arrangement. City officials told us that no rent is charged to the organization because of its not-for-profit status. The CDA also owns Cerrato Park, which is operated by the City, and a former service garage that is being used to store City records. City officials could not explain why these properties were owned by the CDA and not the City. City officials agreed that there should be a lease agreement with the Nepperhan Community Center, and will address this issue and the use of the garage and the conveyance of the park to the City with the CDA Board.

We further found that the CDA does not appear to be adhering to its adopted by-laws, which state that the Board is to meet monthly. Instead, the Board has only met 11 times since February 2007. The by-laws also state that at an annual meeting of the CDA Board, the Director of Community Development is to provide and discuss an annual financial report of the CDA's urban renewal activities. We found that the Board was not presented financial information on the CDA during any of its meetings held since February 2007. Further, we found that Board members have not attended the required State approved training, the CDA does not have an annual independent audit, and its budget is prepared by City staff, but, based on our review of meeting minutes, is not publically approved by the Board.

City officials stated that CDA Board only meets when it has actions to review and approve and therefore it will review its by-laws to better reflect its typical course of business. Officials further stated that the Board will be provided with an annual financial report on the CDA's urban renewal activities, State training will be provided to the members and the CDA will also comply with the State audit requirements.

Lastly, the CDA entered into a professional service agreement in 2005 with an urban renewal consultant. The contract was initially approved by the CDA Board, in December 2005, for an amount not to exceed \$320,000. However, within a two year period the contract was extended three times and the total value of the contract doubled to \$652,000. As of August 2008, the CDA had paid approximately \$580,000 to the consultant; however these additional services, budget increases and payments were not approved by the CDA Board. Instead, all changes were approved by the City's Purchasing Bureau. City officials indicated that when the scope of services for the consultant increased, the CDA did not have the funds to pay for the additional services. Therefore the Office of Community Development used city Capital Improvement Program funds to pay for the additional work performed, and that these changes were reviewed and approved by the City's Purchasing Bureau. We believe that the changes made by the City to this agreement are inappropriate, since the agreement is between

the CDA and the consultant, and that all revisions to the agreement should be subject to Board approval.

Although we believe that the City should evaluate whether the CDA is necessary and whether it would be appropriate to officially dissolve the CDA, it is apparent that the City intends to preserve the CDA and maintain its current organizational construct. Given that, the City and the CDA Board have an obligation to conduct CDA business consistent with reporting, governance and other statutory requirements of State law.