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Our audit revealed that Denver Economic Development & Opportunity is not ensuring affordable housing is preserved and involuntary displacement is prevented. In this finding, the audit team determined that Economic Development is not evaluating its affordable housing programs’ effectiveness, is not adequately enforcing affordable housing violations, is not effectively communicating with other agencies about compliance efforts, and has not created processes for preserving foreclosed affordable housing units. These deficiencies impede Economic Development’s ability to preserve its affordable housing inventory, to evaluate whether program goals are being met, and to successfully resolve and prevent compliance violations.

Through stronger program design and evaluation, contract monitoring, and communication, Denver Economic Development & Opportunity will be better equipped to meet its goals to preserve affordable housing and prevent involuntary displacement of Denver residents. Our report lists several related recommendations.

I am disappointed Denver Economic Development & Opportunity has chosen to disagree with recommendations that would clearly advance the city’s affordable housing objectives. Further explanation is in the Auditor’s Addenda included in the Recommendations section of the report and included in full on pages 57-59.

This performance audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, “General Powers and Duties of Auditor,” and was conducted in accordance with generally accepted government auditing standards. Those standards require 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We extend our appreciation to the Denver Economic Development & Opportunity personnel who assisted and cooperated with us during the audit. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Preserving Affordable Housing for Denver Residents
August 2019

Objective
To determine whether Economic Development’s compliance efforts and other processes follow covenant requirements and regulations to preserve affordability and prevent involuntary displacement, to examine how well locally funded programs and contracts are monitored, and to determine the effectiveness of Economic Development’s processes to measure meeting strategic goals.

Background
Median incomes have grown in Denver at nearly three times the national average. However, housing costs have outpaced growth in income, in some areas increasing by more than 50 percent between 2011 and 2014. Denver Economic Development & Opportunity’s Housing Division is responsible for creating and preserving housing options that are accessible and affordable to all Denver residents. Its strategic goals are to preserve affordability, prevent involuntary displacement, create affordable housing in vulnerable areas, and promote equitable and accessible housing.

Report Highlights
Highlights
In our second audit of the City’s affordable housing program, we found that Economic Development has not ensured that it is meeting its strategic goals of preserving affordable housing and preventing involuntary displacement.

Denver Economic Development & Opportunity Has Not Ensured Affordable Housing Is Preserved and Involuntary Displacement Is Prevented

- Denver Economic Development & Opportunity does not evaluate whether its programs are effective.
  The agency measures outputs but not outcomes. It also is not adequately monitoring or evaluating temporary housing assistance programs.

- Economic Development does not enforce housing violations effectively.
  Economic Development should improve its process to remediate violations and does not have formalized methods for prioritizing and documenting cases. We identified other cities that monitor occupancy annually.

- Economic Development is not effectively communicating with other City agencies to enforce compliance and share information.
  Poor communication has cost owners of affordable homes thousands of dollars and hampers City functions.

- Affordable homes have been lost to foreclosure.
  Economic Development lacks a management strategy with accompanying policies and procedures for foreclosures.

For a copy of this report, visit www.denverauditor.org or contact the Auditor’s Office at (720) 913-5000.
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BACKGROUND

In 2018, our office audited the City’s affordable housing program and found a variety of issues that Denver Economic Development & Opportunity, formerly the Office of Economic Development, is still addressing. Affordable housing remains a top concern for Denver, and as such, this audit examines a number of related issues we were unable to explore in our 2018 audit.

In Denver, as elsewhere, redevelopment and investment in urban areas has made cities more desirable places to live and work, but it has also created upward pressure on housing costs. According to the U.S. Department of Housing and Urban Development, “families who pay more than 30 percent of their incomes toward housing costs are considered cost-burdened.”

Denver has reached a crucial point where housing costs are growing at such rapid rates that incomes cannot keep up. Median incomes have grown in Denver at nearly three times the national average of 6 percent overall growth. However, housing costs have outpaced growth in income, in some areas increasing by more than 50 percent between 2011 and 2014. Despite Denver’s low unemployment rate of 2.2 percent and high workforce participation of more than 90 percent, Denver Economic Development & Opportunity is working to stabilize residents at risk of involuntary displacement due to these economic pressures.

COST-BURDENED FAMILIES

According to the U.S. Department of Housing and Urban Development, “families who pay more than 30 percent of their incomes toward housing costs are considered cost-burdened and may have trouble affording necessities such as clothing, food, transportation, and medical care. An estimated 12 million renter and homeowner households now pay more than 50 percent of their annual incomes towards housing.”

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Denver Economic Development & Opportunity

Denver Economic Development & Opportunity is the City agency tasked with coordinating the planning and implementation of initiatives designed to grow and strengthen Denver’s economic and community base. To accomplish this directive, Economic Development is organized into four separate divisions:

- Housing
- Neighborhoods
- Business, Workforce & Global Development
- Division of Small Business Opportunity

The Housing Division is responsible for creating and preserving housing options that are accessible and affordable to all Denver residents. The division collaborates with City agencies, Denver residents, nonprofit partners, and private developers to prioritize and deliver programs and services to meet Denver residents’ housing needs.

To fulfill its mission, the Housing Division—together with Economic Development—oversees the Affordable Housing Fund. This fund, which Denver City Council established with the Affordable Housing Permanent Fund Ordinance in 2016, received over $22 million in 2018. Two sources provide revenue for the Affordable Housing Fund: (1) a property tax, and (2) a development fee for new residential or commercial buildings that is determined by a building’s size in square feet. Economic Development stated that declines in federal funding and Denver’s unprecedented population growth, which resulted in housing demand outpacing supply, created the need for the Affordable Housing Fund.

In addition to the Affordable Housing Fund, Economic Development’s Housing Division also receives funding from a variety of other sources, including federal grants, other local special revenue funds, and the City’s general fund. The division was recommended to receive over $58 million in 2019—up from the almost $22.5 million it received in 2017. Table 1 on the following page shows the Housing Division’s budget by funding source and the number of division personnel during the scope of this audit.

Part of these funds are then used to invest in the construction of for-sale affordable housing through a variety of programs. As of March 2019, Economic Development reported it had 1,619 locally funded for-sale homes in the affordable housing program. However, Economic Development lost 236 of those units from the City’s affordable housing inventory due to foreclosure or expiring affordability restrictions, leaving 1,383 active affordable homes.
TABLE 1. Housing Division Appropriations, Fiscal Years 2017-2019

<table>
<thead>
<tr>
<th>Housing Budget Funding Sources</th>
<th>2017 Expenditures</th>
<th>2018 Appropriations*</th>
<th>2019 Recommended Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>—</td>
<td>—</td>
<td>$844,484</td>
</tr>
<tr>
<td>Property Tax Revenue Fund</td>
<td>$1,819,523</td>
<td>$22,757,612</td>
<td>$35,264,094</td>
</tr>
<tr>
<td>Linkage Fee Revenue Fund (Development Fee)</td>
<td>—</td>
<td>$2,633,033</td>
<td>$3,700,000</td>
</tr>
<tr>
<td>Other Local Revenue Funds</td>
<td>$3,744,623</td>
<td>$4,724,740</td>
<td>$5,961,650</td>
</tr>
<tr>
<td>Federal Grants</td>
<td>$16,898,942</td>
<td>$12,997,856</td>
<td>$13,030,502</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$22,463,088</strong></td>
<td><strong>$43,113,241</strong></td>
<td><strong>$58,800,730</strong></td>
</tr>
</tbody>
</table>

Personnel (Full-time Equivalent Positions)

| TOTAL** | 26 | 31 | 36 |

Source: 2019 Mayor’s Proposed Budget.

Note: The amounts shown for 2018 reflect appropriated funds, as opposed to the actual expenditures as reported in 2017. The amounts shown for 2019 reflect recommended appropriation levels, as outlined in the Mayor’s 2019 Proposed Budget.

**Personnel numbers in the table are rounded and only represent Housing Division administration positions.

As described in Figure 1, most of these homes were built under one of four affordable housing program types—Green Valley Ranch, Stapleton, Rezone Agreements, and the City’s Inclusionary Housing Ordinance.

FIGURE 1. For-Sale Affordable Housing Program Types

Source: Denver Economic Development & Opportunity affordable housing data.
In February 2018, the Denver City Council adopted the “Housing an Inclusive Denver” five-year strategic plan that provides background on housing challenges in the City and identifies legislative, regulatory, and investment strategies aimed at addressing those challenges.

Denver Economic Development & Opportunity developed the plan with input from the Housing Advisory Committee. This group of industry and nonprofit experts and advocates helps inform the City’s housing investments and strategies to serve residents with a variety of housing needs. The strategic plan lists four core goals for affordable housing:

- Creating affordable housing in vulnerable areas and in areas of opportunity
- Preserving affordability and housing quality
- Promoting equitable and accessible housing
- Stabilizing residents at risk of involuntary displacement

To ensure the City achieves these goals, Economic Development measures the success of its housing investments by the number of affordable units created and preserved, as well as the number of residents served through housing investments.

Furthermore, Economic Development and the Housing Advisory Committee develop annual action plans that prioritize housing investments and other strategies to reflect market conditions and opportunities. Specifically, the agency’s 2019 annual action plan details investments to develop and preserve affordable housing through low-income housing tax credits, gap financing, and programs that provide down payment, rental, utility, and home-repair assistance.

As shown in Figure 2 on the following page, the City prioritized its 2019 affordable housing budget of $44.6 million, not including administrative costs, on four priority groups: residents experiencing homelessness; residents earning at or below 30 percent of the area median income—or AMI; residents earning 31-80 percent of AMI; and residents seeking to become homeowners or remain in homes they already own. Thirty percent of area median income for a four-person household in 2019 is $27,850, and 80 percent of area median income in 2019 is $74,250 for the same household size.

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5 Vulnerable areas are those where residents are susceptible to involuntary displacement. Additionally, areas of opportunity refer to neighborhoods with amenities such as transit, jobs, high quality education, and health care.

6 Gap financing helps drive the development and preservation of affordable housing by providing developers financing that helps cover the price between market-rate homes and affordable homes.
Denver plans to spend its total 2019 affordable housing budget of $44.6 million, not including administrative costs, on four priority groups.

- **Residents earning 30% or less than the area median income**: $7.8 million (18%)
- **Homeowners**: $10.9 million (24%)
- **Homeless**: $11.6 million (26%)
- **Residents earning 31% to 80% of the area median income**: $14.3 million (32%)

**FIGURE 2. Spending Priorities in 2019 Housing Budget**

Source: “Housing an Inclusive Denver” 2019 annual action plan.

**Note**: These figures do not include administrative costs.

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**Enforcing Affordable Housing Requirements**

To safeguard affordable housing investments, Denver Economic Development & Opportunity began to review and identify potential noncompliant affordable homes in 2017. This involved agency staff cross-checking tax and real estate records to determine possible violations of housing covenants. Covenants identify a home as part of the affordable housing program and specify requirements. Economic Development discovered more than 300 cases with potential compliance violations.

Economic Development staff identified several types of violations to affordable housing covenants and rules:

- **Not owner-occupied**: The homeowner was not living in the unit and may or may not be renting the property.

- **Record clarification**: The homeowner’s paperwork had incorrect information, such as a wrong address or different legal name for the homeowner, when compared to records kept by the Assessor’s Office and Clerk and Recorder’s Office. This could have been caused by a marriage or legal name change.

- **Improper transfer**: Ownership of the affordable home was transferred to an ineligible entity, such as a family member or trust. This could be accomplished through a “quit claim deed,” a deed to transfer property that does not guarantee the person transferring the property promises to defend against losses due to title defect. A quit claim deed is typically used to convey a property from one family member to another.

- **Long-term rental**: The homeowner is renting the unit to a tenant.
• **Vacation rental**: The homeowner is renting the unit on a short-term basis (usually for 29 days or less). Vacation rentals are often advertised through websites such as Airbnb and HomeAway.

• **Market sale**: The unit was sold outside the City’s process to someone who was not income-verified, or it was sold for a price that exceeded the maximum allowable resale price.

• **No income verification**: The income verification documentation for a compliant sale was not found.

• **No recorded memorandum of acceptance**: There was no recorded memorandum of acceptance, which all affordable homebuyers are required to sign at closing. The document confirms the homebuyer is aware of the affordable housing covenant.

**Compliance Resolution Program** – To bring homes back into compliance, Economic Development began the Compliance Resolution Program in April 2018. Rather than issuing formal violations, the program gave owners of noncompliant affordable homes the option to voluntarily resolve the violations. Economic Development mailed letters to over 300 affordable homeowners, inviting those who appeared to be out of compliance to participate in the program before May 31, 2018. Participants were required to return the property to compliance by December 31, 2018. As shown in Figure 3 on the following page, 173 out of 306 cases of noncompliance were resolved as of March 31, 2019, and 133 were not resolved, according to Economic Development data.

**Notice of Violation Process** – In addition to the Compliance Resolution Program, Economic Development instituted a process for formally escalating and resolving cases that remained out of compliance. In November 2018, Economic Development issued its first five formal notices of violation via certified mail. Each notice detailed how the homeowner violated the covenant, how long the homeowner had to respond to and fix the violation, what paperwork they needed to provide to be in line with the covenant, what time frame they had to appeal the violation notice, and what actions the City would take if the violation was not fixed.

Economic Development issued 10 more violation notices in January 2019 and another five in February—for a total of 20 issued as of March 2019. Figure 3 also demonstrates this timeline, including the number of cases and how many were unresolved.

**Administrative Violation Process** – As part of the notice-of-violation process, Economic Development developed an administrative violation process for out-of-compliance affordable homeowners. Owners have 15 days to respond to a notice of violation and 30 days to remedy
Denver Economic Development & Opportunity invites owners of 306 properties in violation to join the compliance program.

**Timeline of the program**
- **Deadline for owners to join the program**
  - Apr. 2018
  - May
  - June
  - July
  - Aug.
  - Sept.
  - Oct.
  - Nov.
  - Dec.
- **Deadline for program participants to comply**
  - Jan. 2019
  - Feb.
  - Mar.
  - Apr.
  - May

**How they were out of compliance**
- Missed affordable housing transaction document(s)
- Needs corrected documentation
- Other
- Total 306

**133 homes were still noncompliant after a year**
- Homes in the For-Sale Affordable Program
  - Prior to the compliance resolution program
  - As of April 2018
  - As of March 31, 2019

**Source:** Denver Economic Development & Opportunity compliance resolution reports and compliance letters.

**Note:** This is data as reported by Denver Economic Development & Opportunity.
it. Upon receiving a violation notice, the homeowner has 15 days to appeal. The Director of Compliance of the Housing Division within Economic Development must issue a determination within 15 days after the appeal. If the Director of Compliance rules against the homeowner, the homeowner may appeal directly to the Economic Development Director.  

The Economic Development Director’s determination is final, and only a state court can reverse this decision. Figure 4 on the following page shows more detail on this process.

Other Involved City Agencies

To oversee the affordable housing program, Denver Economic Development & Opportunity interacts with several other City agencies.

**Assessment Division** – The Department of Finance’s Assessment Division locates, appraises, and records all of Denver’s land, building, and some business property in accordance with the state constitution, state laws, and procedures established by the Colorado Board of Equalization. In addition, the division sends out notices of property values to all property owners and handles protests and appeals from property owners who disagree with the value assessed for their property. The County Assessor relies on information provided by Economic Development to assess the value of affordable units.

**Denver 311** – The Denver 311 contact center is a part of the City’s Technology Services agency and provides citizens access to nonemergency government services online, by phone, or through social media or its mobile application. Specifically, for Economic Development’s Temporary Rental and Utility Assistance program, 311 directs callers to the appropriate vendor.

**Department of Excise and Licenses** – Excise and Licenses issues business licenses. The City requires homeowners to obtain licenses for short-term rentals, which are residential properties available for rent for a period of 29 days or less. Code enforcement services within Excise and Licenses work to ensure compliance with City ordinances by conducting inspections throughout the year. Code enforcement personnel investigate complaints and issue notices, fines, and administrative citations to individuals who violate City ordinances.

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7 Owners can resolve violations in various ways. This can include selling the unit to an income qualified homebuyer at or below the maximum affordable price, moving back into the unit, or transferring the unit to a qualified homebuyer.

8 Formerly known as the Office of Economic Development Director, the Economic Development Director may choose to handle the case or designate a hearing officer in their place. If the Economic Development Director selects a hearing officer and the hearing officer rules against the homeowner, the homeowner can still appeal to the Economic Development Director. The request must be made within 30 days of the previous appeal, and the determination must be made within 30 days of the conclusion of the final appeal.
Public Trustee Department – The Public Trustee department of the Office of the Clerk and Recorder administers foreclosures according to state law and sells homes at auction. The Public Trustee provides foreclosure-related information about affordable homes to Economic Development.
When an entity, such as a bank, forecloses on an affordable home, the home’s affordability restrictions—as documented in its covenant—can either be terminated or remain in effect. According to covenant rules, the covenant is terminated only if the home is foreclosed on by the home’s “first mortgagee”—the primary lender that holds the mortgage. If the home is then purchased at auction by either that primary lender or a federal government mortgage agency, the home is lost from Denver’s affordable housing inventory and can be resold at market value. However, if the home is foreclosed on by another entity or purchased by a third party, the home’s covenant remains in effect, and the home must be resold to another qualified affordable homebuyer.

To determine whether a covenant is terminated or remains in effect, Economic Development first receives periodic updates from the Public Trustee on affordable homes beginning the foreclosure process. When the foreclosure process is complete, Economic Development staff review recorded ownership and foreclosure documentation from the Clerk and Recorder’s Office to determine whether the primary lender foreclosed on the property and who ultimately purchased the property at auction. If Economic Development staff determine the covenant restrictions should be terminated, the agency records a “partial release of covenant” or “release of covenant” with the Clerk and Recorder to document that affordability restrictions no longer apply to that specific home.

As of March 31, 2019, Economic Development reported it had 1,619 for-sale affordable homes. Since 2005, 216 of those affordable homes were foreclosed on and lost from Denver’s affordable housing inventory. Additionally, 49 affordable homes were foreclosed on, but Economic Development determined their covenants remained in place.

In addition to building and preserving affordable housing, Denver Economic Development & Opportunity also provides programs to temporarily assist Denver residents with housing costs.

**Temporary Rental and Utility Assistance Program** – In October 2017, Economic Development established the Temporary Rental and Utility Assistance program to help low- to moderate-income Denver residents experiencing a housing crisis to stay in their homes. A housing crisis can include a Denver resident experiencing unsafe housing conditions or a potential eviction. Economic Development designed the program to provide temporary financial assistance that would create stability during a housing or financial crisis and buy time for residents to find alternative, long-term housing. Contracted vendors provide financial
assistance directly to property managers, landlords, and/or utility companies.

Economic Development selected two vendors to administer the rent and utility assistance program: Brothers Redevelopment Inc. and Northeast Denver Housing Center. Each vendor’s service area is divided by City ZIP code. As of March 2019, Economic Development awarded about $4 million for administering the program and has served 1,353 households. Figure 5 provides additional details about contract amounts, households served, and program duration.

**FIGURE 5.** Temporary Rental and Utility Assistance Vendor Summary

<table>
<thead>
<tr>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FIRST CONTRACT</strong></td>
<td><strong>SECOND CONTRACT</strong></td>
</tr>
<tr>
<td>Brothers Redevelopment, Inc.</td>
<td>Northeast Denver Housing Center</td>
</tr>
<tr>
<td>Initial $485,000</td>
<td>Initial $380,000</td>
</tr>
<tr>
<td>Amended $1 million</td>
<td>Amended $982,500</td>
</tr>
<tr>
<td>608 Households assisted</td>
<td>509 Households assisted</td>
</tr>
</tbody>
</table>

**Source:** Denver Economic Development & Opportunity contracts with vendors. Corporate logos used with permission from Brothers Redevelopment Inc. and Northeast Denver Housing Center.
Temporary Mortgage Assistance Program – In response to the partial shutdown of the federal government on December 22, 2018, Economic Development contracted with Mile High United Way, a local nonprofit organization, to establish the Temporary Mortgage Assistance Program to help qualified Denver homeowners pay their mortgages. The program provided grants to qualified households earning 120 percent or less of Denver’s area median income, or $111,360 for a family of four.

The original contract with Mile High United Way was for $485,000, of which:

- $18,500 was to be spent on training and outreach,
- $30,000 was to be used for participant eligibility review and processing (at $150 per transaction), and
- $436,500 was to be provided to homeowners for assistance.

The contract was set to start on January 15, 2019, and expire July 9, 2019. As of March 2019, the Temporary Mortgage Assistance Program had served 33 households.

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9 Mile High United Way is a nonprofit organization that provides various services including: connecting Denver area residents to available services such as food, shelter, and child care, providing financial coaching, and strengthening under-resourced neighborhoods.
FINDING

Denver Economic Development & Opportunity Has Not Ensured Affordable Housing Is Preserved and Involuntary Displacement Is Prevented

Denver Economic Development & Opportunity does not evaluate housing programs to determine whether they are achieving their goals. Specifically, Economic Development is not evaluating whether its locally funded housing assistance programs are preventing involuntary displacement and is not sufficiently monitoring vendors to ensure contract requirements are met.

In addition, Economic Development has not proactively enforced program violations and does not consistently monitor and enforce issues that may reduce the number of affordable homes available to qualified buyers. Further, Economic Development is not effectively communicating with other City agencies to aid compliance efforts or to share pertinent information needed to make decisions. Lastly, Economic Development has not designed a consistent process to identify and respond to affordable homes facing foreclosure, which resulted in losses to the City’s affordable housing inventory.

As a result, Economic Development cannot ensure taxpayer dollars are spent on programs that preserve affordable housing and keep Denver residents in their homes.

By the Numbers

Denver Economic Development & Opportunity has records of 1,382 active, locally funded for-sale affordable homes and 440 active, federally funded for-sale affordable homes.

Denver Economic Development & Opportunity Does Not Evaluate whether Its Affordable Housing Programs Are Effective

Denver Economic Development & Opportunity is not evaluating programs to assess overall outcomes. Instead, the agency is looking at only outputs and, therefore, cannot assure its affordable housing program is actually preserving affordable housing and preventing involuntary displacement.

Economic Development has set quantitative goals—or outputs—to measure success for affordable housing. For example, the agency’s five-year strategic plan includes goals measuring the number of affordable units created, the units preserved, the residents served...
through program investments or policy actions, and the residents served at risk of involuntary displacement.

Economic Development creates and continues affordable housing programs based on needs and available funding rather than outcomes. The agency prioritizes goals for each year in its annual action plan, based on need as determined by input from citizens and the Housing Advisory Committee.

**Denver Economic Development & Opportunity Measures Outputs but not Outcomes**

Economic Development officials were unable to provide any documentation demonstrating they evaluate outcomes for the City’s affordable housing program. The agency’s 2019 action plan states the Housing Advisory Committee recommended evaluating programmatic investments according to the values and goals for the five-year plan. Specifically, the committee recommended analysis of outcomes (e.g., preventing involuntary displacement of households) and not just outputs (e.g., the number of households served).

Agency leadership said they have not been evaluating programs based on outcomes due to a lack of staffing. They also said they have plans to hire a consultant to evaluate long-term outcomes of the program.

The U.S. Government Accountability Office defines program evaluation as a “systemic study using research methods to collect and analyze data to assess how well a program is working and why.” An agency can use program evaluations to assess program effectiveness, identify how to improve performance, or guide resource allocation (e.g., staffing and budget distribution). Even in a program’s early stages, agencies can use evaluations to look at how well activities are carried out and how well they reach intended participants.

Once a program is established, outcome evaluations can assess the extent to which a program achieves its objectives. In addition, programs should evaluate both intermediate outcomes (e.g., increased access to available affordable housing) and end outcomes (e.g., improved quality of life for families or for a neighborhood), according to the Urban Institute, a national nonprofit research organization that has studied affordable housing issues. Additionally, the Urban Institute recommends affordable housing programs monitor outcomes to track

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a program’s progress toward achieving its mission.\footnote{“Candidate Outcome Indicators: Affordable Housing Program,” The Urban Institute, accessed May 10, 2019, https://www.urban.org/sites/default/files/affordable_housing.pdf.}

Without sufficient program evaluations in place, Economic Development cannot ensure its affordable housing program is meeting its goals to preserve affordable housing and prevent involuntary displacement. Economic Development’s programs may not be effectively carrying out activities, reaching intended participants, and achieving program objectives. Also, Economic Development may be allocating resources inefficiently within the affordable housing program.

**Denver Economic Development & Opportunity Does Not Adequately Monitor or Evaluate Temporary Housing Assistance Programs**

Economic Development does not assess the Temporary Rental and Utility Assistance program and Temporary Mortgage Assistance Program to measure outcomes. Economic Development’s lack of program evaluation means it cannot say whether program objectives have been met, and it cannot ensure vendors meet contract requirements.

While Economic Development maintains procedures to perform financial monitoring of federal grants, the agency does not maintain procedures specific to locally funded assistance programs, such as the Temporary Rental and Utility Assistance program and the Temporary Mortgage Assistance Program. Economic Development planned to audit both vendors for the Temporary Rental and Utility Assistance program, but 18 months after the program began in November 2017, it had only completed one of those vendor audits.

The agency’s audit only focused on financial reporting requirements and how vendors met contract terms rather than program outcomes. Economic Development staff stated that organizational restructuring within the agency prevented them from completing the audits sooner. In addition, Economic Development did not have clear plans to review the Temporary Mortgage Assistance Program, evaluate whether this program accomplished its objectives, or determine whether the program should continue as of May 2019.

In addition to its planned audits, Economic Development collects data on its temporary assistance programs in monthly reports and stated that it reviews this data to ensure it meets contract requirements. These monthly reports include only outputs—such as the number of applicants, the number of applicants approved to receive services, and recipient demographics. The agency could not provide documentation
of its monthly report reviews and does not analyze this data to ensure the two locally funded housing assistance programs meet program goals.

**Lack of Contract Monitoring**

Economic Development’s lack of monitoring has allowed for general inconsistencies in the case files kept by the vendors managing the Temporary Rental and Utility Assistance program. The audit team evaluated case files from each vendor, including a sample of 38 out of 962 recipient case files from Brothers Redevelopment Inc., and 33 out of 794 from Northeast Denver Housing Center. Our analysis found that 37 case files from Brothers Redevelopment Inc. and 32 case files from Northeast Denver Housing Center contained deviations from contract requirements.

Specifically, only one case file from Brothers Redevelopment Inc. and two case files from Northeast Denver Housing Center contained the required assistance payment receipts from landlords or utility companies. These inconsistencies, as well as others, are shown in detail in Figure 6 on the following page.

These inconsistencies and Economic Development’s lack of review may inhibit its ability to assess program effectiveness and may impede the City’s efforts to help keep residents in their homes.

In addition, Economic Development does not assess the Temporary Mortgage Assistance Program to measure outcomes, as required in its contract with Mile High United Way. The mortgage assistance program contract requires Mile High United Way to send a follow-up survey to individuals served by the program to determine outcomes. This survey is intended to determine whether the individuals served were able to pay their monthly mortgages on time and whether any homes were foreclosed on or in default of a loan. As of May 2019, neither Economic Development nor Mile High United Way had sent any follow-up surveys.

Both temporary housing assistance programs require that the individuals served must be Denver residents. Vendors determine residency based on the individuals’ ZIP codes, but some ZIP codes overlap into other municipalities. For example, ZIP code 80247 contains addresses in both Denver and Arapahoe counties. Vendors are supposed to follow a process to cross-check these addresses with online resources, but we found that vendors do not always check every address. Specifically, we found 21 instances—totaling $24,688—when vendors provided assistance to non-Denver residents.
assistance to non-Denver residents. Providing assistance to non-Denver residents diminishes the program’s capacity to assist actual Denver residents.

Figure 7 on the following page shows the ZIP codes overseen by Brothers Redevelopment Inc. and Northeast Denver Housing Center and highlights one area where multiple nonresidents were served.

In addition, vendors stated that Economic Development could provide more direct guidance and oversight into the operations of the programs. For example, one vendor stated that it would be helpful to have regular meetings with Economic Development and other program vendors to ensure consistent processes across the program.

FIGURE 6. Inconsistencies in Temporary Rental and Utility Assistance Case Files

Vendor cannot pay more than 80% of household’s rent unless they document an exception

<table>
<thead>
<tr>
<th>LACK DOCUMENTS</th>
<th>HAVE DOCUMENTS</th>
</tr>
</thead>
<tbody>
<tr>
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<td>30</td>
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<tr>
<td>13% 5</td>
<td>33</td>
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</table>

Household has a crisis that will not allow them to pay rent

<table>
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<tr>
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</thead>
<tbody>
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</tr>
<tr>
<td>8% 3</td>
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Household income must be 80 percent or less of Denver’s area median income

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<tr>
<td>13% 5</td>
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Receipts from landlords/utility providers for each time the vendor gives assistance

<table>
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<tr>
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<td>94% 31</td>
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<tr>
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Applicants proof of residency

<table>
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<td>33</td>
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<tr>
<td>11% 4</td>
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</table>

Source: Auditor’s Office analysis of rent and utility assistance case files.
Providing direct guidance could be useful in finding solutions to common problems between vendors and ensuring both vendors are implementing the program equitably to the entire city.

**RECOMMENDATION 1.1**

**Evaluate Programs** – Denver Economic Development & Opportunity’s Chief Housing Officer should evaluate the City’s affordable housing program to determine whether strategic goals are being achieved and program objectives are being met. Specifically, Economic Development should:

- Evaluate how well activities are carried out and reach intended individuals to be served by the programs in their early stages;
- Assess the extent to which the programs achieve their objectives, including intermediate and final outcomes; and
- Use the evaluation results to assess the effectiveness of the programs, identify how to improve performance, and guide resource allocation.

**Agency Response:** Agree, Implementation Date – December 31, 2019

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**FIGURE 7. Assistance Provided to Non-Denver Residents**

Source: Auditor’s Office analysis of rent and utility assistance case files.
RECOMMENDATION 1.2

Collaborate with Vendors – Denver Economic Development & Opportunity’s Chief Housing Officer should collaborate with Economic Development’s vendors for the Temporary Rental and Utility Assistance and Temporary Mortgage Assistance programs to design and implement outcome evaluations and assess the extent to which each program achieves its objectives. Specifically, Economic Development should:

- Incorporate more explicit guidance surrounding how the vendors manage their case files for the programs;
- Hold periodic meetings with all housing assistance program vendors to ensure consistency in processes; and
- Ensure all housing assistance program vendors verify all addresses for individuals receiving services with accurate maps of Denver, such as those managed by the Assessor’s Office.

Agency Response: Agree, Implementation Date – December 31, 2019

Denver Economic Development & Opportunity Does Not Enforce Housing Violations Effectively

Denver Economic Development & Opportunity is not enforcing program violations effectively, and its processes for enforcement do not align with program requirements and best practices. Economic Development’s lack of proper enforcement hinders the agency from meeting its goals of preventing involuntary displacement and preserving affordability. Economic Development should improve its processes and create and implement procedures to remediate violations. Additionally, there is no formalized method for prioritizing and documenting cases. Also, Economic Development does not annually monitor occupancy, which is a best practice other cities use to monitor their affordable housing program and identify potential violations.

Standards from the Grounded Solutions Network, a national nonprofit coalition of advocates for affordable housing, state that guidelines to monitor and enforce violations consistently and equitably “ensure program requirements are remembered and met over time, and maintain the condition of the housing stock for future generations of buyers.”\(^\text{12}\)

Overall, Economic Development’s failure to properly design its enforcement program has caused ineffective enforcement of

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violations. Economic Development’s executive leadership has no strategy to enforce affordable housing compliance. Specifically, the agency has not established documented guidelines around monitoring and enforcement, which can cause inconsistent or inequitable enforcement and lead to a reduction in housing inventory for qualified affordable homebuyers.

Denver Economic Development & Opportunity Should Improve Its Process to Remediate Violations

Despite Economic Development having a violation policy, Economic Development’s leadership had not yet decided which remediation actions to take against violators as of May 2019.

Policies for the affordable housing program state that an owner has 15 days to respond to a notice of violation and 30 days to remedy the violation. If an owner fails to take corrective action within 30 days, the owner could be penalized, through a potential lawsuit, to collect all excessive amounts gained from market-valued sales of affordable homes and all rents obtained in violation of affordable housing rules. Economic Development may also require the homeowners to either sell the home or move back into it if the owners are found to be violating the requirement that the income-qualified homeowner must live in the home as their primary residence.

Since compliance efforts began in 2018, Economic Development has not taken legal action against violators or attempted to recoup rents from homeowners illegally renting their affordable homes. Economic Development officials plan to discuss, in consultation with the City
Attorney’s Office, possible remediation, such as forcing the homeowner to sell their home.

Meanwhile, as stated in the background, Economic Development has issued only 20 formal violation notices as of May 2019. Economic Development stated this is due to the amount of time required to process violations, including appeals and hearings.

Further, Economic Development has not yet determined what to do when homeowners do not respond to its determinations of noncompliance. As of May 2019, Economic Development had no plans to issue further violation notices until it reviewed all 20 of the notices it already sent and until it determined future remediation actions.

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**OWNER ILLEGALLY RENTS OUT AFFORDABLE HOME FOR FOUR YEARS**

Denver Economic Development & Opportunity identified one homeowner who was living in California and renting his affordable home in Green Valley Ranch for four years. This affordable home’s covenant restrictions do not allow affordable homes to be rented, and they require income-qualified owners to live in the home.

After the owner did not join the Compliance Resolution Program in May 2018, Economic Development issued a notice of violation in November 2018. Economic Development then issued a determination in January 2019 stating the owner was still out of compliance.

The owner began the process of selling the home at an affordable rate that month, and Economic Development considered the case resolved. However, the City has not collected illegal rent obtained by the owner and, as of May 2019, has not decided if it will pursue rent collection.

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**Denver Economic Development & Opportunity Has No Formalized Method for Prioritizing and Documenting Cases**

There are no established requirements or criteria for how cases are escalated to a notice of violation. Economic Development says notice-of-violation cases were prioritized based on those who had out-of-state addresses and were clearly violating affordable housing program rules. However, reasons for escalating certain cases rather than others is undocumented.

We reviewed half of the 20 notice-of-violation cases and found that documentation was not always adequate to determine why deadlines were extended, whether deadlines were met, or why a case was
closed. As of May 2019, Economic Development had resolved only 25 percent of the 20 notice-of-violation cases. Economic Development does not have requirements for what specific documentation should be put into a case file. Instead, Economic Development said all documentation related to a case should be in its respective file. However, in some case files, we found notes referring to email communications not found in the respective case file.

Economic Development has some policies—but no written procedures—documenting processes for compliance and issuing notices of violation. Policies are documents that guide both present and future decision making and ensure decisions are in line with organizational objectives and philosophies. For example, Economic Development provided documents that describe the process for administrative violations and appeals, including deadlines and descriptions of how violations are escalated to hearings. Economic Development also provided letters for the Compliance Resolution Program and notices of violation that detail requirements and deadlines.

However, the agency does not have procedures to guide staff on day-to-day processes, including prioritizing cases for formal notices of violation, inspecting properties for compliance, documenting cases, and closing resolved cases.

As stated, the Grounded Solutions Network provides standards for affordable homeownership programs.\(^\text{13}\) The standards recommend homeownership programs maintain a written monitoring and enforcement plan to maintain institutional knowledge of the program, promote consistent monitoring and uniform treatment of violations, and protect the program’s assets and interests.

**Other Cities Monitor Occupancy Annually**

2018 was the first year Economic Development performed a comprehensive review of resale-restricted affordable homes despite City rules requiring periodic confirmation of occupancy and ownership for the last 14 years. Economic Development added an annual reminder in 2019 using a new software system for its affordable housing program, so that agency staff will remember to monitor each affordable unit.\(^\text{14}\) The annual monitoring procedure involves examining property records from the Assessor’s Office and the Clerk


\(^\text{14}\) Denver Economic Development & Opportunity implemented a new software system called Salesforce HomeKeeper to manage its affordable homeownership programs. Economic Development implemented the system in May 2019.
and Recorder’s Office to identify discrepancies between published records and internal data and flagging potential issues. Potential issues may include homeowners renting out their affordable homes or illegally transferring ownership of the home to an unqualified buyer.

The Grounded Solutions Network recommends sending an annual letter to remind homeowners of program restrictions and requirements as well as requiring annual evidence that the owner is indeed living in the home.\(^\text{15}\) Annual communication reminds homeowners of affordable housing requirements, and returned letters or unresponsive owners can alert an agency of potential issues. Additionally, requiring annual evidence that the owner is living in the home helps ensure affordable housing is used for its intended purpose and that the unit is not rented in violation of program rules.

We surveyed 15 other municipalities with affordable housing programs and found that five of the 10 that responded conduct annual occupancy monitoring, including:

- San Diego
- Palo Alto, California
- San Francisco
- Washington, D.C.
- Boston

These cities reported using the annual occupancy monitoring as a way to detect potential violations.

Economic Development’s lack of enforcement program design causes inconsistent or inequitable enforcement and leads to a reduction in housing inventory for qualified affordable homebuyers. Economic Development’s lack of annual occupancy monitoring reduces its ability to detect and address potential violations. Additionally, the agency’s lack of remediation actions and policies and procedures leaves it unable to effectively enforce violations.

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RECOMMENDATION 1.3

Improve Policies and Create Procedures for Monitoring and Enforcement – Denver Economic Development & Opportunity’s Chief Housing Officer should improve policies and create and implement procedures for monitoring and enforcement, such as those recommended in standards from the Grounded Solutions Network, including:

- Identification of method and frequency of monitoring
- List of required homeowner compliance documentation
- Procedure for following up with those who do not respond after the first communication
- Identification and definition of potential program violations (e.g., nonowner occupancy, unauthorized renting, unauthorized title transfer)
- Identification of conditions that would trigger a site visit
- Process for responding to violations
- List of possible repercussions for violations
- Procedures for following up on violations

Agency Response: Disagree, Implementation Date – Completed

Auditor’s Addendum: See page 57 under Recommendation 1.3

RECOMMENDATION 1.4

Perform Annual Occupancy Monitoring – Denver Economic Development & Opportunity’s Chief Housing Officer should perform annual occupancy monitoring by having homeowners sign a document, such as an affidavit, affirming the affordable unit is their primary residence and by having them provide evidence that they live there (e.g., provide a copy of their driver’s license or utility bill to Economic Development).

Agency Response: Disagree

Auditor’s Addendum: See page 57 under Recommendation 1.4
Our review of communication between Denver Economic Development & Opportunity and other City agencies found gaps in how information is exchanged and shared.

Federal standards from the U.S. Government Accountability Office state that management should communicate quality information throughout an organization to all levels of staff and management.¹⁶ Quality information should be communicated to all levels.

Communication between Denver Economic Development & Opportunity and other City agencies is a crucial process that affects many parts of a successfully managed housing program as well as other City operations. Specifically, effective communication can connect residents who may need housing assistance with the resources to keep them in their homes and ensure the City can prevent an affordable property from falling into foreclosure.

Cities we surveyed leverage other agencies to streamline enforcement processes in their affordable housing programs. For example, in Boulder, Colorado, a code compliance investigator collects evidence for both a city code violation and violations of an affordable housing covenant. Boulder also uses citywide software systems to have other departments notify housing staff when they identify potential affordable housing violations. In addition, San Francisco’s affordable housing staff collaborate with both code enforcement officials (who investigate affordable housing violations) and city attorneys (who litigate affordable housing cases).

Poor Communication with Other Agencies Has Cost Affordable Homeowners Thousands of Dollars and Hampers City Functions

Despite Denver Economic Development & Opportunity’s communication efforts with City agencies such as the Assessor’s Office, Public Trustee, Department of Excise and Licenses, and 311, we found an overall lack of guidance on how information should be exchanged due to the absence of strategic planning. This lack of structure and planning has resulted in inefficiencies and errors that have cost the City thousands of dollars and caused affordable homeowners to overpay property taxes.

First, Economic Development’s lack of providing a complete listing of affordable homes to the Assessor’s Office resulted in owners of some affordable homes overpaying property taxes at the market rate. Second, inconsistent communication between Economic Development

and Excise and Licenses may have led to owners illegally renting their affordable homes without Economic Development’s knowledge. Third, Economic Development’s inconsistent information sharing with the Public Trustee could limit the agency’s ability to prevent foreclosures on affordable homes. Finally, the lack of communication between Economic Development and the 311 contact center could lead to Economic Development being unaware of reported compliance violations on affordable homes.

Overbilled Property Taxes – For affordable homes, the Assessor’s Office has special valuation procedures when calculating property taxes every two years. This involves periodically requesting lists of all affordable housing properties from Denver Economic Development & Opportunity to ensure the Assessor’s records are complete. Our review of how the Assessor calculates property taxes for affordable homes found ineffective and inefficient communication between Economic Development and the Assessor’s Office resulting in 51 affordable homeowners overpaying property taxes.

Specifically, we found that Economic Development has not established a formal process for how affordable housing information should be communicated from Economic Development to the Assessor or in what format. This resulted in the Assessor not being aware of 34 properties remaining in the affordable housing program. As a result, the Assessor calculated property taxes for these affordable homes at higher market rates rather than the reduced affordable rates.

In addition, we found that Economic Development did not know which federal properties were subject to the Assessor’s affordable housing valuation procedures. Therefore, Economic Development could not provide a complete list of all affordable homes to the Assessor. For example, we found 17 federally funded properties not included in the Assessor’s records because Economic Development had not included them in previous lists.

As a result, the Assessor estimates 51 total properties were overcharged property taxes across 2017 and 2018. These errors will require the Assessor’s Office to create protests on behalf of these homeowners and return approximately $40,000 in property taxes to affected homeowners—averaging $300 to $550 per refund. These costs do not include time spent by the Assessor’s Office and Department of Finance personnel to process these transactions.

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These errors will result in approximately $40,000 in property tax refunds to 51 affected homeowners.

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17 The Assessor’s assessment periods follow a two-year cycle. The most recent assessment period was for 2017 and 2018 and will require a refund to be processed for each year for most properties, resulting in 98 total protests.
Owners of Affordable Homes Illegally Renting Them – Economic Development has not collaborated with the City agency that regulates short-term rentals to identify potential rental violations.

With few exceptions, homeowners in Denver cannot use their affordable homes as a rental unit. Instead, ordinances and covenants generally require the homeowner to live in their home as their primary residence. This includes short-term rentals, which are regulated by the City’s Department of Excise and Licenses. Even though Economic Development occasionally contacts Excise and Licenses to report homes that may violate short-term rental rules, Economic Development does not provide information identifying which homes are part of the affordable housing program. Economic Development’s lack of communication diminishes the opportunity to collaborate on issues affecting affordable homes.

There are two resources Excise and Licenses uses that could benefit Economic Development. First, Excise and Licenses keeps a list of individuals who registered their properties as short-term rentals. Using this list, we identified three affordable homes with active short-term rental licenses. However, Economic Development failed to identify two of those three as potential violations.

The second resource is a database of listings from popular short-term rental websites. We compared this data with Economic Development’s list of affordable homes and found 16 listed on short-term rental websites. Of those 16, Economic Development listed 10 as in compliance, or without any issues. We did not receive evidence Economic Development identified these units as having

HOMEOWNER PROFITED BY RENTING OUT AFFORDABLE HOME

In April 2018, Denver Economic Development & Opportunity identified a homeowner renting out their affordable home in Green Valley Ranch through Airbnb and HomeAway. This affordable home’s covenant restrictions do not allow affordable homes to be rented and require income-qualified owners to live in the home.

In July 2018, Economic Development referred this case to the Department of Excise and Licenses as a short-term rental. However, because the owner is listing the property as having a minimum stay of one month with rent at nearly $3,000 per month, the property was not considered a short-term rental. A property can only be considered a short-term rental if the minimum stay is 29 days or less. Hence, Excise and Licenses did not issue a notice of violation.

While the home is not violating the short-term rental regulations Excise and Licenses enforces, the home remains in violation of affordable housing restrictions that Economic Development enforces. Economic Development has not recorded any additional compliance or enforcement activity since July 2018, while this homeowner potentially continues to profit from renting their affordable home.
potential violations for being illegally listed as short-term rentals. If these homeowners are in violation of affordable housing rules, these homeowners are abusing the City’s affordable housing program and potentially limiting affordable housing inventory that could otherwise go to people who need it for their primary residence. Further, these violations hinder Economic Development reaching its goal of preventing involuntary displacement and preserving affordability.

**Lack of Advanced Notice for Foreclosures** – To inform Economic Development of potential foreclosures, the Public Trustee periodically provides a list of affordable homes entering foreclosure. This list is based on data provided by Economic Development, and it identifies which properties are part of the affordable housing program. However, this process is not documented and does not occur on a routine basis. As a result, Economic Development leadership stated that they expect a communication from the Public Trustee on a quarterly basis. However, the Public Trustee stated that the existing process is to share foreclosure information monthly.

Without a documented ongoing communication process with the Public Trustee, Economic Development may not know in a timely manner about potential foreclosures affecting affordable homes. This could limit Economic Development’s ability to preserve affordable homes before they are foreclosed on.

**Missed Affordable Housing Complaints** – The Denver 311 contact center is a resource residents use to communicate with City government and receive nonemergency services. In this role, 311 receives questions and complaints about a variety of City services, including affordable housing. Because of this, Economic Development’s compliance efforts rely, in part, on receiving public complaints on specific affordable homes. Denver 311 relies on relevant City agencies’ websites and information provided by the agency to answer questions and route complaints. However, 311 officials noted that they do not receive frequent or consistent information from Economic Development.

We found that 311 representatives and supervisors do not know whom to call about affordable housing compliance issues. Denver 311 employees stated they would forward complaints about an affordable home being rented out to the Department of Excise and Licenses or to Denver Human Services. For example, 311 received one report of an affordable home being rented out on Airbnb. Denver 311 directed this report to Excise and Licenses’ short-term rental enforcement, but it is unclear whether the complaint was ever sent to Economic Development.

Unidentified compliance issues could reduce the number of affordable homes available to qualified buyers. A formalized and documented
communication process between 311 and Economic Development could help improve Economic Development’s compliance efforts.

RECOMMENDATION 1.5

Formalize Communication with Related City Agencies – Denver Economic Development & Opportunity’s Chief Housing Officer should determine information that needs to be communicated to and received from other City agencies, decide the most efficient and effective methods of communication, and formalize and document a plan of communication with the Assessor’s Office, the Denver 311 contact center, the Department of Excise and Licenses, and the Public Trustee.

Agency Response: Agree, Implementation Date – September 15, 2019

RECOMMENDATION 1.6

Process Abatements – The Assessor’s Office should create protests for all overvalued affordable homes and work with Department of Finance personnel to issue returns of property taxes.

Agency Response: Agree, Implementation Date – September 30, 2019

Affordable Homes Have Been Lost to Foreclosure

Denver Economic Development & Opportunity lacks a strategy with processes to identify and respond to foreclosed affordable homes to preserve their affordability—leading to a loss of homes from the City’s affordable housing inventory.

Although the first locally funded affordable home was foreclosed on in September 2005, Economic Development only began compiling and reviewing a comprehensive list of foreclosed affordable homes in September 2018 to determine whether their covenant restrictions should remain in effect or be terminated.

Economic Development staff then reviewed recorded ownership documents for each foreclosure to determine whether covenant restrictions should remain in effect and then recorded their decisions in a spreadsheet. Through this process, if an affordable home is foreclosed on by a first mortgagee—the primary lender who holds the mortgage—and then either that lender or a government mortgage agency acquires the home, the property is released from its affordable housing covenant restrictions. If any third party purchases or acquires the
We randomly sampled 44 affordable homes out of 217 released from their covenants. Our review found two affordable homes out of the sample that were improperly released from their covenant restrictions. Both homes were purchased by third parties after foreclosure, which should have resulted in both homes remaining affordable. These occurred before 2018, when the City Attorney’s Office interpreted the same covenant rules differently than it does now. Economic Development officials confirmed these two affordable homes would not have been released under its current process, in effect since September 2018.

Additionally, we found 26 affordable homes in this same sample that were properly released but had no release of covenant recorded to publicly document the property was no longer part of the City’s affordable housing program.

**Federally Funded Foreclosures** – In addition to foreclosures within Economic Development’s locally funded for-sale affordable housing inventory, we analyzed Economic Development’s federally funded units. Federally funded units are those that received funding from the U.S. government. For these homes, the City cannot decide to release the units from covenant restrictions, because they are controlled

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18 Primary lenders can also acquire homes through a “deed in lieu of foreclosure,” where the homeowner transfers ownership of the home to the primary lender in exchange for the lender not collecting the remaining unpaid balance on the loan.
HOMEOWNER ATTEMPTED TO USE SELF-FORECLOSURE TO REMOVE COVENANT RESTRICTIONS

One affordable homeowner attempted to foreclose on their own home in Stapleton through what was listed as a limited liability company. However, there was no record of the limited liability company having been registered with the Colorado Secretary of State’s office.

The transfer appeared to be an attempt to remove covenant restrictions from the property by means of foreclosure. In June of 2016, the unit was transferred to the possession of the limited liability company through a “deed in lieu of foreclosure,” a legal document typically used to transfer a property from a borrower to a lender to satisfy a debt and avoid foreclosure. In January 2017, the limited liability company transferred the property back to the original owner.

Despite this, Denver Economic Development & Opportunity only determined this property should not be released from its covenant when it began reviewing foreclosures in September 2018, more than two years after the original owner had first initiated the apparent self-foreclosure strategy.

by one of the City’s nonprofit partners. As a result, these homes are automatically lost to the City’s affordable housing inventory when they are foreclosed on. The City has 468 federally funded affordable units in total, and 21 of these units have been lost to foreclosure.¹⁹

Lack of Foreclosure Strategy – Economic Development’s inconsistent treatment of foreclosed affordable homes is a result of the agency’s lack of a management strategy with documented policies and procedures to handle foreclosures. Rather than having these standard policies and procedures, Economic Development staff said they rely solely on the foreclosure language in each home’s respective covenant to make decisions.

In addition, Economic Development has not established a process to bring properties that were foreclosed on without having been released from covenants back into compliance. The agency also lacks a process to avoid future foreclosed homes being lost from the affordable housing program. Economic Development has not attempted to buy back any affordable homes that were either foreclosed on or that are at risk of going into foreclosure. And, Economic Development does not receive notices of default to intervene before a foreclosure occurs nor does it attempt to assess the cause of foreclosures to prevent future foreclosures from occurring. Notices of default act as a notification of nonpayment on a person’s mortgage.

The Grounded Solutions Network—a national coalition of advocates for affordable housing—says a required practice of any affordable housing program is to adopt detailed, written policies and procedures

¹⁹ We came to this number by removing duplicate entries from Denver Economic Development & Opportunity’s list of locally funded affordable housing units.
to direct program operations generally and to document procedures for responding to notices of default, specifically.\textsuperscript{20}

Written procedures provide guidance to staff, preserve institutional knowledge across staffing changes, and ensure fair and consistent treatment of affordable homeowners. Grounded Solutions also provides a list of best practices to preserve affordable homes before and during a foreclosure, including:

- Creating methods to receive and respond to notifications of nonpayment and default, such as recording a “request for notice” for each affordable home to receive a copy of all notices of default;
- Establishing the authority to safeguard affordable housing in the event of default or foreclosure by recording a “right to cure default” on the owner’s behalf to preserve the affordable home;
- Recording a “first right of refusal” or “first right to purchase” to repurchase an affordable home in the event of foreclosure; and
- Tracking foreclosures and providing reports every six months that identify the cause of each foreclosure, with recommendations for changing policies and procedures to prevent further foreclosures in affordable housing.

We found these best practices align with how other cities are handling foreclosures on affordable homes. Seven other cities provided us with information relating to their foreclosure processes, and we found that:

- Six of seven cities have a right to purchase a foreclosed property;
- Four of seven cities require the homeowner or lender to provide a notice of default or foreclosure;
- Four of seven cities have the right to “cure,” or remedy, loan defaults;
- One city records a request for notice on each affordable home to request notification of default; and
- One city requires itself to sign and record documentation stating a covenant is released in the event a foreclosure is lost from the affordable housing program.

As a result of Economic Development’s lack of strategy and overall program design to keep homes affordable—and because it has not created policies and procedures for foreclosures—264 out of 1,619 locally funded affordable homes were foreclosed on. After Economic Development completed its review of foreclosures, the agency

More than 13 percent of Denver Economic Development & Opportunity’s locally funded homes were lost from the affordable housing program to foreclosure.

Determined that 217 homes in foreclosure should be released from their affordable covenant restrictions and, therefore, lost to the City’s affordable housing supply.

This means that more than 13 percent of Economic Development’s locally funded homes were lost from the affordable housing program to foreclosure, as of May 2019.

Figure 8 demonstrates the number of foreclosures lost from the affordable housing inventory by program type and year. Green Valley Ranch and Stapleton are neighborhoods that include large-scale developments of affordable housing. Rezone agreements refer to affordable housing built under agreements between developers and the City allowing for changes to zoning laws in exchange for developing affordable housing. Additionally, the Inclusionary Housing Ordinance refers to affordable housing constructed under a City ordinance no longer in effect. Affordable homes constructed under this ordinance remain covenant-restricted until their covenant restrictions expire. 21

FIGURE 8. Affordable Homes Lost to Foreclosure, by Program Type

Number of affordable homes lost to foreclosure

By year

By program

Inclusionary Housing Ordinance

Rezone Agreements

Stapleton

Total

Green Valley Ranch

Source: Auditor’s Office analysis of Denver Economic Development & Opportunity compliance records.

RECOMMENDATION 1.7

Design Policies and Procedures – Denver Economic Development & Opportunity’s Chief Housing Officer should design policies and procedures for identifying affordable homes in foreclosure and recovering foreclosed affordable housing units.

Agency Response: Disagree, Implementation Date – Completed

Auditor’s Addendum: See pages 57-58 under Recommendation 1.7

RECOMMENDATION 1.8

Record Release of Covenant – Denver Economic Development & Opportunity’s Chief Housing Officer should record a release of covenant after Economic Development has determined the affordable home should be released from its covenant.

Agency Response: Agree, Implementation Date – December 31, 2019

RECOMMENDATION 1.9

Assess the Cause of Foreclosures – Denver Economic Development & Opportunity’s Chief Housing Officer should periodically assess and review the cause of affordable home foreclosures. This information should be used to identify possible changes to policies and procedures to prevent future affordable homes being lost to foreclosure.

Agency Response: Disagree

Auditor’s Addendum: See page 58 under Recommendation 1.9

RECOMMENDATION 1.10

Ensure Timely Notification – Denver Economic Development & Opportunity’s Chief Housing Officer should ensure that Economic Development receives monthly reports from the Public Trustee listing affordable homes beginning the foreclosure process.

Agency Response: Agree, Implementation Date – Completed

Auditor’s Addendum: See page 58 under Recommendation 1.10
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<td><strong>Establish First Right of Refusal</strong> – Denver Economic Development &amp; Opportunity’s Chief Housing Officer should establish the City’s first right of refusal or first right to purchase for-sale affordable housing units that are foreclosed on.</td>
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<tr>
<td><strong>Agency Response:</strong> Disagree</td>
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<tr>
<td><strong>Auditor’s Addendum:</strong> See page 58 under Recommendation 1.11</td>
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<th>RECOMMENDATION 1.12</th>
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<td><strong>Remedy Defaults</strong> – Denver Economic Development &amp; Opportunity’s Chief Housing Officer should pursue the authority to remedy defaults by purchasing the unit or paying defaulted mortgage payments before foreclosure.</td>
</tr>
<tr>
<td><strong>Agency Response:</strong> Disagree</td>
</tr>
<tr>
<td><strong>Auditor’s Addendum:</strong> See pages 58-59 under Recommendation 1.12</td>
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RECOMMENDATIONS

NOTE: An auditor’s addendum follows the agency narrative for some recommendations, including those to which Denver Economic Development & Opportunity disagreed. Please see pages 57-59 for a compilation of the Auditor’s Addenda. The addenda below follow each related recommendation.

1.1 **Evaluate Programs** – Denver Economic Development & Opportunity’s Chief Housing Officer should evaluate the City’s affordable housing program to determine whether strategic goals are being achieved and program objectives are being met. Specifically, Economic Development should:

- Evaluate how well activities are carried out and reach intended individuals to be served by the programs in their early stages;
- Assess the extent to which the programs achieve their objectives, including intermediate and final outcomes; and
- Use the evaluation results to assess the effectiveness of the programs, identify how to improve performance, and guide resource allocation.

**Agency Response: Agree, Implementation Date – December 31, 2019**

Agency Narrative: DEDO does agree that as we transition to a new Department of Housing Stability, a strategic goal is to focus on the outcome of investments, including those to stabilize residents at risk of involuntary displacement, and not only the output of households served. Preserving affordable housing and preventing displacement require multiple partners and multiple factors to achieve such outcomes, so even as the housing team transitions to more outcome-based contracting, we recognize that there will not always be a causal relationship between our individual housing program and the prevention of involuntary displacement for the City as a whole.

1.2 **Collaborate with Vendors** – Denver Economic Development & Opportunity’s Chief Housing Officer should collaborate with Economic Development’s vendors for the Temporary Rental and Utility Assistance and Temporary Mortgage Assistance programs to design and implement outcome evaluations and assess the extent to which each program achieves its objectives. Specifically, Economic Development should:

- Incorporate more explicit guidance surrounding how the vendors manage their case files for the programs;
- Hold periodic meetings with all housing assistance program vendors to ensure consistency in processes; and
- Ensure all housing assistance program vendors verify all addresses for individuals receiving services with accurate maps of Denver, such as those managed by the Assessor’s Office.

**Agency Response: Agree, Implementation Date – December 31, 2019**
Agency Narrative: DEDO agrees with the recommendation to provide more explicit guidance to TRUA and TMAP program vendors regarding the requirements for case file management in the scopes of service within each vendor’s contract. DEDO will use the knowledge and expertise developed under our federal contract monitoring guidelines to inform more clear expectations for locally funded programs. DEDO will also monitor program vendors to review policies and processes to ensure consistency across vendors. DEDO further agrees to review and verify addresses as appropriate that are submitted on monthly reporting documents by vendors to ensure compliance with the Denver residency requirement.

1.3 Improve Policies and Create Procedures for Monitoring and Enforcement – Denver Economic Development & Opportunity’s Chief Housing Officer should improve policies and create and implement procedures for monitoring and enforcement, such as those recommended in standards from the Grounded Solutions Network, including:

- Identification of method and frequency of monitoring
- List of required homeowner compliance documentation
- Procedure for following up with those who do not respond after the first communication
- Identification and definition of potential program violations (e.g., nonowner occupancy, unauthorized renting, unauthorized title transfer)
- Identification of conditions that would trigger a site visit
- Process for responding to violations
- List of possible repercussions for violations
- Procedures for following up on violations

Agency Response: Disagree, Implementation Date – Completed

Agency Narrative: DEDO disagrees that many of these actions were not already initiated, but agrees that robust policies and strengthening monitoring and enforcement procedures for Denver’s for-sale affordable housing portfolio support our strategic goals. DEDO monitored and enforced the housing program on a complaint basis for many years. In mid-2017, DEDO hired a compliance officer to determine whether there were additional compliance measures to be taken and to assist with investigations of the complaints. As a result of the new full time compliance officer position, DEDO determined that non-compliant sales had occurred. When the noncompliant sales sold by persons who had benefitted from the program came to the attention of DEDO, DEDO implemented the measures listed below:

- Increased frequency of monitoring, updating the methodology from a complaint-based process to an annual review
- Continued utilization of standard homeowner documentation list
- Continued utilization of the procedure for following up with homeowners who do not respond to an initial notice of violation, as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties
- Continued utilization program violation types as stated in covenants

- Increased frequency of communication that identify conditions that trigger a site visit

- Continued utilization of the process for responding to violations as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties

- Continued utilization of the possible repercussions for violations as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties

- Continued utilization of the procedures for following up on violations as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties

**Auditor’s Addendum:** Grounded Solutions Network, a nonprofit that specializes in inclusive housing issues, states that homeownership programs should have monitoring and enforcement procedures because they “maintain institutional knowledge of the program, promote consistent monitoring and uniform treatment of violations, and protect the program’s assets and interests.” Our report details the affordable housing compliance program policies that Denver Economic Development & Opportunity has implemented, such as the process for escalating violations.

Policies are documents that guide both present and future decision-making and ensure decisions are in line with organizational objectives and philosophies. However, Economic Development lacks documented procedures with specific tasks to guide staff on how to complete day-to-day compliance processes, which has resulted in issues including inconsistent documentation in notice-of-violation case files and a lack of documented reasons for escalating specific cases to the formal violation process.

1.4 **Perform Annual Occupancy Monitoring** – Denver Economic Development & Opportunity’s Chief Housing Officer should perform annual occupancy monitoring by having homeowners sign a document, such as an affidavit, affirming the affordable unit is their primary residence and by having them provide evidence they live there (e.g., provide a copy of their driver’s license or utility bill to Economic Development).

**Agency Response: Disagree**

Agency Narrative: While DEDO certainly agrees that an annual occupancy monitoring of the for-sale affordable housing units via a signed affidavit is a practice utilized by some local governments, DEDO disagrees that having homeowners sign a document annually to certify their residency of an affordable unit aligns with program goals and desired outcomes. First, an affidavit from a homeowner does not guarantee accuracy of information received. Second, the administration of this practice is extremely cumbersome and will strain staff resources, reducing time available to other compliance tasks. In particular, it is unlikely that the City will receive 100% of the affidavits, forcing continued follow-up with homeowners. Third, the practice is impractical, as it seems to be a practice driven by the gross minority of affordable homeownership units that are noncompliant versus the vast majority that are in compliance. Finally, DEDO sends an annual letter to all homeowners reminding them about the affordable
homeownership program and to encourage contacting the City with questions. This practice serves to flag any units that are undeliverable as addressed and generates customer calls that identify potential issues in a more outcome-based and customer-friendly approach versus an affidavit.

DEDO has initiated several measures to conduct an annual occupancy monitoring of the affordable housing portfolio, as detailed above in the response to Recommendation 1.3. Specifically, compliance staff is prompted in Salesforce to complete an annual desk review of each affordable unit. The desk review includes verification of occupancy through records recorded with the Clerk & Recorder, as well as the Assessor’s Office property records. Units that are identified through this process as being potentially non-compliant are flagged for further review. Compliance staff performs investigative work to determine if a notice of violation will be issued to the homeowner.

**Auditor’s Addendum:** Grounded Solutions Network recommends requiring evidence of owner occupancy annually to ensure that the community investment in the homes is serving its intent and that owners of affordable units are not relocating to convert their homes into income-generating rentals, which aligns with Denver Economic Development & Opportunity’s stated goals of preventing involuntary displacement and preserving affordability.

We surveyed other high-cost municipalities to ask how they detect or identify potential units being rented in violation of affordable housing rules, and five of 10 municipalities responded that they require annual affidavits and proof of residency from homeowners. While the practice does not guarantee obtaining accurate information from homeowners, it is one mechanism that has been implemented by other affordable housing programs to identify potential violations. In addition, Economic Development has required several of its potential violators to sign an affidavit affirming residency as part of its documentation of compliance.

1.5 **Formalize Communication with Related City Agencies** – Denver Economic Development & Opportunity’s Chief Housing Officer should determine information that needs to be communicated to and received from other City agencies, decide the most efficient and effective methods of communication, and formalize and document a plan of communication with the Assessor’s Office, the Denver 311 contact center, the Department of Excise and Licenses, and the Public Trustee.

**Agency Response: Agree, Implementation Date – September 15, 2019**

Agency Narrative: DEDO agrees that communication plans with other City agencies are necessary. First, DEDO has already formalized a plan with the Public Trustee to obtain a monthly listing of foreclosure notices received by the City. Second, DEDO has agreed to implement a data-sharing platform in Salesforce for the Assessor’s Office to allow them direct and continuous access to the affordable housing portfolio. DEDO has agreed to provide the Assessor’s Office with quarterly reports while access to Salesforce is finalized. Finally, DEDO will coordinate plans of communication with Denver 311 and the Department of Excise and Licenses, and will contact these agencies to initiate discussions by the date listed above. We remain committed to communication with all of our partners.
1.6 Process Abatements – The Assessor’s Office should create protests for all overvalued affordable homes and work with Department of Finance personnel to issue returns of property taxes.

Agency Response: Agree, Implementation Date – September 30, 2019

Agency Narrative: Petitions for abatement/refunds have been initiated by the Assessor’s Office and approval is anticipated by the Board of Equalization at the August 8, 2019 meeting. Department of Finance personnel will process refunds as soon as practicable following approval by the Board.

1.7 Design Policies and Procedures – Denver Economic Development & Opportunity’s Chief Housing Officer should design policies and procedures for identifying affordable homes in foreclosure and recovering foreclosed affordable housing units.

Agency Response: Disagree, Implementation Date – Completed

Agency Narrative: DEDO consults with the CAO to identify legally acceptable methods under each applicable covenant for securing the unit, as foreclosures are largely controlled by state laws and regulations, specifically CRS 38-38-101 through 907. DEDO has created a process for identifying homes in foreclosure, via a monthly report from the Public Trustee of foreclosure notices received by the City. DEDO has also initiated conversations with lenders and non-profit partners to create partnerships to attempt to preserve units currently undergoing foreclosure proceedings, when possible.

Auditor’s Addendum: As stated in the audit report, Denver Economic Development & Opportunity does have a process for determining if covenants should be released in the event of foreclosure and does receive periodic reports from the Public Trustee identifying affordable homes beginning the foreclosure process. However, neither of these processes are documented in policies and procedures.

Additionally, the communication between Economic Development and the Public Trustee is not documented or standardized. According to interviews of the Public Trustee and Economic Development staff, the information shared between the two agencies has changed on multiple occasions, and each agency gave a different response as to the frequency of this information-sharing, with the Public Trustee stating it occurs monthly and Economic Development stating it occurs quarterly. Having established policies and procedures would help in ensuring both agencies are aware of when and how important foreclosure information is to be shared.

Furthermore, Economic Development did not provide any documented policies and procedures or plan on how to preserve or recover foreclosed affordable homes. Agency officials did mention they were in conversation with non-profit partners to preserve affordable homes, but this process was described to auditors as being developed at the time of the audit.

1.8 Record Release of Covenant – Denver Economic Development & Opportunity’s Chief Housing Officer should record a release of covenant after Economic Development has determined the affordable home should be released from its covenant.
Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: In 2018, DEDO began the process of releasing covenants for affordable housing units that are no longer restricted, when legally appropriate. That process will continue, both for currently identified units, and as additional units are identified moving forward. For the covenants that were identified in the audit as appropriate for a release of covenant, but a recorded release was missing at the time of this audit’s initial sampling, DEDO will record a release of covenant if it has not already been recorded by December 31, 2019.

1.9 Assess the Cause of Foreclosures – Denver Economic Development & Opportunity’s Chief Housing Officer should periodically assess and review the cause of affordable home foreclosures. This information should be used to identify possible changes to policies and procedures to prevent future affordable homes being lost to foreclosure.

Agency Response: Disagree

Agency Narrative: DEDO disagrees with this recommendation. While the prevention of foreclosure is important, the recommended action does not effectively accomplish this goal. First, not every foreclosure will be traceable, nor does DEDO have enough resources to effectively track down each homeowner involved in a foreclosure proceeding. Second, the causes of foreclosure are often complex, multi-faceted, and outside the purview of the affordable homeownership program. Common causes include divorce, severe illness or death of a household member, or market factors that result in negative equity. To address these causes, Denver also funds housing counseling services that assist homeowners experiencing various housing crises, including referrals for financial services to assist homeowners at risk of foreclosure.

Auditor’s Addendum: Grounded Solutions Network, a collection of public, private, and nonprofit affordable housing industry experts, states that identifying the cause of foreclosures and recommending changes to policies and procedures can help prevent the further loss of affordable homes to foreclosure. Further, this recommendation extends only to areas under Denver Economic Development & Opportunity’s purview, such as determining whether homeowners are missing housing payments, and it recommends changes to their processes as a result of this information.

1.10 Ensure Timely Notification – Denver Economic Development & Opportunity’s Chief Housing Officer should ensure that Economic Development receives monthly reports from the Public Trustee listing affordable homes beginning the foreclosure process.

Agency Response: Agree, Implementation Date – Completed

Agency Narrative: DEDO agrees that we ensure to receive a notice of default in a monthly report from the Public Trustee. DEDO currently receives a monthly report the first week of each month for the complete month preceding it. Per recommendation from the Auditor’s Office, DEDO has scheduled a calendar reminder for DEDO staff to contact the Public Trustee in the event that we do not receive this monthly report timely.
**Auditor’s Addendum:** We would like to reiterate that—as stated on pages 31-32—the Grounded Solutions Network says a required practice of any affordable housing program is to adopt detailed, written policies and procedures to direct program operations generally and to document procedures for responding to notices of default, specifically.

1.11 **Establish First Right of Refusal** – Denver Economic Development & Opportunity’s Chief Housing Officer should establish the City’s first right of refusal or first right to purchase for-sale affordable housing units that are foreclosed on.

**Agency Response: Disagree**

*Agency Narrative:* For a for-sale unit created under the City’s affordable homeownership program, DEDO cannot establish a first right of refusal or first right to purchase in the event of a foreclosure. The City Attorney’s Office determined in 2002 that since foreclosures are governed by Colorado state law, the insertion of any rights (including a right of first refusal) into the covenant is not legally permissible, and could interfere with lender and lien rights on the title provided by the orderly foreclosure process established by the State. There is already a notice requirement on the owner in the form of covenant so DEDO could timely determine whether there was a path to obtain the affordable unit.

**Auditor’s Addendum:** During the course of the audit, neither Denver Economic Development & Opportunity nor the City Attorney’s Office provided information of a determination stating that a right of first refusal is not legally permissible. In addition, the City Attorney’s Office rejected several attempts to meet with us to discuss a variety of foreclosure-related issues. Additionally, Economic Development officials stated in interviews that while some affordable housing covenants have a requirement to provide notice of foreclosure to the City, they were unaware of any such notification ever occurring, making their current controls ineffective.

1.12 **Remedy Defaults** – Denver Economic Development & Opportunity’s Chief Housing Officer should pursue the authority to remedy defaults by purchasing the unit or paying defaulted mortgage payments before foreclosure.

**Agency Response: Disagree**

*Agency Narrative:* DEDO can, and in some cases does, pursue the option to purchase the unit with the homeowner in default of the note. These consensual negotiations are on a case by case basis because the City cannot interfere in the contractual relationship between the homeowner and the lender. DEDO cannot pursue the express regulatory authority to have the right to remedy defaults as between a lender and an owner via mandatory purchase prior to foreclosure under a covenant.

**Auditor’s Addendum:** During interviews discussing the ability to remedy defaults, Denver Economic Development & Opportunity did not provide any documentation stating or supporting that it could not intervene to remedy or cure defaults on an owner’s behalf. Additionally, this is a best practice used by four of the seven cities that responded to the audit team with information on their foreclosure processes. If Economic Development does not currently have the authority to remedy defaults on an owner’s behalf, the agency should
continue to pursue this authority through the means of amending future covenants or seeking amendments to appropriate regulations to align itself with this best practice.

Furthermore, during the course of the audit, Economic Development officials stated in interviews that the agency has not purchased affordable homes either at risk of foreclosure or that have been foreclosed on. However, Economic Development stated they were pursuing this option by potentially having partners buy homes at foreclosure.
AGENCY RESPONSE TO AUDIT RECOMMENDATIONS

NOTE: Please see pages 57-59 for a compilation of the Auditor’s Addenda for some recommendations, including those to which Denver Economic Development & Opportunity disagreed.

August 9, 2019

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Preserving Affordable Housing for Denver Residents.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on July 26, 2019. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AGENCY INTRODUCTION

I would first like to express my appreciation for the diligence and professional work done by the audit team on our affordable housing program. Our homeownership program provides a critical path for residents to live and stay in Denver and the city is dedicated to preserving and protecting our entire housing portfolio.

As you are aware, this 2019 audit was initiated approximately one month after the 2018 Affordable Housing audit committee held on December 20, 2018. Therefore, we were implementing recommendations from the first audit, while concurrently undergoing an additional audit.

While we always welcome all the assistance we can get in ensuring our programs and investments bear a strong standard of excellence, we don’t agree with all of the audit recommendations, as detailed on the following pages. It is also worth noting that our dedicated staff has been diligently working to implement the 2018 audit recommendations and has completed the following in response:

1.1 Internal Controls for Annual Sales Price Table
   Completed March 2019; module in Policies & Procedures manual, shared drive folder with applicable documentation

1.2 Internal Controls for Front End Ratio Calculation
   Completed before completion of 2018 audit; module in Policies & Procedures manual

Denver Economic Development & Opportunity
311 | POCKETGOV.COM | DENVERGOV.ORG | DENVER 8 TV
1.3 Internal Controls for Correct Document Typing at Clerk & Recorder
Completed May 2019; module in Policies & Procedures manual

1.4 Research the Feasibility of Using Secondary Liens
Completed March 2019; CAO recommends using performance deeds of trust in lieu of liens, however this requires an ordinance change

1.5 Internal Controls to Calculate Max Resale Prices Correctly
Completed February 2019; module in Policies & Procedures manual

1.6 Refund $35K Overpayment Completed
January 2019

1.7 Internal Controls for Accurate
Inventory of Affordable Units in process

1.8 Internal Controls for Timely and
Accurate IHO Incentive Payments
Completed March 2019; module in Policies & Procedures manual

1.9 Perform Desk Reviews on a Rolling,
Annual Basis; work towards
automating the process 2018
reviews completed, work on
automating part of process is in process

The DEDO Housing division, which is currently transitioning to be a stand-alone Department of Housing Stability (HOST), has been and remains committed to implementing strong policies and procedures aimed at serving residents in need of affordable housing.

AUDIT FINDING
Denver Economic Development & Opportunity (DEDO) Has Not Ensured Affordable Housing Is Preserved and Involuntary Displacement Is Prevented

While there are specific recommendations from the draft audit that we agree with, DEDO disagrees with the language that we have not ensured affordable housing is preserved and involuntary displacement is prevented. Currently, a vast majority our affordable homeownership portfolio is in compliance. While we have identified potential issues on a small portion of our units, we are working to bring all homes back into compliance, as agreed to in our last audit released December 20, 2018, and as updated on January 24, 2019. In early 2018, DEDO established the Compliance Resolution Program (CRP) to bring owners back into compliance, and the subsequent Affordable Housing Recovery Program (AHRP) in mid-2018 to help bring good-faith buyers back into compliance on a voluntary basis.
To further guide our work to preserve affordable housing and prevent involuntary displacement, we have outlined specific housing policy, strategy, and investment priorities and goals in Propel Denver, DEDO’s strategic plan, and Housing an Inclusive Denver, our five-year housing plan. The goals and strategies presented in these documents are tracked by DEDO through annual action plans and annual reports citing the City’s progress toward implementation.

Additionally, our agency diligently follows an existing set of compliance and monitoring standards for its federally funded programs that are being modified for local funded programs moving forward. Thus, we disagree with the finding that DEDO’s Housing Division does not evaluate whether its programs are effective. In 2018, DEDO only had one locally funded program, TRUA, where federally funded monitoring standards were used as part of program evaluation. In addition, DEDO’s housing program contracts contain language regarding compliance and monitoring requirements and desk reviews are conducted routinely by staff overseeing housing program contracts.

Our Housing team has also established regular coordination with other city agencies, while also implementing a technology solution that will streamline communications and sharing of pertinent information. In the spirit of continuous improvement, and dedication to serving the residents of Denver, we take this audit very seriously, and look forward to providing you further detail in our responses below. We appreciate the diligence of the Auditor’s Office staff and it is our City’s priority to preserve affordable housing and prevent involuntary displacement.

RECOMMENDATION 1.1
Evaluate Programs – Denver Economic Development & Opportunity’s Chief Housing Officer should evaluate the City’s affordable housing program to determine whether strategic goals are being achieved and program objectives are being met. Specifically, Economic Development should:
• Evaluate how well activities are carried out and reach intended individuals to be served by the programs in their early stages;
• Assess the extent to which the programs achieve their objectives, including intermediate and final outcomes; and
• Use the evaluation results to assess the effectiveness of the programs, identify how to improve performance, and guide resource allocation.

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<tr>
<td>Agree</td>
<td>December 31, 2019</td>
<td>Laura Brudzynski (720) 913-1575</td>
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Narrative for Recommendation 1.1
DEDO does agree that as we transition to a new Department of Housing Stability, a strategic goal is to focus on the outcome of investments, including those to stabilize residents at risk of involuntary displacement, and not only the output of households served. Preserving affordable housing and preventing displacement require multiple partners and multiple factors to achieve such outcomes, so even as the housing team transitions to more outcome-based contracting, we recognize that there will not always be a causal relationship between our individual housing program and the prevention of involuntary displacement for the City as a whole.

RECOMMENDATION 1.2
Collaborate with Vendors – Denver Economic Development & Opportunity’s Chief Housing Officer should collaborate with Economic Development’s vendors for the Temporary Rental and Utility Assistance and Temporary Mortgage Assistance programs to design and implement outcome evaluations and assess the extent to which each program achieves its objectives. Specifically, Economic Development should:
- Incorporate more explicit guidance surrounding how the vendors manage their case files for the programs;
- Hold periodic meetings with all housing assistance program vendors to ensure consistency in processes; and
- Ensure all housing assistance program vendors verify all addresses for individuals receiving services with accurate maps of Denver, such as those managed by the Assessor’s Office.

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Narrative for Recommendation 1.2
DEDO agrees with the recommendation to provide more explicit guidance to TRUA and TMAP program vendors regarding the requirements for case file management in the scopes of service within each vendor’s contract. DEDO will use the knowledge and expertise developed under our federal contract monitoring guidelines to inform more clear expectations for locally funded programs. DEDO will also monitor program vendors to review policies and processes to ensure consistency across vendors. DEDO further agrees to review and verify addresses as appropriate that are submitted on monthly reporting documents by vendors to ensure compliance with the Denver residency requirement.
RECOMMENDATION 1.3
Improve Policies and Create Procedures for Monitoring and Enforcement – Denver Economic Development & Opportunity’s Chief Housing Officer should improve policies and create and implement procedures for monitoring and enforcement, such as those recommended in standards from the Grounded Solutions Network, including:
- Identification of method and frequency of monitoring
- List of required homeowner compliance documentation
- Procedure for following up with those who do not respond after the first communication
- Identification and definition of potential program violations (e.g., nonowner occupancy, unauthorized renting, unauthorized title transfer)
- Identification of conditions that would trigger a site visit
- Process for responding to violations
- List of possible repercussions for violations
- Procedures for following up on violations

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Narrative for Recommendation 1.3
DEDG disagrees that many of these actions were not already initiated, but agrees that robust policies and strengthening monitoring and enforcement procedures for Denver’s for-sale affordable housing portfolio support our strategic goals. DEDG monitored and enforced the housing program on a complaint basis for many years. In mid-2017, DEDG hired a compliance officer to determine whether there were additional compliance measures to be taken and to assist with investigations of the complaints. As a result of the new full-time compliance officer position, DEDG determined that non-compliant sales had occurred. When the noncompliant sales sold by persons who had benefited from the program came to the attention of DEDO, DEDG implemented the measures listed below:
- Increased frequency of monitoring, updating the methodology from a complaint-based process to an annual review
- Continued utilization of standard homeowner documentation list
- Continued utilization of the procedure for following up with homeowners who do not respond to an initial notice of violation, as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties
- Continued utilization program violation types as stated in covenants
- Increased frequency of communication that identify conditions that trigger a site visit
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- Continued utilization of the possible repercussions for violations as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties

- Continued utilization of the procedures for following up on violations as enacted in the IHO Rules and Regulations in 2002, under Section 6: Compliance, Enforcement, and Penalties

**RECOMMENDATION 1.4**

**Perform Annual Occupancy Monitoring** – Denver Economic Development & Opportunity's Chief Housing Officer should perform annual occupancy monitoring by having homeowners sign a document, such as an affidavit, affirming the affordable unit is their primary residence and by having them provide evidence that they live there (e.g., provide a copy of their driver's license or utility bill to Economic Development).

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**Narrative for Recommendation 1.4**

While DEDO certainly agrees that an annual occupancy monitoring of the for-sale affordable housing units via a signed affidavit is a practice utilized by some local governments, DEDO disagrees that having homeowners sign a document annually to certify their residency of an affordable unit aligns with program goals and desired outcomes. First, an affidavit from a homeowner does not guarantee accuracy of information received. Second, the administration of this practice is extremely cumbersome and will strain staff resources, reducing time available to other compliance tasks. In particular, it is unlikely that the City will receive 100% of the affidavits, forcing continued follow-up with homeowners. Third, the practice is impractical, as it seems to be a practice driven by the gross minority of affordable homeownership units that are noncompliant versus the vast majority that are in compliance. Finally, DEDO sends an annual letter to all homeowners reminding them about the affordable homeownership program and to encourage contacting the City with questions. This practice serves to flag any units that are undeliverable as addressed and generates customer calls that identify potential issues in a more outcome-based and customer-friendly approach versus an affidavit.

DED0 has initiated several measures to conduct an annual occupancy monitoring of the affordable housing portfolio, as detailed above in the response to Recommendation 1.3. Specifically, compliance staff is prompted in Salesforce to complete an annual desk review of each affordable unit. The desk review includes verification of occupancy through records recorded with the Clerk & Recorder, as well as the Assessor’s Office property records. Units that are identified through this process as being
potentially non-compliant are flagged for further review. Compliance staff performs investigative work to determine if a notice of violation will be issued to the homeowner.

**RECOMMENDATION 1.5**
Formalize Communication with Related City Agencies – Denver Economic Development & Opportunity’s Chief Housing Officer should determine information that needs to be communicated to and received from other City agencies, decide the most efficient and effective methods of communication, and formalize and document a plan of communication with the Assessor’s Office, the Denver 311 contact center, the Department of Excise and Licenses, and the Public Trustee.

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**Narrative for Recommendation 1.5**
DED0 agrees that communication plans with other City agencies are necessary. First, DEDO has already formalized a plan with the Public Trustee to obtain a monthly listing of foreclosure notices received by the City. Second, DEDO has agreed to implement a data-sharing platform in Salesforce for the Assessor’s Office to allow them direct and continuous access to the affordable housing portfolio. DEDO has agreed to provide the Assessor’s Office with quarterly reports while access to Salesforce is finalized. Finally, DEDO will coordinate plans of communication with Denver 311 and the Department of Excise and Licenses, and will contact these agencies to initiate discussions by the date listed above. We remain committed to communication with all of our partners.

**RECOMMENDATION 1.6**
Process Abatements – The Assessor’s Office should create protests for all overvalued affordable homes and work with Department of Finance personnel to issue returns of property taxes.

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Narrative for Recommendation 1.6
Assessor’s Office response: Petitions for abatement/refunds have been initiated by the Assessor’s Office and approval is anticipated by the Board of Equalization at the August 8, 2019 meeting. Department of Finance personnel will process refunds as soon as practicable following approval by the Board.

RECOMMENDATION 1.7
Design Policies and Procedures – Denver Economic Development & Opportunity’s Chief Housing Officer should design policies and procedures for identifying affordable homes in foreclosure and recovering foreclosed affordable housing units.

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Narrative for Recommendation 1.7
DEDO consults with the CAO to identify legally acceptable methods under each applicable covenant for securing the unit, as foreclosures are largely controlled by state laws and regulations, specifically CRS 38-38-101 through 907. DEDO has created a process for identifying homes in foreclosure, via a monthly report from the Public Trustee of foreclosure notices received by the City. DEDO has also initiated conversations with lenders and non-profit partners to create partnerships to attempt to preserve units currently undergoing foreclosure proceedings, when possible.

RECOMMENDATION 1.8
Record Release of Covenant – Denver Economic Development & Opportunity’s Chief Housing Officer should record a release of covenant after Economic Development has determined the affordable home should be released from its covenant.

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<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>December 31, 2019</td>
<td>Rachel King (720) 913-1669</td>
</tr>
</tbody>
</table>
Narrative for Recommendation 1.8
In 2018, DEDO began the process of releasing covenants for affordable housing units that are no longer restricted, when legally appropriate. That process will continue, both for currently identified units, and as additional units are identified moving forward. For the covenants that were identified in the audit as appropriate for a release of covenant, but a recorded release was missing at the time of this audit’s initial sampling, DEDO will record a release of covenant if it has not already been recorded by December 31, 2019.

<table>
<thead>
<tr>
<th>RECOMMENDATION 1.9</th>
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<tbody>
<tr>
<td><strong>Assess the Cause of Foreclosures</strong> – Denver Economic Development &amp; Opportunity’s Chief Housing Officer should periodically assess and review the cause of affordable home foreclosures. This information should be used to identify possible changes to policies and procedures to prevent future affordable homes being lost to foreclosure.</td>
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<td>Target date to complete implementation activities (Generally expected within 60 to 90 days)</td>
<td>Name and phone number of specific point of contact for implementation</td>
</tr>
<tr>
<td>Disagree</td>
<td>n/a</td>
<td>Rachel King (720) 913-1669</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.9
DEDO disagrees with this recommendation. While the prevention of foreclosure is important, the recommended action does not effectively accomplish this goal. First, not every foreclosure will be traceable, nor does DEDO have enough resources to effectively track down each homeowner involved in a foreclosure proceeding. Second, the causes of foreclosure are often complex, multi-faceted, and outside the purview of the affordable homeownership program. Common causes include divorce, severe illness or death of a household member, or market factors that result in negative equity. To address these causes, Denver also funds housing counseling services that assist homeowners experiencing various housing crises, including referrals for financial services to assist homeowners at risk of foreclosure.

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<thead>
<tr>
<th>RECOMMENDATION 1.10</th>
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<tr>
<td><strong>Ensure Timely Notification</strong> – Denver Economic Development &amp; Opportunity’s Chief Housing Officer should ensure that Economic Development receives monthly reports from the Public Trustee listing affordable homes beginning the foreclosure process.</td>
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</table>
DENVER ECONOMIC DEVELOPMENT & OPPORTUNITY

<table>
<thead>
<tr>
<th>Agree</th>
<th>Completed</th>
<th>Rachel King</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(720) 913-1669</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.10
DED0 agrees that we ensure to receive a notice of default in a monthly report from the Public Trustee. DED0 currently receives a monthly report the first week of each month for the complete month preceding it. Per recommendation from the Auditor’s Office, DED0 has scheduled a calendar reminder for DED0 staff to contact the Public Trustee in the event that we do not receive this monthly report timely.

RECOMMENDATION 1.11
Establish First Right of Refusal – Denver Economic Development & Opportunity’s Chief Housing Officer should establish the City’s first right of refusal or first right to purchase for-sale affordable housing units that are foreclosed on.

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<tbody>
<tr>
<td>Disagree</td>
<td>n/a</td>
<td>Rachel King (720) 913-1669</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.11
For a for-sale unit created under the City’s affordable homeownership program, DEDO cannot establish a first right of refusal or first right to purchase in the event of a foreclosure. The City Attorney’s Office determined in 2002 that since foreclosures are governed by Colorado state law, the insertion of any rights (including a right of first refusal) into the covenant is not legally permissible, and could interfere with lender and lien rights on the title provided by the orderly foreclosure process established by the State. There is already a notice requirement on the owner in the form of covenant so DEDO could timely determine whether there was a path to obtain the affordable unit.

RECOMMENDATION 1.12
Remedy Defaults – Denver Economic Development & Opportunity’s Chief Housing Officer should pursue the authority to remedy defaults by purchasing the unit or paying defaulted mortgage payments before foreclosure.
<table>
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<tr>
<td>Disagree</td>
<td>n/a</td>
<td>Rachel King (720) 913-1669</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 1.12**

DEDO can, and in some cases does, pursue the option to purchase the unit with the homeowner in default of the note. These consensual negotiations are on a case by case basis because the City cannot interfere in the contractual relationship between the homeowner and the lender. DEDO cannot pursue the express regulatory authority to have the right to remedy defaults as between a lender and an owner via mandatory purchase prior to foreclosure under a covenant.

Please contact Britta Fisher at (720) 913-1536 with any questions.

Sincerely,

[Signature]

Britta Fisher
Chief Housing Officer

cc: Valerie Walling, Deputy Auditor, CPA, CMC
    Jared Miller, CISA, CFE, Audit Supervisor
    Katja E. V. Freeman, MA, MELP, Audit Director
    Eric Hiraga, Executive Director
    Britta Fisher, Chief Housing Officer
July 29, 2019

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Preserving Affordable Housing for Denver Residents.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on July 26, 2019. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING

**RECOMMENDATION 1.6**

**Process Abatements** – The Assessor’s Office should create protests for all overvalued affordable homes and work with Department of Finance personnel to issue returns of property taxes.

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</thead>
<tbody>
<tr>
<td>Agree</td>
<td>September 30, 2019</td>
<td>Keith Erffmeyer 720-913-4060</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 1.6**

Petitions for abatement/refunds have been initiated by the Assessor’s Office and approval is anticipated by the Board of Equalization at the August 8, 2019 meeting. Department of Finance personnel will process refunds as soon as practicable following approval by the Board.
Please contact Keith Erffmeyer at 720-913-4060 with any questions.

Sincerely,

Keith Erffmeyer
Assessor

cc: Valerie Walling, Deputy Auditor, CPA, CMC®
    Jared Miller, CISA, CFE, Audit Supervisor
    Katja E. V. Freeman, MA, MELP, Audit Manager
    Eric Hiraga, Executive Director
    Britta Fisher, Chief Housing Officer
AUDITOR’S ADDENDA

Auditor’s Addendum to Agency Response for Recommendation 1.3

Grounded Solutions Network, a nonprofit that specializes in inclusive housing issues, states that homeownership programs should have monitoring and enforcement procedures because they “maintain institutional knowledge of the program, promote consistent monitoring and uniform treatment of violations, and protect the program’s assets and interests.” Our report details the affordable housing compliance program policies that Denver Economic Development & Opportunity has implemented, such as the process for escalating violations.

Policies are documents that guide both present and future decision-making and ensure decisions are in line with organizational objectives and philosophies. However, Economic Development lacks documented procedures with specific tasks to guide staff on how to complete day-to-day compliance processes, which has resulted in issues including inconsistent documentation in notice-of-violation case files and a lack of documented reasons for escalating specific cases to the formal violation process.

Auditor’s Addendum to Agency Response for Recommendation 1.4

Grounded Solutions Network recommends requiring evidence of owner occupancy annually to ensure that the community investment in the homes is serving its intent and that owners of affordable units are not relocating to convert their homes into income-generating rentals, which aligns with Denver Economic Development & Opportunity’s stated goals of preventing involuntary displacement and preserving affordability.

We surveyed other high-cost municipalities to ask how they detect or identify potential units being rented in violation of affordable housing rules, and five of 10 municipalities responded that they require annual affidavits and proof of residency from homeowners. While the practice does not guarantee obtaining accurate information from homeowners, it is one mechanism that has been implemented by other affordable housing programs to identify potential violations. In addition, Economic Development has required several of its potential violators to sign an affidavit affirming residency as part of its documentation of compliance.

Auditor’s Addendum to Agency Response for Recommendation 1.7

As stated in the audit report, Denver Economic Development & Opportunity does have a process for determining if covenants should be released in the event of foreclosure and does receive periodic reports from the Public Trustee identifying affordable homes beginning the foreclosure process. However, neither of these processes are documented in policies and procedures.

Additionally, the communication between Economic Development and the Public Trustee is not documented or standardized. According to interviews of the Public Trustee and Economic
Development staff, the information shared between the two agencies has changed on multiple occasions, and each agency gave a different response as to the frequency of this information-sharing, with the Public Trustee stating it occurs monthly and Economic Development stating it occurs quarterly. Having established policies and procedures would help in ensuring both agencies are aware of when and how important foreclosure information is to be shared.

Furthermore, Economic Development did not provide any documented policies and procedures or plan on how to preserve or recover foreclosed affordable homes. Agency officials did mention they were in conversation with non-profit partners to preserve affordable homes, but this process was described to auditors as being developed at the time of the audit.

**Auditor’s Addendum to Agency Response for Recommendation 1.9**

Grounded Solutions Network, a collection of public, private, and nonprofit affordable housing industry experts, states that identifying the cause of foreclosures and recommending changes to policies and procedures can help prevent the further loss of affordable homes to foreclosure. Further, this recommendation extends only to areas under Denver Economic Development & Opportunity’s purview, such as determining whether homeowners are missing housing payments, and it recommends changes to their processes as a result of this information.

**Auditor’s Addendum to Agency Response for Recommendation 1.10**

We would like to reiterate that—as stated on pages 31-32— the Grounded Solutions Network says a required practice of any affordable housing program is to adopt detailed, written policies and procedures to direct program operations generally and to document procedures for responding to notices of default, specifically.

**Auditor’s Addendum to Agency Response for Recommendation 1.11**

During the course of the audit, neither Denver Economic Development & Opportunity nor the City Attorney’s Office provided information of a determination stating that a right of first refusal is not legally permissible. In addition, the City Attorney’s Office rejected several attempts to meet with us to discuss a variety of foreclosure-related issues. Additionally, Economic Development officials stated in interviews that while some affordable housing covenants have a requirement to provide notice of foreclosure to the City, they were unaware of any such notification ever occurring, making their current controls ineffective.

**Auditor’s Addendum to Agency Response for Recommendation 1.12**

During interviews discussing the ability to remedy defaults, Denver Economic Development & Opportunity did not provide any documentation stating or supporting that it could not intervene to remedy or cure defaults on an owner’s behalf. Additionally, this is a best practice used by four of the seven cities that responded to the audit team with information on their foreclosure processes. If
Economic Development does not currently have the authority to remedy defaults on an owner’s behalf, the agency should continue to pursue this authority through the means of amending future covenants or seeking amendments to appropriate regulations to align itself with this best practice.

Furthermore, during the course of the audit, Economic Development officials stated in interviews that the agency has not purchased affordable homes either at risk of foreclosure or that have been foreclosed on. However, Economic Development stated they were pursuing this option by potentially having partners buy homes at foreclosure.
OBJECTIVE

The audit had three objectives:

1. To determine whether compliance efforts and other processes follow covenant requirements and regulations to preserve affordability and prevent involuntary displacement,

2. To examine how well locally funded programs and contracts meant to prevent involuntary displacement are monitored, and

3. To determine the effectiveness of Economic Development’s processes to measure meeting strategic goals

SCOPE

The audit examined Denver Economic Development & Opportunity’s affordable housing program from 2017 through May 2019. The audit also examined areas of noncompliance prior to 2017 that were enforced after 2017 through May 2019. We also evaluated processes in the affordable housing program that impact other City agencies.

METHODOLOGY

We performed the following steps to achieve the audit objective:

- Reviewing covenants and strategic planning documents
- Interviewing key personnel from Denver Economic Development & Opportunity’s Housing Division, the Assessor’s Office, the Public Trustee’s Office, and the Denver 311 contact center
- Performing random and judgmental sampling techniques related to communication, the issuance of notices of violation, foreclosures, rental and mortgage assistance, and property tax assessment
- Comparing a population of for-sale affordable homes to Assessor’s Office records to determine whether property taxes were properly assessed for affordable homes
- Testing a sample of Temporary Rental and Utility Assistance and Temporary Mortgage Assistance program recipients to ensure vendors complied with program contract requirements
- Surveying other high-cost cities with affordable housing programs to identify best practices
APPENDICES

Appendix A – Supplementary Information about Other Municipalities

Ten out of 15 selected municipalities provided responses to our affordable housing survey request. The audit team selected the 15 municipalities based on criteria that indicated similar housing markets and similar needs for affordable housing, such as population size, measures of cost of living, and housing prices. The audit team considered criteria that indicated municipal housing organizations that had similar issues to Denver, such as problems with owners illegally renting affordable units. Figure 9 details the results of our analysis.

FIGURE 9. Municipal Affordable Housing Program Comparison

According to survey responses and interviews, municipalities indicated that these were part of their best practices

Annual Occupancy Monitoring

Require affordable homeowners to certify and send proof of residence annually.

|--------|---------|------------------------|---------------|-------------------|-----------|---------------|--------|-------------------|

Collaboration with Related Agencies

The following municipalities use code enforcement officers to investigate affordable housing violations.

|--------|---------|------------------------|---------------|-------------------|-----------|---------------|--------|-------------------|

External Agency Administering Monitoring and Compliance

Use a third-party to administer monitoring and compliance for affordable housing.

|--------|---------|------------------------|---------------|-------------------|-----------|---------------|--------|-------------------|

Plain Language Affidavit

Has buyers sign an affidavit in plain language as opposed to legal language so that the buyer understands program requirements.

|--------|---------|------------------------|---------------|-------------------|-----------|---------------|--------|-------------------|

Foreclosures

Several municipalities attempt to keep foreclosed affordable houses within the program. (Individual policies on the next page.)

|--------|---------|------------------------|---------------|-------------------|-----------|---------------|--------|-------------------|

Source: Auditor’s Office analysis of survey results.
Foreclosures

**San Francisco:** The city is notified when there is a notice of default on an affordable unit and provides housing counseling to the owner to try to prevent foreclosure. If the unit still goes into foreclosure and is bought by someone who does not meet affordable housing requirements, their city attorney will work with the new owner to sell the unit back to the city.

**Boulder:** In the case of foreclosure, the city is notified due to the deed of trust and covenant restrictions are terminated; however, the city has redeemed properties from foreclosure several times and sold to qualified households.

**San Diego:** San Diego has not lost a long-term affordable unit to foreclosure through getting the owner to sell to an eligible buyer or taking back the unit through a deed. When the owner defaults on their first mortgage, the city may pay defaulted mortgage payments and initiate its own foreclosure proceedings, or bid at the foreclosure sale.
Appendix B – Data Analysis Methods for Audit Objectives

To meet our three audit objectives, we collected information on Denver Economic Development & Opportunity’s affordable housing program from multiple sources and completed a variety of tests on those data. Our work included tests across entire populations of data using computer-aided audit tools and using manual tests in which we employed statistical and judgmental sampling methodologies.\(^\text{22}\)

The sections below describe how we collected each data source, how the audit objective was associated with each source of data, our tests, and the result of those tests. In all cases, the data were examined for reliability as outlined by the U.S. Government Accountability Office’s data reliability guidance.\(^\text{23}\) Reliability tests include examinations of the data’s quality, completeness, and accuracy.

Testing for Rental Units

The audit team compiled and compared two datasets to determine the number of affordable units that may have been inappropriately rented. The first dataset was obtained from the auditee and included 2,087 for-sale affordable units that received either local or federal funding. This total does not account for duplicate records discovered in Economic Development’s data.

The second data set was a list of for-rent homes in Denver. To create this list, the audit team used two sources. First, the team used data provided by Host Compliance, a company the City contracts with to screen short-term rental sites, such as Airbnb, for listed addresses. Second, the audit team used Python code to pull rental listings from Craigslist.com and Rent.com.\(^\text{24}\) The team then combined the two sets of for-rent units into a single list of unique for-rent addresses. Next, the audit team compared the entire list of for-sale affordable homes to the for-rent homes, identifying 16 matches. Reference page 27 for a discussion of these results.

Temporary Rental and Utility Assistance Program Testing

The audit team tested multiple samples and populations from each of the Temporary Rental and Utility Assistance program vendors for contract compliance. The audit team’s focus was the payments to residents receiving aid from the Temporary Rental and Utility Assistance program maintained by Brothers Redevelopment Inc. and Northeast Denver Housing Center who administered the assistance funds to recipients between 2017 and 2019. Because of differences in the recordkeeping practices of the two contractors, the audit team considered the payments from each as separate populations.

For each population, the payment record was considered the unit of analysis, and the audit team used statistical sampling is a method of sampling in which the selections must be made randomly and in which statistics are used to derive the sample size or to evaluate the results of a randomly selected sample. Judgmental sampling is a method of sampling that relies upon the audit team’s professional expertise. Therefore, due to this subjective nature, the results of judgmental sampling cannot be extrapolated to the population.\(^\text{22}\)


\(^{24}\) Python is an open-source computer programming language. It incorporates many analytical, statistical, and geospatial tools.
the electronic files of payment records from each contractor to develop sample frames—or the list of records from which each sample is drawn—to complete its data reliability and audit test work that used statistical or judgment sampling.

The audit work included two tests:

- A population test to see if rental and utility assistance recipients lived within the boundaries of the City and County of Denver
- A random and judgmental sample to see if the vendors documented recipient eligibility and payment information correctly

**Brothers Redevelopment Inc.** – For the first test, the audit team tested Brothers Redevelopment Inc.’s entire population of payment records to see if all recipients were Denver residents. Brothers Redevelopment Inc. provided the audit team with Excel spreadsheets of 962 payments related to the rental and utility assistance program. The payment information included individual payment amounts to recipients, the recipients’ addresses, and dates of those payments. The audit team used an address validation tool to determine whether any payments were made to addresses outside Denver city boundaries. The results of this computer-aided analysis created a list of 24 potential payments made to addresses outside Denver. The audit team then manually tested each address against Assessor’s Office records. Reference pages 16-18 for discussion of these results.

And, for the second test to determine whether Brothers Redevelopment Inc. documented recipient eligibility and payment information correctly, the audit team tested a random and a judgmental sample for seven contract attributes:

- Does the file contain proof of residency?
- Is need or housing crisis documented?
- Is income documentation present showing household income to be 80 percent or less of area median income?
- Was assistance provided six months or less in a 52 week period?
- Does file contain receipts for all assistance received?
- Is each month’s rental assistance payment 80 percent or less of contracted lease amount or is exception documented?
- Was utility assistance duration two months or less?

Beginning with the file of 962 payments, the audit team randomly selected 30 transactions and their associated case files. The audit team selected 30 case files based on the time required to manually test and document each file. Then the audit team added eight additional case files based on four criteria auditors determined to have higher risk. Those eight files and four criteria are as follows: two cases in which recipients had received some of the highest amounts of utility assistance, two cases in which recipients had received assistance for six months, two in which recipients had received some of the highest amounts of rental assistance, and two in which recipients had more than six members in the household. Reference pages 16-17 for discussion of these results.

**Northeast Denver Housing Center** – The audit team performed identical testing on Northeast Denver Housing Center as described with Brothers Redevelopment Inc. data.
For the first test, the audit team tested Northeast Denver Housing Center’s population to see whether all recipients were Denver residents. Northeast Denver Housing Center provided the audit team with Excel spreadsheets of 794 payments related to the Temporary Rental and Utility Assistance program. The payment information included individual payment amounts to rental and utility assistance recipients, the recipients’ addresses, and dates of those payments. The audit team used an address validation tool to determine whether any payments were made to addresses outside Denver boundaries. The results of this computer-aided analysis created a list of 57 potential payments made to addresses outside Denver. The audit team then manually tested each address against Assessor’s Office records. Reference pages 16-17 for discussion of these results.

And, for the second test to determine whether recipients participated in the program for the appropriate period, the audit team tested a random and a judgmental sample for the same seven contract attributes described above. Beginning with the file of 794 payments, the audit team randomly selected 30 transactions and their associated case files based the time required to manually test and document each file. Because Northeast Denver Housing Center uses a subcontractor for a portion of its work, the audit team used proportional stratification on sample selection, resulting in 17 case files selected from the subcontractor and 13 samples from Northeast Denver Housing Center. Then, the audit team added three additional case files using that we chose using our professional judgment—which was based on the period when the recipients received assistance. Reference pages 16-17 for discussion of these results.

**Temporary Mortgage Assistance Program Testing**

The audit team examined Temporary Mortgage Assistance Program case file records. As of April 1, 2019, the program had served a total of 33 households. These 33 households made up the total population of case files for the audit team’s testing. The team performed two tests on these 33 case files: First, we tested whether program recipients lived in Denver, and second, we determined if the case files contained documentation required by Temporary Mortgage Assistance Program contract (e.g. income, proof of ownership, duration of assistance, and amount of assistance).

For the first test, the team used an address validation tool on all 33 recipient case files to determine if the property related to the case was within Denver city boundaries and found one case file with an address located outside city boundaries. The team investigated this and verified that the address was outside Denver boundaries.

For the second test, the team used its professional judgment to select six of the 33 case files. The six case files were chosen based on four criteria with the goal of gathering a broad range of cases. The criteria were the income of the applicant, the household size, the address location, and applicants who were served at the beginning and then end of the program. The audit team evaluated each case across six attributes. These attributes were:

- Does the file contain proof of ownership?
- Is a need or housing crisis documented?

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25 A proportional stratification is a sampling method where the number of sampled items from each stratum is proportional to the total number of items within the stratum. For example, if stratum 1 had 60 items and stratum 2 had 40 items, a sample of 10 total items would pull six from stratum 1 and four from stratum 2.
• Is income documentation included in the file to support household income of 120 percent or less of area median income?
• Was assistance provided for 60 days or less?
• Is documentation included in the file supporting assistance provided for $5,000 or less?
• Is there documentation showing that a follow up survey was conducted?

Except for the final attribute, there were no issues with any of the cases sampled. Reference page 16 for discussion of these results.

Foreclosures

To test the extent to which Denver Economic Development & Opportunity followed its written procedures for foreclosed affordable homes, the audit team tested whether covenants were properly released and if a release of covenant was recorded for homes released from covenant restrictions on a random sample of released and unreleased foreclosed affordable homes. For this test, the audit team considered affordable homes foreclosed on between 2005 and 2018 because Economic Development’s foreclosure review process began in 2018. Economic Development provided the audit team with a list of 264 foreclosed-on properties and divided them into a group of 217 released and a group of 47 unreleased foreclosures. For audit test purposes, the team considered released and unreleased foreclosures as separate populations, set the unit of analysis as the individual property, and used the lists provided by Economic Development as the sample frames.

Released Foreclosures – Due to the significance of any identified errors but the relatively small total population, the audit team randomly sampled 44 properties from the 217 released foreclosures—or 20 percent of the total population—and tested whether covenants were properly released and whether a release of covenant was recorded for homes released from covenant restrictions to test Economic Development’s written process for proper determination of release of foreclosure. Reference page 30 for discussion of these findings.

Notice of Violation Testing

To determine whether Economic Development adhered to its process and procedures for notices of violation and whether it resolved cases consistently, the team examined Economic Development’s notice-of-violation investigations between January 2019 and May 2019. The audit team considered a notice-of-violation case as the unit of analysis and Economic Development’s spreadsheet of violations, which consisted of 20 violation cases, as the sample frame.

From this list, the team used its professional judgment to sample 10 violation cases and complete its test work. The team selected the five cases marked as “resolved” and five of the 15 “unresolved” cases based on risks we identified during interviews and information we gathered within the spreadsheet related to the case status and case notes.

Next, the team reviewed documents contained within the case files for consistency and reviewed case documents to analyze whether violators and Economic Development met deadlines, based on notice-of-violation policies. After a review of notice-of-violation cases and accompanying files from Economic
Development, the team found two of five “resolved” cases did not have documentation proving that the case was resolved, and all five “unresolved” cases lacked documentation to support notes in the files. Additionally, the team was unable to determine whether violators or Economic Development met established deadlines in all cases due to a lack of documentation. Reference pages 21-22 for discussion of these results.

**Property Tax Sampling**

To determine whether owners of for-sale homes paid the right amount of property taxes, the team examined how the Assessor’s Office valued each property.

To do this, the audit team compared two sets of records from the Assessor’s Office to two lists of affordable for-sale homes provided by Economic Development. The Assessor’s records consisted of 1,184 properties between 2017 and 2018 and an updated population of 1,591 for the new 2019 assessment period. The Economic Development lists of for-sale homes included one list of 1,619 locally funded units and another of 502 federally funded units. The team’s comparison between the Assessor’s records and Economic Development’s records found 71 initial mismatches. These totals differ from previously stated amounts because the populations include all parcel numbers of active and inactive homes, or those that are both lived in and recently developed.

Review of the results also found federally funded affordable units which were not included from the Assessor’s records. Of the 502 federally affordable units, 199 did not have a match with the Assessor’s records and were a part of the Assessor’s listing—indicating the property did not receive a reduced valuation. The list of 71 mismatched records became the population from which the audit team tested for whether the property’s value was assessed correctly.

From these 71 records, the team verified that each property may have been valued incorrectly. The audit team confirmed this understanding with the Assessor, which resulted in the Assessor reviewing each mismatch manually. This review resulted in the Assessor determining that 34 properties were valued incorrectly and would need to have abatements or refunds processed for each taxable year from the last assessment period.

To add to this test, the audit team also reviewed covenant requirements from 502 federally funded homes. The audit team sorted the population based on whether a property contained a covenant reception number leaving a sampling frame, or smaller population, of 199 properties that had covenant reception numbers. The audit team chose a haphazard method to ensure each selection was independent, and to randomly test samples from the entire population of federal units. The audit team chose 30 samples because of the relatively small population size within the sorted sampling frame. The audit team determined that 30 samples provided a representative sample size for the population of 199 testable selections.

The audit team used haphazard sampling to select 30 affordable home covenants from the 199 federally funded affordable homes listed with reception numbers and tested each covenant for indications that the property could appreciate in value upon resale. If a home’s covenant stated that

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26 Haphazard sampling is a type of sampling where an auditor picks a case without a reason, but does not use a random number generator.
it could appreciate in value, then the home should be subjected to the Assessor’s special valuation procedures. After review, the audit team found 15 of the 30 tested could appreciate. After discussing the results with the Assessor, the audit team determined that an additional two properties should also be added to the list of those that could appreciate. This resulted in 51 properties in total that will need to be refunded for overpayments related to property taxes, which will require protests to be filed by the Assessor for each year the property overpaid. The Assessor’s Office estimated that it will file 98 protests for the 51 units. Reference page 26 for details.
Office of the Auditor

The Auditor of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies and contractors for the purpose of ensuring the proper and efficient use of City resources. He also provides other audit services and information to City Council, the Mayor, and the public to improve all aspects of Denver’s government.

The Audit Committee is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the City’s finances and operations, including the reliability of the City’s financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

Our Mission

We deliver independent, transparent, and professional oversight in order to safeguard and improve the public’s investment in the City of Denver. Our work is performed on behalf of everyone who cares about the City, including its residents, workers, and decision-makers.