FOLLOW-UP REPORT
Preserving Affordable Housing for Denver Residents
Department of Housing Stability and the Assessor’s Office
January 2021

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January 7, 2021

AUDITOR'S LETTER

In keeping with generally accepted government auditing standards and Auditor's Office policy, as authorized by city ordinance, the Audit Services Division has a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

In our follow-up to the “Preserving Affordable Housing for Denver Residents” audit report issued in August 2019, we determined the Assessor's Office has fully implemented its one recommendation, while the Department of Housing Stability, formerly a part of Denver Economic Development & Opportunity, implemented three of the five recommendations it agreed to in the original audit report. We determined the risks associated with our initial findings have not been fully mitigated, particularly since the Department of Housing Stability disagreed with six recommendations providing opportunities for improvement. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

The Highlights page in this report provides background and summary information about the original audit and the completed follow-up effort. Following the Highlights page is a detailed implementation status update for each recommendation. We did not update the status of recommendations that the Department of Housing Stability disagreed with, as the department presumably would not have taken action toward implementing those; however, these recommendations and related risks are included in the status update section as a reference.

I would like to express our sincere appreciation to the personnel in the Department of Housing Stability and the Assessor's Office who assisted us throughout the audit and the follow-up process. 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
January 2021

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 from Original Audit
In our second audit of the city's affordable housing program, we found that Economic Development had not ensured that it met 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 did not evaluate whether its programs were effective.
  
  The agency measured outputs but not outcomes. It also did not adequately monitor or evaluate temporary housing assistance programs.

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

- Economic Development did not effectively communicate with other city agencies to enforce compliance and share information.
  
  Poor communication cost owners of affordable homes thousands of dollars and hampered city functions.

- Affordable homes were lost to foreclosure.
  
  Economic Development lacked a management strategy with accompanying policies and procedures for foreclosures.

FULLY IMPLEMENTED 4
PARTIALLY IMPLEMENTED 2
NOT IMPLEMENTED 0
DISAGREED; NO FOLLOW-UP 6
While the Assessor’s Office has implemented its one recommendation and the Department of Housing Stability has implemented three of five recommendations agreed to in the “Preserving Affordable Housing for Denver Residents” audit report, two other recommendations have yet to be acted upon or fully implemented, and six were not agreed to by the Department of Housing Stability. This presents the following lingering risks:

- By not fully implementing program evaluation, Housing Stability cannot determine whether strategic goals are being achieved and program objectives are being met.

- By not fully implementing a documented communication plan with other agencies, unclear guidance from Housing Stability could result in inefficient or ineffective cooperation with these agencies, hindering efforts to reach affordable housing program goals.

- By not improving policies and creating procedures for monitoring and enforcement, Housing Stability cannot ensure effective enforcement of affordable housing violations.

- By not performing and documenting annual occupancy monitoring, Housing Stability is not ensuring affordable homeowners are attesting to following program rules annually.

- By not documenting policies and procedures for recovering foreclosed homes, Housing Stability may be performing these processes inconsistently and losing affordable homes to foreclosure.

- By not assessing the cause of affordable home foreclosures, not establishing a first right of refusal or right to purchase for-sale affordable housing units that are foreclosed, Housing Stability may not be able to prevent further loss of affordable homes to foreclosure.

- By not pursuing the authority to remedy defaults before foreclosure, Housing Stability is potentially allowing further loss of affordable homes to foreclosure.
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 ACTION

Original target date for completion: Dec. 31, 2019

Housing Stability staff, formerly a part of Denver Economic Development & Opportunity, said that they have implemented Salesforce to track data and outcomes for housing programs more effectively, but because of the pandemic, they had to freeze critical staffing positions and create an online reporting process. They also said efforts are advancing to establish a program evaluation framework. Their staff provided documentation demonstrating that they have implemented reporting in their Salesforce system, user guides for staff and contractors, sample training slides, screenshots, and procedures.

Housing Stability created a summary report of housing programs from Salesforce that reports on both outputs and some outcomes. Housing Stability staff said this is documentation of tracking program outcomes. The housing contractors report on outputs such as households served, demographics, and whether the household received counseling, which they can aggregate in a summary report. The reports also include narratives in which contractors write about program success and challenges.

An example narrative provided by Housing Stability discussed successes such as a new work site with new participants, challenges of being understaffed, and challenges keeping up with data entry. It also discussed

FINDING | Denver Economic Development & Opportunity Has Not Ensured Affordable Housing Is Preserved and Involuntary Displacement Is Prevented
programmatic changes with a new program coordinator and intern, as well as a positive impact of a new site lead.

According to new procedures, Housing Stability staff review the narratives for programs in Salesforce to identify themes and whether the topics described in the narratives are advancing or hindering program success. The Salesforce data and reports can be used to evaluate activities being carried out; assess the extent to which programs achieve their objectives; and eventually can be used to evaluate the effectiveness of the program, identify improvements, and guide resource allocation. Housing Stability's implementation of Salesforce and its new processes are evidence of partially carrying out the recommendation because they are tools that can be used to help assess program effectiveness. However, Housing Stability did not show evidence these tools have been used to make program changes and improvements and assess effectiveness. For example, Housing Stability has collected data from Salesforce about program successes and challenges, but has not yet provided evidence that they have used this information to improve programs, and said they have not yet documented a formal program evaluation process.

Housing Stability staff said they plan to establish a program evaluation framework but had not yet documented a formal program evaluation at the time of the follow-up. Because Housing Stability staff said that implementing the recommendation is still in progress and because the Salesforce reporting tool is in place but there is no evidence that it has been used to make program changes and improvements and assess effectiveness, this recommendation is only partially implemented.

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 ACTION

Original target date for completion: Dec. 31, 2019

The Temporary Mortgage Assistance Program ended when its contract ended in July of 2019. Therefore, auditors did not include it in follow-up work, but we did review the Temporary Rental and Utility Assistance program.

Housing Stability incorporated more explicit guidance surrounding how vendors should manage their case files for the rental assistance program. Since the original audit, Housing Stability updated the contracts for Temporary Rental and Utility Assistance with Northeast Denver Housing Center and Brothers Redevelopment to provide more specific guidance for items that were issues in the audit. Table 1 describes the updates to the contracts based on the original audit findings.

**TABLE 1. Contract Updates**

<table>
<thead>
<tr>
<th>Issue in the Original Audit</th>
<th>Updated Contract</th>
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<tr>
<td>Missing required assistance payment receipts from landlords or utilities.</td>
<td>Detailed requirements for receipts stating that the proof of payment may include a rent receipt, form, account ledger, or organization bank records showing payment has posted/check has been cashed, and that vendors will make every effort to incorporate proof of payment from a landlord/vendor.</td>
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| Documents lacked evidence for exceptions to rent payment thresholds, the crisis not allowing the household to pay rent, household income, and proof of residency. | “Contractor intake process requirement” section includes requirements that were not included in the original contracts:  
• Documented eligibility assistance and reasons for denials.  
• Client intake forms that contain required minimum fields including an address with zip code, income, and a statement of hardship.  
• Documentation that is allowable, reasonable, and defensible — vendors must verify and document eligibility and maintain documentation in case files. |

*Source: Auditor's Office analysis of vendor contracts.*
In addition, Housing Stability provided a documentation checklist for vendors to use to ensure they follow case-file requirements.

Housing Stability officials provided evidence that they hold periodic meetings with all housing assistance program vendors to ensure consistency in processes. Their staff provided calendar invites and emails that show they have had regular meetings with the Temporary Rental and Utility Assistance vendors — at first once every other month and then weekly after the COVID-19 pandemic increased the demand for assistance. Both vendors confirmed they have been meeting regularly with Housing Stability and explained that they found the meetings valuable in ensuring consistent processes between the vendors.

Figure 1 shows the number of completed Temporary Rental and Utility Assistance applications by month from January through September 2020. Overall, Temporary Rental and Utility Assistance funds have increased from January through September 2020; therefore it is important that strong oversight controls are in place.

**FIGURE 1.** Temporary Rental and Utility Assistance Program Applications

![Graph showing Temporary Rental and Utility Assistance Program Applications](image)

*Source: Auditor’s Office analysis of housing stability data.*

Housing Stability staff also provided evidence that they 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. Both of the Temporary Rental and Utility Assistance vendors have procedures that include a step to ensure addresses are within Denver using Assessor’s Office maps.

In addition to reviewing these procedures, auditors requested addresses for Temporary Rental and Utility Assistance recipients from January 2020 to September 2020 for both vendors to test whether all addresses were within Denver city limits. Auditors found one address that was not within Denver in an area bordering Aurora. This address was incorrectly awarded $1,804 because of this error. Housing Stability staff said that vendors screen addresses as part of their new client procedures, and this mistake was because of human error. Housing Stability officials agreed to follow up with
the vendor about this specific geographic area for clarifications.

Because both vendors have procedures to ensure addresses are in Denver and because we only found one new error, we determined Housing Stability has effectively collaborated with their housing assistance program vendors to ensure they are verifying addresses. In addition, the vendors incorporated explicit guidance for managing case files and provided evidence showing that they hold periodic meetings with vendors.

Therefore, the three parts of the recommendation are fully implemented.

**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 ACTION**

No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.

This was the agency’s response to the recommendation when the original report was issued in August 2019:

DISAGREED
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

For the original report, we wrote the following addendum rebutting this agency's response:
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.

**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 they live there (e.g., provide a copy of their driver’s license or utility bill to Economic Development).

**AGENCY ACTION**

No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.

This was the agency's response to the recommendation when the original report was issued in August 2019:

> 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.

For the original report, we wrote the following addendum rebutting this agency’s response:

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.
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 ACTION

Original target date for completion: Sept. 15, 2019

We reviewed evidence submitted by Housing Stability for each of the four agencies mentioned in the recommendation. In addition, we contacted staff at each agency to ask about changes in communication with the department. Here are the findings for each agency:

- Denver 311 – The staff from 311 say they have always been involved with the housing assistance programs team, including the Temporary Rental and Utility Assistance program. However, since the audit, 311 staff say they have met and continue to have recurring meetings with other housing teams, and communications have improved overall. Housing Stability staff say that they communicate with 311 to discuss an annual letter to affordable homes and biennial property tax valuation processes. Housing Stability also plans to have quarterly meetings with 311 on housing issues. Additionally, Housing Stability will attend 311's weekly staff meetings to ensure clarity and consistency of housing program information and ensure 311 staff receive housing press releases.

- Assessor's Office – Housing Stability has had some email communication about specific properties with the Assessor's Office. Housing Stability staff also said they have calls with the Assessor's Office as needed, which usually average about once a month. Housing Stability staff say they agreed that they needed to ensure all affordable units were accurately in the housing Salesforce database, and starting in November 2020, they said they would begin to coordinate with the Assessor's Office again for inventory in preparation for February 2021 valuations. Housing Stability staff say they allowed the Assessor's Office access to Salesforce to view data. The assessor said there were some initial regularly scheduled meetings to discuss affordable housing, and the assessor believes that much of the information has been converted to a database (i.e., Salesforce). They said they would re-engage probably in early 2021 to request information from the database. The assessor said that the initial plan was to meet periodically, but it made sense to wait until initial data issues were fixed and then meet.

The assessor also asked Housing Stability for a list of properties on Nov.
5, 2020, in preparation for property valuation for 2021, but Housing Stability had not sent this information as of Nov. 16, 2020. The previous list was sent in February 2020.

- The Department of Excise and Licenses – Housing Stability officials said coordination between their department and Excise and Licenses regarding enforcement is the responsibility of the housing inspector, a position that was vacant from late 2019 through the first half of 2020. The position was frozen due to the pandemic but eventually reopened for hiring during the third quarter of 2020. The person hired for that position met with Excise and Licenses in October 2020.

Excise and Licenses staff confirmed they had a meeting with Housing Stability staff, including the inspector, and discussed issues between the departments and enforcement issues. They planned to meet quarterly moving forward to discuss new issues that arise. Staff said they are sharing housing information to cross-reference compliance efforts, and they have discussed the possibility of giving Housing Stability access to Excise and Licenses’ records in real time for quicker information sharing.

Housing Stability and Excise and Licenses still have issues to discuss so they can cooperate on enforcement issues. For example, Housing Stability said that Excise and Licenses does not have a prohibition in its regulations governing its work regarding the ability of the affordable owner to obtain a short-term rental license. This is detrimental to affordable housing program goals and is against affordable housing ordinances, so staff will continue to work through this issue.

- Public Trustee’s Office – Housing Stability provided emails between itself and the Public Trustee’s Office conveying the foreclosed homes each month from February through August 2020. Housing Stability has a monthly Outlook reminder to update new affordable homes beginning foreclosure. Additionally, Housing Stability has received email updates from the Public Trustee’s Office monthly from February through August 2020, and staff have developed procedures in conjunction with the Public Trustee’s Office to search for homes entering the foreclosure process themselves if needed.

The chief deputy public trustee said the communications with Housing Stability are unchanged. They said their office has a monthly task of supplying Housing Stability with information regarding foreclosure activity that affect affordable housing.

Based on the evidence, Housing Stability has determined or is in the process of determining information that needs to be communicated to and received from other city agencies.

Housing Stability has also decided on the most efficient and effective methods of communication for each agency. For 311, Housing Stability determined that meetings are most effective. For the Assessor’s Office, Housing Stability determined providing access to the Salesforce
database would provide the information the assessor needs for property tax assessment. For the Public Trustee’s Office, staff email. For Excise and Licenses, officials decided the new inspector should meet with Excise and Licenses regularly.

However, Housing Stability has not formalized and documented a plan of communication with each of the agencies, and therefore, the recommendation has been only partially implemented.

<table>
<thead>
<tr>
<th>Recommendation 1.6</th>
<th>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.</th>
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<tbody>
<tr>
<td><strong>FULLY IMPLEMENTED</strong></td>
<td>AGENCY ACTION</td>
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<tr>
<td><strong>Original target date for completion: Sept. 30, 2019</strong></td>
<td><strong>AGENCY ACTION</strong></td>
</tr>
<tr>
<td>The Assessor’s Office created protests for all 51 affordable homes identified as overvalued during the original audit, and the Denver Board of Equalization approved the reduction of the homes’ assigned property values in its August 2019 meeting. Ninety-seven protests were approved for the 51 affordable homes for the 2017 and 2018 tax years because not all the homes were overvalued both years. This resulted in the Department of Finance issuing nearly $49,250 in property tax refunds to the affordable homeowners.</td>
<td><strong>AGENCY ACTION</strong></td>
</tr>
<tr>
<td>Therefore, this recommendation is fully implemented.</td>
<td><strong>No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.</strong></td>
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<table>
<thead>
<tr>
<th>Recommendation 1.7</th>
<th>Design Policies and Procedures – Denver Economic Development &amp; Opportunity’s chief housing officer should design policies and procedures for identifying affordable homes in foreclosure and recovering foreclosed affordable housing units.</th>
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</thead>
<tbody>
<tr>
<td><strong>DISAGREE</strong></td>
<td><strong>AGENCY ACTION</strong></td>
</tr>
<tr>
<td><strong>No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.</strong></td>
<td><strong>This was the agency’s response to the recommendation when the original report was issued in August 2019:</strong></td>
</tr>
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</table>
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.

For the original report, we wrote the following addendum rebutting this agency’s response:

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.

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 ACTION**

**Original target date for completion: Dec. 31, 2019**

The Department of Housing Stability provided a list of the 159 homes that had lost their affordability restrictions because of foreclosure as of October 2020, along with the reception numbers of their recorded releases of covenant. We reviewed a random sample of 20% of these homes — or 32 homes — and found all had appropriately recorded releases of covenant for their respective addresses. Additionally, the remaining 127 homes contained reception numbers for a recorded release of covenant, and we did not identify any duplicate reception numbers among them.

As a result, we conclude this recommendation is fully implemented.

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**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 ACTION**

No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.

This was the agency’s response to the recommendation when the original report was issued in August 2019:

> 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.

For the original report, we wrote the following addendum rebutting this agency’s response:

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.

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 ACTION

Original target date for completion: Completed

The Department of Housing Stability created recurring calendar reminders to ensure it receives monthly email updates from the Public Trustee's Office and to update department records with any new foreclosures on affordable homes. Further, the department demonstrated that it received email updates from the Public Trustee’s Office every month from February through August 2020.

Additionally, Housing Stability developed procedures for its staff to ensure they receive updates on foreclosures on affordable homes as well as how to determine whether future affordable homes should be released from their covenants in the event of foreclosure. The department also included a job aid from the Clerk and Recorder’s Office on how to search for information on homes that have begun the foreclosure process. Staff added this job aid to department procedures in case Housing Stability does not receive updates on foreclosed affordable homes from the Public Trustee’s Office.

For this reason, we conclude this recommendation is fully implemented.
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 ACTION

No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.

This was the agency’s response to the recommendation when the original report was issued in August 2019:

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.

For the original report, we wrote the following addendum rebutting this agency’s response:

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.

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 ACTION

No action was taken to implement this recommendation because the agency disagreed with the recommendation made in our original report.

This was the agency's response to the recommendation when the original report was issued in August 2019:

DEDOL 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.

For the original report, we wrote the following addendum rebutting this agency's response:

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.
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.

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**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.