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January 2016

Angie M. Carpenter, Supervisor
Members of the Town Council
Town of Islip
655 Main Street
Islip, NY 11751

Report Number: P7-15-60

Dear Supervisor Carpenter and Members of the Town Council:

A top priority of the Office of the State Comptroller is to help local government officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support local government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of eight local governments throughout Nassau and Suffolk Counties. The objective of our audit was to determine whether local governments complied with the Long Island Workforce Housing Act (Act) when approving qualifying residential units. We included the Town of Islip (Town) in this audit. Within the scope of this audit, we examined the policies and procedures of the Town and reviewed the site plans for residential developments of five or more units for the period January 1, 2009 through December 31, 2014. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the Town. We discussed the results of our audit and recommendations with Town officials and considered their comments, which appear in Appendix A, in preparing this report. Town officials generally agreed with our recommendations and indicated they will implement corrective action. At the completion of our audit of the eight local governments, we prepared a global report that summarizes the significant issues we identified at all of the local governments audited.

Summary of Findings

Town officials generally complied with the Act when approving applications for qualifying residential developments; however, they failed to ensure that the affordable workforce housing units were offered and remained affordable. The developers for the two qualifying developments approved during our audit period were required to set aside a combined total of 20 percent of all units built as affordable workforce housing. One of these developments is completed and occupied; however, none of the units have been set aside for workforce housing. In addition, the Town did not establish procedures to ensure eligibility.

Background and Methodology

The Town is located in Suffolk County, covers about 163 square miles and has approximately 334,400 residents. The Town is governed by an elected five-member Town Council (Council), which includes the Town Supervisor. The Town Supervisor is the chief executive officer and is responsible for the Town's day-to-day operations. The Council is responsible for approving multi-unit residential housing projects. The Town's 2013 general fund expenditures totaled approximately \$78.2 million.

The New York State Legislature implemented the Act in 2008 for the purpose of making homeownership more affordable for the workforce in Nassau and Suffolk Counties. Housing affordability is a function of both housing prices and household incomes. While "affordable housing" is often thought to target lower-income residents (usually those below the median income), the term "workforce" is often intended to mean those who are not typically the target of, or eligible for, affordable housing programs (such as those at or above the median income). This usually includes essential workers in a community, such as firemen, nurses and medical personnel. However, under the Act, the term "affordable workforce housing" is defined as housing for individuals and families at or below 130 percent of the median income for the Nassau-Suffolk primary statistical area¹ (commonly called the area median income or AMI), which averaged \$105,000 for 2009 through 2014.

Under the Act,² generally, when a developer makes an application to a local government in Nassau or Suffolk County to build five or more residential units, the local government, in exchange for providing the developer with a "density bonus" that authorizes them to exceed the local residential density maximum by at least 10 percent, must require one of the following:

- The set aside by the developer of at least 10 percent of the proposed units for affordable workforce housing on site, or
- The provision by the developer of other land within the same local government and the construction of the required affordable workforce housing units on the other land, or
- The payment of a fee by the developer for each affordable unit that the developer would have been required to construct. The Act generally sets this fee at the lesser of two times the AMI for a family of four, or the appraised value of the building lot(s).

¹ As defined by the United States Department of Housing and Urban Development

² Effective January 1, 2009

The local government is then responsible for ensuring that all affordable units created under the Act remain affordable. When a developer elects to pay a fee in lieu of building affordable units, the local government, among other things, may establish a trust fund in which these fees are deposited, separate and apart from all other moneys of the local government, for the specific purpose of constructing affordable workforce housing, acquiring land for the purpose of providing affordable workforce housing or rehabilitating structures for the purpose of providing affordable workforce housing. Within six months of establishing the trust fund, the local government must issue guidelines and policies governing the expenditure of trust fund moneys. Any moneys not expended three years from the date they are collected must be paid into a single trust fund controlled by the Long Island Housing Partnership.³

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings and conclusions contained in this report. More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

Audit Results

Town officials generally complied with the Act when approving applications for qualifying residential developments; however they failed to ensure that the affordable workforce housing units were offered and remained affordable. The Town has adopted local laws that specifically address the Act or affordable housing. The local laws require developers to set aside 20 percent of the units in a proposed development for affordable workforce housing. However, Town officials have not established procedures to ensure the developers actually set aside the units for affordable housing. In addition, Town officials have not established guidelines to establish eligibility and to ensure that affordable units remain affordable in the future.

The Town received applications for four developments comprising 198 units between January 1, 2009 and December 31, 2014. The Act did not apply to the Bay Shore Realty and Greymore developments comprising 16 units. The Town required that the Bayport Meadows Estates and Pine Creek Commons developments comprising 182 units set aside a combined total of 37 units, or 20 percent of all units built, as affordable workforce housing. The Pine Creek Commons development has been completed and is occupied without any of the units set aside for workforce housing. The Bayport Meadows Estates development is still under construction and Town officials stated that the developer has applied to construct the affordable portion on another site. The Council failed to take action to ensure that the promised workforce housing units were actually provided to those individuals who were eligible for them.

³ The Long Island Housing Partnership is a not-for-profit organization that was created to address the need for and to provide affordable housing opportunities on Long Island for those who are unable to afford homes through development, technical assistance, mortgage counseling, homebuyer education and lending programs. It also provides technical assistance to private developers, municipalities and other not-for-profit organizations who are providing affordable housing on Long Island.

Recommendations

1. The Council should establish guidelines for establishing eligibility and for ensuring that affordable units remain affordable.
2. Town officials should ensure that the developer of the occupied development brings it into compliance with the Act.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk's office.

We thank the officials and staff at the Town of Islip for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

The Town officials' response to this audit can be found on the following page.

OFFICE of the SUPERVISOR



ANGIE M. CARPENTER
Supervisor

November 17, 2015

Via Fax, Email & USPS
Ira McCracken
Office of the State Comptroller
NYS Office Bldg, Room 3A10
250 Veterans Memorial Highway
Hauppauge, NY 11788-5533

**RE: Response to Report Number P7-15-60
Long Island Workforce Housing Act**

Dear Mr. McCracken:

The Town of Islip is in receipt of the draft report of examination regarding the Town's compliance with the Long Island Workforce Housing Act. We have reviewed the report which found that the Town has complied with the Act by adopting local laws that require developers to set aside at least 10% of housing units in a proposed development as affordable workforce housing. However, concerns were raised that Town officials have not established procedures to ensure that those units are utilized for affordable workforce housing and guidelines are not established to verify eligibility and to maintain those units as affordable in perpetuity.

The Town concurs with the recommendations set forth in the draft report that the Town Board should establish guidelines for establishing eligibility and for ensuring that affordable units remain affordable, including those currently not in compliance.

The Town has already begun to create a corrective action plan within the 90 day period to address the issues with regard to providing affordable housing throughout the Town of Islip.

Sincerely Yours,

Angie M. Carpenter
Islip Town Supervisor

AMC: RZ

CC: Rich Zapolski, Planning Commissioner

██████████, Office of the State Comptroller

██████████, Office of the State Comptroller

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to evaluate whether the Town was complying with the Act when approving qualifying residential units. To accomplish our audit objective and obtain valid audit evidence, our procedures included the following:

- We interviewed Town officials and employees to gain an understanding of the process for approving residential developments of five or more units from January 1, 2009 through December 31, 2014 and to determine whether fees were required of developers not designating units as affordable, how eligibility is determined for the newly created affordable units and how the Town ensures that the units remain affordable.
- We reviewed the Act and applicable sections of Town Code to gain an understanding of the applicable statutory requirements regarding affordable workforce housing and residential density restrictions.
- We obtained information regarding the Town's affordable housing trust fund to determine whether it complied with the Act's requirements.
- We surveyed Town officials to identify all developments of five or more units that had to comply with the Act and were approved between January 1, 2009 and December 31, 2014. We then examined the planning documents for the identified developments to determine the percentage of units designated as affordable workforce housing.
- We observed one of the developments to determine if it was occupied.

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