



Florida Housing

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Office of Inspector General

Investigative Report

170913-01

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Chris Hirst, Inspector General

Enhancing Public Trust in Florida's Affordable Housing

**Office of Inspector General
Investigative Report
Case Number 170913-01**

INTRODUCTION

On September 13, 2017, the Florida Housing Finance Corporation (Florida Housing), Office of Inspector General (OIG) received a phone call from Mr. Schmidt, who wanted to provide information about Donna Lehan, a Hardest Hit Fund Principal Reduction (HHF-PR) Program recipient. According to Mr. Schmidt:

- Donna Lehan lives at 251 Silver Oak Rd. NE, Palm Bay, FL. (251 Silver Oak Rd. NE)
- Her son, Raymond Lively, III, lives at 613 Belvedere Rd. NW, Palm Bay, FL. (613 Belvedere Rd. NW)
- She received approximately \$30,000 in assistance on 613 Belvedere Rd. NW, but it was not her primary residence.
- Her son lives at this home, but he was not included in the application because “he makes too much money with his fencing business.”

OIG staff reviewed the HHF-PR Program files on the Counselor Direct (CD) database, which revealed:

- On September 30, 2013, Ms. Lehan applied HHF-PR on 613 Belvedere Rd. NW, claiming no dependents and that it was her primary residence.
- On January 3, 2014, Ms. Lehan received HHF-PR Program funding totaling \$30,001.

OIG staff initiated an investigation based on the information provided.

ALLEGATIONS

It is alleged that Donna Lehan committed fraud by failing to notify her HHF Advisor that she did not occupy 613 Belvedere Rd. NW as her primary residence, during the HHF-PR application process and at the time of receiving HHF-PR Program funds. The 2013 HHF Advisor Guide and the HHF-PR Program loan documents require applicants to occupy the property indicated on their HHF-PR Program application as their primary residence during the application and as of the date of HHF-PR Program funding. If supported, the allegation would constitute a violation of federal and/or state laws, including:

- Title 18, United States Code, §1001, False Statements;
- Section 817.034, Florida Statutes (F.S.), Making false statement to obtain property or credit;
- Section 817.545, F.S., Mortgage Fraud; and/or
- Section 837.06, F.S., False Official Statements.

EXECUTIVE SUMMARY

From September 13, 2017, to June 29, 2018, OIG staff attempted to conduct interviews and reviewed significant documentation/records as it relates to the allegations. As a result of the investigation, OIG staff determined that the allegation of fraud against Ms. Lehan, who failed to notify her HHF Advisor that she did not occupy 613 Belvedere Rd. NW as her primary residence, during the HHF-PR application process and at the time of receiving HHF-PR Program funds, was **Supported**.

COMPLAINANT INTERVIEW

Mr. Schmidt provided the initial information, but declined to provide a recorded interview.

DOCUMENTATION/RECORDS ANALYSIS

OIG staff conducted reviews of the documents associated with Ms. Lehan's HHF-PR Program funding, which included: the HHF-PR Program files on the Counselor Direct (CD) database, the HHF-PR Program loan documents (Loan #1168), and the HHF-PR Program funding information. The results of the reviews are listed below by related documents, which are listed in bold:

HHF-PR Program Application (Exhibit 1)

On September 30, 2013, Ms. Lehan signed the HHF-PR Program loan eligibility determination documents:

- On her **HHF Intake Form**, which is the HHF Program application, Ms. Lehan certified 613 Belvedere Rd. NW was owner occupied as her primary residence.
- By signing her **HHF Homeowner/Advisement Contract**, Ms. Lehan agreed to several items, with three relevant items listed below:
 - I/We will always provide honest and complete information to my/our HHF-PR Advisor, whether verbally or in writing;
 - I/We will contact the HHF-PR Advisor about any changes in our situation immediately; and
 - I/We authorize Florida Housing & HHF Advisor Agency and/or lender and/or servicer handling my/our loan to verify employment, income or assets in conjunction with qualification for assistance.
- On her **Homeowner Acknowledgement**, Ms. Lehan made certifications to nine items, and the items related to the allegations are listed below:
 1. I/we understand and acknowledge that FHFC & HHF-PR Advisor and/or its agents may investigate the accuracy of my/our statements, may require me/us to provide supporting documentation, and that knowingly submitting false information may violate Federal and/or state law.
 4. I/we understand that if I/we have intentionally defaulted on my/our existing mortgage, engaged in fraud or misrepresented any facts(s) in connection with this Hardship Affidavit, or if I/we do not provide all of the required documentation, I may not qualify for HHF assistance.
 10. In making this certification, I/we certify under penalty of perjury that all of the information in this document is truthful and that I/we understand that the Servicer, the U.S. Department of Treasury, or their agents may investigate the accuracy of my statements by performing routine background checks, including automated searches of federal, state and county databases, to confirm that I/we have not been convicted of such crimes. I/we also understand that knowingly submitting false information may violate federal law.

Note: Her Social Security Administration and bank statements from the HHF-PR Program file list her address as 251 Silver Oak NE:

Retirement, Survivors, and Disability Insurance Notice of Award	Northeastern Program Service Center 1 Jamaica Center Plaza Jamaica, New York 11432-3898 Date: August 11, 2008
DONNA E LEHAN 251 SILVER OAK ROAD NE PALM BAY, FL 32907-5582	

Bank America's Most Convenient Bank®
035690 06DD1U03 1 100000 DONNA E LEHAN ITF RAYMOND W LIVELY III 251 SILVER OAK RD NE PALM BAY FL 32907

HHF-PR Program Loan Documents - FHFC Loan No. 1168 (Exhibit 2)

On December 23, 2013, Ms. Lehan signed the HHF-PR Program Loan documents, certifying:

- On the **Subordinate Mortgage**, the property address was listed as 613 Belvedere Rd. NW, and Ms. Lehan acknowledged the following (emphasis added):

Item 20. Special Provisions.

(a) Default. In addition to any other event of default under this Mortgage, the Borrower will be in default if any of the following occur: (i) if Borrower submits (or at any earlier time submitted) incomplete, false or misleading information to the Lender before or after the approval of the Loan; (ii) if Borrower violates any terms and conditions of the Note, the terms and conditions of which are incorporated herein by reference, or any other loan document governing the Loan; (iii) if any representation or warranty made by the Borrower in connection with the Loan, including but not limited to any representation or warranty set forth in the Rider to Promissory Note, was not true and correct at all relevant times; or (iv) if Borrower fails to provide to the Lender on a timely basis any information required by the Lender in order for the Lender to monitor the Borrower’s continuing compliance with the terms and conditions of the Loan.

HHF-PR Program Funding

On January 9, 2014, Ms. Lehan’s mortgage lender received a one-time HHF-PR Program payment on her behalf:

Due	Amount	Description	Program Payment Made Date
1/3/2014	\$30,001.00	principal reduction PR	1/9/2014

Information from Open Sources

The OIG staff also conducted searches for additional information associated with Ms. Lehan, Mr. Lively, and 613 Belvedere Rd. NW, of the following:

- The Consolidated Lead Evaluation and Reporting (CLEAR)¹ database (Exhibit 3);
- The Brevard County Property Appraiser’s Office (BCPAO) (Exhibit 4);
- The Brevard County Clerk of Court’s Office (BCCCO) (Exhibit 5);
- The FL Department of State, Division of Corporations (Sunbiz) (Exhibit 6);
- The real estate website Zillow (Exhibit 7); and
- Contacted the Florida Power and Light Corporation (FPL).

Source	Name	Information Provided	Address Listed	Timeframe
CLEAR	Donna Lehan	Associated addresses	251 Silver Oak Rd. NE	1/1/91-7/1/17
			613 Belvedere Rd. NW	3/1/99-9/7/13
	Raymond Lively, III	Associated addresses	251 Silver Oak Rd. NE	12/1/98-9/1/05
			613 Belvedere Rd. NW	7/1/05-2/23/18
			470 Martin Rd SE, Palm Bay, FL	12/20/17

¹ Consolidated Lead Evaluation and Reporting (CLEAR) is a public records search platform, designed specifically for government and law enforcement use.

Source	Name	Information Provided	Address Listed	Timeframe
BCPAO	Raymond Lively, III & Donna Lehan	Residential property details	251 Silver Oak Rd. NE	1/1/91-present
	Donna Lehan & Raymond Lively, III	Residential property details	613 Belvedere Rd. NW	5/24/05-present
	Lively Enterprises, Inc.	Business property purchase	470 SE Martin Rd, Palm Bay, FL	11/1/16-present
BCCCO	Donna Lehan	Probate case	251 Silver Oak Rd. NE,	11/2/17
	Raymond Lively, III	22 Traffic infractions	613 Belvedere Rd. NW	11/99-3/18
Sunbiz	Raymond Lively, III	Active Business - Professional Grade Fence, Inc.	Principal address: 470 Martin Rd SW Mailing address: 613 Belvedere Rd. NW	3/7/08-present
	Raymond Lively, III, P 7 Registered Agent & Tashara Lively, VP	Active Business - Lively Enterprises	Principal/ mailing address: 470 Martin Rd SW; Mr. & Mrs. Lively's address: 613 Belvedere Rd. NW	10/24/16-present
	Raymond Lively, III & Tashara Lively	Inactive Business - Lively Lawns	613 Belvedere Rd. NW	9/29/16-9/22/17
	Raymond Lively, III	Expired Business - Fictitious Name - Lively	251 Silver Oak Rd. NE	1/31/05-12/31/10
Zillow	N/A	No historical transaction data available	251 Silver Oak Rd. NE	present
	N/A	Listed for sale, pending sale, back on market & listing removed	613 Belvedere Rd. NW	2/20/18-5/28/18
FPL	Donna Lehan	Her electrical utility account	251 Silver Oak Rd. NE	Since 1991
	Raymond Lively, III	His electrical utility account	613 Belvedere Rd. NW	Since 2005

Based upon the documents reviewed and the information detailed above, a timeline of activity was created and has been attached for further review (see Exhibit 8).

FLORIDA HOUSING MANAGEMENT REVIEW

In email correspondence on September 13, 2017, OIG staff notified Nicole Gibson, Assistant Director of Homeownership Programs of this matter and she stated the following:

We don't know at the time of assistance where she resided. I'm not sure why the UW didn't question the bank statements but on the property, we assisted there were additional homestead exemptions including "widow exemption for wife" which could not be for the son. Her son is not a borrower and wasn't on the original mortgage. He is an owner of the property now but we see this all the time with parents and children as a way to pass the property without having to go through probate.

Note: On a previous case (OIG Case No. 171117-01), Ms. Gibson explained that HHF-PR Program recipients (paraphrased):

need to have occupied the residence at the time of application and funding. After that, they just need to own the property for forgiveness. We have never said how long they have to had occupied the residence as their primary residence.

SUBJECT INTERVIEWS

On November 27 and December 8, 2017, OIG staff sent letters to Ms. Lehan and Mr. Lively requesting they contact OIG staff. However, to date, they have not responded or contacted OIG staff.

ADDITIONAL ISSUES

In accordance with §20.055(7), F.S., which requires the OIG to conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations, OIG staff contacted a representative of the BCPAO due to the issues related to Ms. Lehan being granted Homestead Exemption on 613 Belvedere Rd. NW, while possibly residing in 251 Silver Oak Rd. NE.

Between March 1, and July 6, 2018, OIG staff corresponded with Ed Pollock, Director of Homestead Investigations, BCPAO. He was asked to verify: whether Ms. Lehan received homestead exemption (HEX) status on 613 Belvedere Rd. NW; and/or Mr. Lively's residency status regarding the two parcels as detailed below from the BCPAO website:

Site Address	Owner	Parcel ID	Account
251 Silver Oak Rd NE Palm Bay FL 32907	Lively, Raymond W li Lehan, Donna E	28-37-32-FS-285-13	2842292
613 Belvedere Rd NW Palm Bay FL 32907	Lehan, Donna E Lively, Raymond W li	28-36-35-EX-644-14	2814106

In an email dated March 2, 2018, Mr. Pollock stated (paraphrased):

The short answer to your question is yes:

- Since 2003, Ms. Lehan had a HEX, with her husband Dennis Lehan on Silver Oak with a \$25K Exemption and \$500 Disability Exemption based on a Social Security Decision.
- In 2006, she updated 613 Belvedere Rd. NW in her name only, with a HEX and Widow's Exemption. She currently receives a 25K HEX and \$500 Widow's Exemption on 613 Belvedere Rd. NW.
- In 2007, her son [Mr. Lively] applied for and was granted a HEX on 251 Silver Oak RD. NE (both are on the deed) as Joint Tenants with Rights of Survivorship. He resides on the property and she is listed as residing at Belvedere.
- In 2014, she changed the HEX on the Belvedere address, to add her son Lively, Raymond as a Joint Tenant with Rights of Survivorship (JTRS) showing on the application that he resides at the Silver Oak property.

According to the HEX applications he resides at Silver Oak (both are on the deed with JTRS) and she resides at Belvedere (he is on the deed and has JTRS). Each rates a full HEX on their respective primary residence. However, if their primary residence is in question based on your investigation, please advise and the BCPAO will conduct a field investigation to determine domicile.

Homestead Investigations can conduct a field investigation to determine at what residence he and or she is primarily residing in, if there is an unresolved question as to whom is residing at which property they have a qualified HEX on. If you have any further questions please do not hesitate to contact me.

OIG staff requested Mr. Pollock's office conduct a field investigation; and Mr. Pollock provided the following update about their investigation (Case No. 2018-0171-2814106) in an email dated April 23, 2018 (paraphrased):

- 613 Belvedere Rd. NW was abandoned by Ms. Lehan sometime in 2011.
 - She was not living there as her primary residence.
 - She was apparently permanently residing at 251 Silver Oak Rd.
 - The homestead appeared to be occupied by Mr. Lively.
- The property has been Liened for 2011 -2017 and the homestead removed.
- The Claimant has 30 days to appeal the proposed Lien by providing evidence that she resided primarily at the Homestead during the years in question.

In an email dated July 6, 2018, Mr. Pollock provided the following update regarding whether Ms. Lehan or Mr. Lively filed an appeal of the BCPAO's decision to place a Lien and remove her HEX on 613 Belvedere Rd. NW because she was not living there as her primary residence:

Yes, the son [Mr. Lively] has made a bit of a flap. I have met with him and given him a list of documents he needs to provide in order to show he was living there. He acknowledged he was not residing there for about 3 years, while renovating it (could be a valid reason for not occupying it). His wife lived at his mom's address the entire time and never at his HEX; which leads me to believe he did not live there either. She did go home to her parents according to him, during episodes of marital discord, which our records reflect some periods for up to a year.

He claimed he pays the bills at both properties, because his mother has [a medical condition] and cannot work nor support herself or pay bills with the disability income. He stated he has been doing renovation on his own and ongoing disputes with the insurance companies has contributed to the three-year delay. According him, the house is now done and he claims he was going to occupy this year or move his mom in to it and swap the HEX applications.

I am waiting to see what he produces. If his personal tax returns do not list the HEX address during the questioned years, he will likely be denied. Call me if you have questions.

Note: Mr. Pollock said he would notify OIG staff of any updates on this matter.

FINDINGS/CONCLUSIONS

It is alleged that Ms. Lehan committed fraud by failing to notify her HHF Advisor that she did not occupy 613 Belvedere Rd. NW as her primary residence, during the HHF-PR application process and at the time of receiving HHF-PR Program funds. In addition, it appears that Mr. Lively may have been complicit with or helped to facilitate this activity due to his involvement with Ms. Lehan during the HHF-PR Program application process. The allegation was **Supported** by the following information gathered which supports that Ms. Lehan lives at 251 Silver Oak Rd. NE, while Mr. Lively lives at 613 Belvedere Rd. NW:

- The testimony provided by Mr. Schmidt;
- Ms. Lehan's Social Security Administration and bank statements that she provided during her HHF-PR Program application;
- Mr. Lively's email, phone, and fax numbers being listed on the HHF-PR Program application documents;
- CLEAR database records;
- BCPAO records, results of their field investigation, along with the subsequent Lien and removal of Ms. Lehan's HEX on 613 Belvedere Rd. NW;
- BCCO records;

- Sunbiz records;
- Zillow real estate listing information and photos; and
- FPL records.

Therefore, based upon these findings, Ms. Lehan is in default of the terms of the HHF-PR Program Loan because she failed to notify her HHF Advisor that she did not occupy 613 Belvedere Rd. NW as her primary residence, during the HHF-PR application process and at the time of receiving HHF-PR Program funds.

In accordance with §20.055(7)(c), F.S., on July 11, 2018, the investigation was coordinated with the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) for a possible violation of federal and/or state laws, including:

- Title 18, United States Code, §1001, False Statements;
- Section 817.03, Florida Statutes (F.S.), Making false statement to obtain property or credit;
- Section 817.545, F.S., Mortgage Fraud; and/or
- Section 837.06, F.S., False Official Statements.

Update from Mr. Pollock:

In an email dated August 23, 2018, Mr. Pollock provided the following additional update regarding the status of Ms. Lehan/Mr. Lively's appeal of their HEX lien:

We liened them for not living in the HEX for 15 16 and 17. However, he presented permits, material receipts, vendor communications, photographs, and court & insurance dispute records demonstrating the property was not livable while they were refurbishing. The owners should have notified BCPAO of the extended absence from the HEX. Documents and records demonstrated the property was damaged from flooding, named storms and then an extended refurbishing due to legal, insurance disputes, sweat equity efforts. The benefit of doubt went to the owner. The lien was revoked.

He has indicated he is going to either sell once he receives occupancy permit (Oct 2018) or he may move his mother to that address and move him and his wife to her address. He was advised of the appropriate process to transfer a HEX from one to another property should he decide to do that. We have the accounts in a monitor status.

Good luck with your filing, if we can be of any assistance please let us know.

This information was forwarded to Special Agent Vivian Vega, SIGTARP case agent, who corresponded via email with Mr. Pollock, with additional questions. This correspondence has been attached for further view (Exhibit 9), Mr. Pollock stated the following about their decision on the matter:

The short answer to your first question [Did the BCPAO maintain the HEX revocation and liens for 2011 through 2014?] is because public records and documents he presented during his appeal reflect he was (intermittently) at his HEX during 2011-2014, those years were found to be eligible for the exemption. We could not definitively demonstrate he was not residing at the HEX, although anecdotally, it appears he spent more time at his mother's than at his HEX during the entire period in question. . . The appeal decision could have been a denial; however, because of the presented documents and photographs supporting his assertions, and no contrary evidence was present, the benefit of doubt was weighed in the tax payer's favor. . .

On October 3, 2019, SIGTARP advised that they would not initiate a criminal investigation based on the following:

Complaint number S-18-0111 referencing Donna Lehan, a Hardest Hit Fund, Principal Reduction Program recipient, was opened based on a Referral received from the Florida Housing Finance Corporation (FHFC), concerning FHFC case no. 170913-01. The matter was investigated, found to lack sufficient evidence, and has been closed.

No further investigative activity will be conducted at this time.

INSPECTOR GENERAL COMMENTS

The Office of Inspector General is closing this file. However, if additional information is received indicating Ms. Lehan did not occupy 613 Belvedere Rd. NW as her primary residence, during the HHF-PR application process and at the time of receiving HHF-PR Program funds, then this will be reviewed for action deemed appropriate.

This investigation was completed in accordance with accreditation standards established by The Commission for Florida Law Enforcement Accreditation and has been conducted in compliance with the "Quality Standards for Investigations" found within the *Principles and Standards for the Office of Inspector General*. The investigation was conducted by Melanie Yopp, Director of Investigations, CFE, CGAP, CIGI, CIGA under the supervision of Chris Hirst, Inspector General, CIG, CIGI, CIGA.