

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:

**MANTUA GARDENS EAST, INC.,
And JAMES H. GRIER**

Respondents,

**Docket No. 12-3842-DB
12-3843-DB**

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DEBARRING OFFICIAL'S DETERMINATION

Introduction and Background

By separate Notices of Immediate Suspension and Proposed Debarment dated December 30, 2011 ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondents MANTUA GARDENS EAST, INC., (MGE) and JAMES H. GRIER of their immediate suspension along with their proposed debarment from future participation in procurement and nonprocurement transactions as participants or principals with HUD and throughout the Executive Branch of the Federal Government for a period of five years from the date of the final determination of this action. The Notice further advised Respondents that their proposed debarment was in accordance with the procedures set forth in 2 CFR parts 180 and 2424.

Additionally, Respondents were advised that, in accordance with 2 C.F.R. §§ 180.700 and 180.705, their suspension is based upon adequate evidence to suspect a cause for debarment under 2 C.F.R. §§ 180.800(b) and (d). Their suspension, Respondents were advised, was for a temporary period pending the completion of the debarment proceedings. Respondent Grier also was advised that, in accordance with the latter sections, his proposed debarment is based upon his acts and omissions (fully detailed in the Notice) as president of MGE, which caused MGE to violate the terms of public agreements or transactions (a Regulatory Agreement and a Housing Assistance Payments (HAP) contract) in so serious a manner as to affect the integrity of HUD programs, and which are of so serious and compelling a nature that they affect his present responsibility. MGE was advised that its proposed debarment is based on similar violations of the HAP contract and Regulatory Agreement as set forth in Respondent's Grier's Notice.

A telephonic hearing was held on May 1, 2012, before the Debarring Official's Designee, Mortimer F. Coward. Respondent Grier *appeared pro se*. Patricia Tijerina, Esq. assisted by Dane Narode, Esq. appeared on behalf of HUD. The parties filed post-hearing submissions and the record closed on June 22, 2012.

Summary

I have decided, pursuant to 2 C.F.R. part 180, to debar Respondents from future participation in procurement and nonprocurement transactions as participants, or principals, or contractors with HUD and throughout the Executive Branch of the Federal Government for a period of five years from the date of this determination. My decision is based on the administrative record in this matter, which includes the following information:

1. The Notices of Proposed Debarment (with attachments) dated December 30, 2012.
2. An undated letter from Respondent Grier addressed to the Director of the Compliance Division requesting a hearing, received in this office January 30, 2012.
3. An e-mail dated February 17, 2012, from Respondent to the Docket Clerk, copied to the Debarring Official's Designee and the Government attorneys.
4. The Government's Pre-Hearing Brief in Support of Five-Year Debarment filed March 23, 2012 (including all exhibits and attachments thereto).
5. The Government's Motion for Order to Show Cause Why Appeal Should Not Be Dismissed dated April 26, 2012.
6. Respondent's Pre-Hearing Brief in Defense & Against Five-Year Debarment (including all attachments thereto) sent to the Government Attorney, received via e-mail May 14, 2012.
7. The Government's Post-Hearing Submission in Response to Respondent's Pre-Hearing Brief in Defense and Against Five-Year Debarment, received June 19, 2012.

Government Counsel's Arguments

Government counsel states as background that in December 1970, Friends Housing Inc., the predecessor corporation of MGE, acquired a project with a FHA-insured mortgage, and later that month entered into a Regulatory Agreement with HUD. (The Regulatory Agreement set forth certain requirements which bound MGE until the Regulatory Agreement's expiration on May 1, 2012, the date of maturity of the FHA loan.) In due course, the note was held by Firsttrust Savings Bank, an FHA-approved mortgagee. In July 1983, MGE received a \$210,174.00 Flexible Subsidy loan for which Respondent Grier, on behalf of MGE, executed a Residual Receipts Note. Also in July 1983, MGE obtained Section 8 project-based rental housing assistance for the project, and continued receiving assistance until 2011 by executing several renewal contracts with HUD. On June 10, 2011, MGE signed a renewal contract to receive assistance for one year from July 1, 2010 to June 30, 2011.

In an attempt to free MGE from the binding provisions of the Regulatory Agreement, Respondent proposed to Firstrust that the mortgage note on the project be assigned to MGE or another entity. In a December 17, 2007, e-mail from Firstrust, Respondent was informed that funds held by MGE for the project could not be used to purchase the note. In January 2008, Respondent, on behalf of MGE, withdrew \$325,000.00 (“Withdrawal Funds”) from the project’s reserve account. HUD’s approval was not obtained for the transfer of these funds, which were deposited in a Wells Fargo account. Respondent Grier led Firstrust to believe that the funds transferred to the Wells Fargo account would be subject to the same restrictions as obtained in the Firstrust account. In February 2008, Respondent pledged the \$325,000.00 to Wells Fargo as collateral for a loan of the same amount. Respondent represented to Wells Fargo that MGE owned the withdrawn funds without any restrictions. About two weeks later, a cashier’s check for \$170,218.28 was issued to Firstrust for the purchase of the mortgage note on the project. The cashier’s check was issued by Respondent Grier on behalf of Mantua Gardens East, LLC (“MGE, LLC”).

In April 2008, Respondent, acting for MGE, pledged to Wells Fargo one of the project’s buildings and its personal property to obtain a \$50,000.00 loan. Respondent represented to Wells Fargo that MGE had unrestricted rights to the project’s rents and building. Respondent also executed an Open-End Mortgage and Assignment of Rents for the \$50,000.00 loan. HUD was not informed of nor approved any of these transactions. MGE, after these transactions, then operated the project as if the purchase of the mortgage note had terminated the FHA mortgage insurance along with the Regulatory Agreement. In August 2010, Respondent executed another promissory note that renewed the first Wells Fargo loan.

In a letter dated April 2, 2010, HUD notified MGE that the withdrawal of \$325,000.00 from the Reserve Account and its transfer to an institution other than Firstrust without HUD’s approval was a violation of the Regulatory Agreement. In subsequent correspondence between HUD and MGE’s attorney, HUD sought the return of the funds to the Reserve Account. The funds were not returned by the deadlines set by HUD, nor did Respondent cooperate with Firstrust in its attempt to reverse the transfer of the funds. As a result on October 13, 2010, Firstrust filed suit against Respondents for the return of the \$325,000.00. Earlier, in Respondent’s desire to be free of the Regulatory Agreement’s restrictions, he had requested Firstrust to release the required FHA insurance on the loan. In his November 2005 letter to Firstrust, Respondent advised the bank that to remove the requirement to maintain FHA insurance, MGE, in agreement with the bank, would have to apply to HUD for permission to terminate voluntarily MGE’s participation in the Section 236 program. Firstrust also was advised by Respondent that, upon approval to terminate the mortgage insurance, the Regulatory Agreement would expire. Respondent attached to the letter a HUD Form 9807 “Insurance Termination Request for Multifamily Mortgage” to be signed by Firstrust, which Firstrust did not complete.

Counsel also alleges that Respondent committed other violations associated with the challenged transactions. In June 2011, HUD learned of MGE’s intention to terminate the management contract with its HUD-approved management agent, Community Realty Management (CRM). In a July 1, 2011, notice from HUD, Respondent was informed that a change of agent required HUD’s approval. On July 5, 2011, Respondent discharged CRM,

indicating that he was qualified as a licensed broker to manage the project until a successor was hired. Counsel also notes that, in its financial report for FYE April 30, 2008, required to be submitted to HUD under the terms of the Regulatory Agreement, MGE did not disclose its Flexible Subsidy Loan which is due and payable upon maturity of the FHA loan.

Similarly, Respondent violated paragraph 8(a) of the Renewal Contract and the enabling regulatory and statutory provisions that required MGE to provide written notice of the expiration of the HAP contract to HUD and the affected tenants one year before the contract's termination. The relevant authorities prohibit eviction of the tenants or increasing the rent until the tenants receive the required notice and one year has elapsed. Additionally, HUD regulations require that the owner allow the tenants to remain in their units at the same rent until the one-year notice has been given "even if HUD does not continue to make housing assistance payments with respect to such units." MGE did not inform the tenants of this requirement. MGE, instead, informed the tenants they were required to sign new changeover leases that would require their paying market rent.

In MGE's communication with the tenants, MGE falsely represented that HUD's reduced financial support for the project forced MGE's decision to terminate the HAP contract. MGE notified all tenants that, because a HUD subsidy was no longer available, all tenants would be charged the "HUD approved market rent." Subsequently, MGE attempted to evict tenants who did not pay the market rent. Counsel also notes that MGE, in its response to HUD's Notice, failed to disclose, as required by the debarment regulations, that there were two civil suits filed against the company related to the violations alleged in this matter.

Counsel argues that Respondents are subject to the debarment regulations as participants or principals in a covered transaction by virtue of MGE's receipt of Section 8 assistance and of FHA mortgage insurance on the property and Respondent Grier's control of MGE's operations as its president and as a signatory on the HAP contracts, citing 2 C.F.R. §§ 180.995, 180.120, and 180.150. Specifically, counsel reiterates Respondent Grier's actions, characterizing, them as willful violations of the Regulatory Agreement while enumerating the particular paragraphs violated. Thus, Respondent's withdrawal of funds from the project's account, his pledging and encumbering the funds, along with his execution of the Open-End Mortgage and Assignment of Rents without HUD's approval were willful violations of paragraphs 2(a) and 7(a) and (b); the discharge of CRM and MGE's failure to replace CRM with an agent acceptable to HUD as well as MGE's omission of the Flexible Subsidy loan from its annual financial report were willful violations of paragraphs 10(a) and (e) of the Regulatory Agreement.

Counsel also argues that Respondents' demanding that tenants pay an increased rent before they received timely notice of the termination of the renewal contract and Respondents' attempt to evict tenants were violations of the contractual, statutory, and regulatory provisions applicable to paragraph 8(b) of the Renewal Contract. The violations set forth here demonstrate, counsel contends, that Respondents lack the requisite responsibility to participate in federal programs, making them a risk to the Government and private citizens and prove that they are not persons with whom the Federal Government should do business. Counsel discusses the factors in 2 C.F.R. § 180.860 as they apply to Respondents' misconduct, highlighting the aggravating nature of Respondents' misconduct as alleged by the Government, and dismissing Respondents' arguments that would mitigate their wrongdoing. Counsel concludes that Respondents'

misconduct, as evidenced in the willful violations of HUD regulations, the Regulatory Agreement, the HAP contracts, and other authorities noted above, warrants Respondents' debarment for five years.

Respondents Arguments

Respondent Grier argues, for himself and on behalf of MGE, that they were automatically released from the Regulatory Agreement before committing the violations alleged by HUD. Further, Respondents should not be held responsible for the actions of Firsttrust, a HUD-approved mortgagee, in releasing funds from the Reserve for Replacement and assigning the mortgage to MGEI without HUD's approval. In Respondents' view, HUD knew or should have known that "constructively, [they] were RELEASED from the Regulatory Agreement via Voluntary Termination of Mortgage Insurance AND automatically as a result of the sale /assignment by the FHA mortgagee of the Mortgage Documents without the prior written approval of HUD. In conformity with this posture, the approved management agent ceased mortgage insurance premium payments." (Emphasis and capitalizing in original)

Respondent also asserts that he never signed the Regulatory Agreement, "signed by the corporation December 30, 1970," that HUD now is alleging he violated. According to Respondent, the "original submission [of the HUD form 9807,"Insurance Termination Request for Multifamily Mortgage"] is in the office of . . . the Chief, Multifamily Insurance Operations Branch" in Washington, D.C."¹ Respondents also argue that, because they were "released from the Regulatory Agreement, [they] were released from the requirements to maintain a Reserve for Replacement Fund **anywhere**." (Emphasis in original) Additionally, because of the putative release from the Regulatory Agreement they were released, according to Respondents, from the requirement to (a) submit "audit and other management and fiscal reports"; (b) "obtain HUD approval of borrowings or loans, assignment of rents or assets and the uses thereof;" and (c) "manage the property to the satisfaction of HUD."

In response to HUD's allegation of Respondents' improperly raising rents, Respondents argue that Article 30 of the model lease states that the "Lease Agreement will **terminate automatically**, if the Section 8 Housing Assistance contract terminates for any reason." Respondent rejects what he characterizes as HUD's allegation that the attempt to raise tenants' rent caused "fear and distress." It was the Philadelphia Housing Authority (PHA) that caused "this nonsensical outrage" by claiming that Respondents were "going down" and that tenants

¹ The Department's records do not substantiate Respondents' claim. See Gov't Ex.4, Declaration of Ronald. P. McDowell and Exhibits thereto to Government's Post-Hearing Submission in Response to Respondent's Pre-Hearing Brief in Defense and Against Five-Year Debarment. Exhibit A, a HUD notification to First Trust Bank, signed by Ronald McDowell, acknowledges receipt of a request for Termination of Insurance of FHA Project # 034-44053, the project number assigned to MGE. The request was not approved. An attachment dated 6/29/06 identifies the reasons for the disapproval. The block on the HUD form 9807 "For HUD Only" that records action taken by HUD is blank. The block "Signature of Designated HUD Official" is blank, i.e., no signature is affixed therein. Exhibit B, similarly, indicates that a request for termination based on prepayment of the mortgage was cancelled 10/3/08, and Firsttrust was so notified on October 7, 2008. Notably, Mortgagee Letter 2004-21, reproduced at page 4 of Respondent's Pre-Hearing Brief, states that "[i]f no prepayment restrictions or prohibitions are detected . . ." [t]he HUB Director should send the approval letter to the submitting mortgagee."

would have to pay market rent.² Respondent avers that he “vigorously sought public support” when he realized that a “Renewal HAP contract was not forthcoming,” including trying to get his tenants to apply for the Tenant Based Section 8 program until he was told that the “application process had been closed for years.”

Respondent argues that the “protection” vouchers were created by Congress to allow residents to remain where they had lived for twenty years; however, Respondent was told that the vouchers could not be used at MGE. Respondent contends that HUD’s not giving PHA vouchers was a violation of the Unfunded Mandates Reform Act of 1995, 12 U.S.C. 1531-1538 (UMRA). According to Respondent, HUD’s requiring MGE to “house the former tenants without Tenant Based subsidy is a violation of the Unfunded Mandates Reform Act.” As Respondent sees it, the lease agreements terminated “on its own terms,” thus, “there was no rent to increase because there were no tenants after the automatic termination of the lease. The occupants were then at best residents, at worst squatters.” Further, Respondent rejects the Government’s argument that the tenants were entitled to a 12-month notice of Respondents’ intent not to renew the HAP contract before its expiration in June 2011. In support of his position, Respondent states that he does not believe the Congress intended “to apply the 12 month notice requirement to less than multi-year contracts.”³

Respondents argue that they could not have violated any provisions of the Regulatory Agreement because Respondents “were released by the voluntary termination of the mortgage insurance by the insured as a matter of the mortgagee’s legal right.” Respondents also argue that the “termination was an action of the mortgagee NOT NOT NOT the mortgagor!!!” Respondent states that, because of the prohibition in UMRA on the Government’s imposing unfunded mandates on the private sector, he proposes to repay the \$210,000.00 Flexible Subsidy “loan from the Tenant Based Section 8 payments for the 49 units **due from July 1, 2011 to date.**” (Emphasis in original) Respondent writes that if the Government would comply with Executive Order - Identifying and Reducing Regulatory Burdens and Executive Order 13576 - - Delivering an Efficient, Effective, and Accountable Government “many thousands of taxpayer dollars could be saved by redirecting the salaries of lawyers and others towards matters that really do compromises [sic] the Public Interest.” Respondent concludes by requesting that he and MGE be “reinstated into eligible status to receive Tenant Based Section 8 vouchers.”

Findings of Fact

1. Respondent MGE is the corporate entity that owns Respondents’ project (“the Project”) and Respondent Grier serves as the corporation’s president and chairman of the Board.
2. The project was financed in 1970 with a forty-year mortgage loan insured by HUD pursuant to Section 236 of the National Housing Act.

² Respondent claims to have witnesses who would support his assertion here. No witness testimony was offered by Respondent during these proceedings.

³ Respondent cites no authority in support of his contention, but does indicate that he “continue[s] to search Comments on the regulations regarding this notice to confirm [his] belief.”

3. The Project, through the then-owner, Friends Housing Inc., executed in December 1970 a Regulatory Agreement with HUD that would govern the operation of the Project.
4. At all relevant times, Firsttrust Savings Bank, the successor to the original lender, held and serviced the loan.
5. Starting in 1983, MGE began receiving project-based rental housing assistance under Section 8 of the United States Housing Act of 1937 for the Project.
6. In July 1983, Respondents received a Flexible Subsidy Loan for \$210,174.00 for which Respondent Grier executed a Residual Receipts Note.
7. Respondent Grier, acting on behalf of MGE, entered into a HAP contract with HUD under which MGE would receive Section 8 rental assistance for five years.
8. MGE continued to receive Section 8 assistance from HUD until 2011, through a series of HAP renewal contracts.
9. In June 2010, MGE executed a renewal contract to continue receiving assistance until June 30, 2011.
10. Respondent Grier sought, through overtures in 2005 and 2007 to the lender, to have Firsttrust release the HUD insurance on the mortgage loan so that MGE would have freedom from the constraints of the Regulatory Agreement.
11. Respondent advised the bank that, upon approval by HUD to voluntarily terminate MGE's participation in the Section 236 program, the Regulatory Agreement would terminate.
12. Respondent advised Firsttrust in a December 10, 2007, e-mail that there appeared to be no legal prohibition against Respondents' purchase of the mortgage note and that this arrangement would "minimize any risk of repercussions from HUD."
13. In compliance with Respondent Grier's request, Firsttrust released in 2008 to MGE \$325,000.00 from the Reserve Account, which MGE deposited in a Wells Fargo account.
14. Respondent pledged the released funds to obtain a Wells Fargo loan of \$325,000.00.
15. In a February 2008 e-mail to Firsttrust, Respondent informed the bank he preferred that there be an assignment of the mortgage rather than a prepayment. Also, Firsttrust should not send the letter concerning the proposed transaction to the management company so as not to cause the company unnecessary concern.
16. Respondent in February 2008, on behalf of MGE, LLC issued a cashier's check of \$170,218.28 to Firsttrust to purchase the mortgage note.
17. Respondent signed all the necessary documents with respect to the transfer.
18. In April 2008, Respondent pledged to Wells Fargo one of the Project's buildings along with personal property of the Project as collateral for a \$50,000.00 loan.
19. Respondent represented to Wells Fargo that MGE had unrestricted rights to the Project rents and buildings and executed an Open-End Mortgage and Assignment of Rents for the \$50,000.00 loan.
20. In August 2010, Respondent executed another promissory note that renewed the first note for \$325,000.00 held by Wells Fargo.
21. Respondents did not receive HUD approval for any of the transactions or actions described here.

22. Firsttrust later recognized that the assignment of the mortgage was in violation of HUD regulations and sought to reverse the transaction by filing suit in October 2010 against Respondents and MGE, LLC, the assignee of the mortgage.
23. As of this writing, there is no evidence in the record that the transaction has been reversed.
24. Respondents terminated the management contract with the HUD-approved management agent in July 2011, and continue to operate the project without management acceptable to HUD.
25. Before discharging the management contractor, CRM, Respondent informed CRM in June 2011 that it no longer wanted to participate in project-based assistance but wanted to convert to tenant-based housing vouchers.
26. Respondent did not notify HUD or the tenants of its plan to convert to tenant-based assistance, and the Renewal Contract Respondents entered into on June 10, 2010, expired on June 30, 2011. Respondents did not enter into another HAP contract to renew the terms of the Renewal Contract, thereby terminating the Section 8 rental assistance.
27. Respondents informed the Project's tenants that they would have to sign new changeover leases and pay market rent because HUD assistance was no longer forthcoming.
28. Starting in November 2011, Respondents began issuing eviction notices to tenants who did not pay the "HUD approved market rent as the HUD lease demands."
29. In December 2011, a lawsuit was filed on behalf of six tenants seeking, among other things, to prohibit Respondents from increasing the tenants' rent.
30. Respondent submitted its FY 2008 annual financial report without disclosing the Flexible Subsidy Loan as one of its long-term liabilities.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondents are subject to the debarment regulations because, Respondent Grier as president of MGE and MGE as a corporation engaged in the ownership and management of real estate and a recipient of federal funds, have been, are, "or may reasonably be expected to be, a participant or principal in a covered transaction." 2 C.F.R. § 180.130.
2. Respondent were "participant[s]," defined as "any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant." 2 C.F.R. § 180.980.
3. A "covered transaction is a nonprocurement or procurement transaction that is subject to the prohibitions of this part." *See* 2 C.F.R. 180.200.
4. Respondent Grier also was a "principal" as he was a person "within a participant with management or supervisory responsibilities related to a covered transaction." 2 C.F.R. § 180.995.
5. Respondents were bound by the Regulatory Agreement entered into with HUD by the predecessor company to MGE.

6. The Regulatory Agreement sets forth several prohibitions and requirements, which, among other things, bind all successors to and assignees of the Agreement.
7. Paragraph 7 provides, among other things, that “Owners shall not without the prior written approval of the Commissioner” convey or encumber the mortgaged property or assign or transfer any personal property of the project or the right to manage or receive the rents from the mortgaged property.
8. Respondent’s receipt of \$325,000.00 withdrawn from the Reserve Account and his pledging of the funds as collateral for a \$325,000.00 loan with Wells Fargo, the bank in which the withdrawn funds were deposited, was a violation of Paragraph 7 of the Regulatory Agreement.
9. Respondent’s execution of a promissory note to renew and extend the \$325,000.00 note was a violation of the Regulatory Agreement.
10. Respondent’s pledging of one of the project’s buildings and personal property as collateral for the \$50,000.00 loan and executing an Open-End Mortgage and Assignment of Rents was a violation of the Regulatory Agreement.
11. Respondents’ termination of the management contract with CRM and its failure to replace CRM with a management agent approved by HUD was a violation of the Regulatory Agreement.
12. Respondents’ purchase of the Project’s mortgage loan on behalf of MGE, LLC was a violation of the Regulatory Agreement.
13. Respondents’ prepayment of the mortgage debt in February 2008, notwithstanding that the insured loan would expire in May 2012, also was a violation of the terms of the mortgage note, which prohibit prepayment of the debt prior to the final maturity date without the Commissioner’s prior written approval.
14. The Renewal Contract provided that MGE would give written notice to the tenants and to HUD before termination of the Contract. HUD’s regulations at 24 C.F.R. § 402.8(a) require the owner to provide a one-year notice with respect to the termination. Additionally, the regulations and the relevant statutory provision prohibit the tenants’ eviction or increasing their rent until the provision of the notice and the passage of one year. The regulations required Respondents to allow the tenants to remain in their unit at the same rent until the one-year notice is given “even if HUD does not continue to make housing assistance payments with respect to such units.” See 24 C.F.R. § 402.8(b).
15. Accordingly, Respondents’ attempt to evict tenants and to charge market rent was a violation of HUD’s regulations.
16. Respondents’ argument that they were released from the Regulatory Agreement has no basis in fact. As is plain from a cursory examination of the HUD form 9807 attached to Respondents’ letter seeking Firstrust release of the FHA insurance on the mortgage loan, HUD never approved the request. Respondents were well aware of this, as is evident from the correspondence in the record between Respondents and Firstrust, that their attempts were fruitless. Accordingly, because there was no voluntary termination of the mortgage insurance, as Respondents erroneously claim, Respondents remained obligated to honor the terms of the Regulatory Agreement. Thus, Respondents attempted defense that the afore-mentioned Regulatory Agreement violations could not have occurred because there was no existing Regulatory Agreement is without merit.

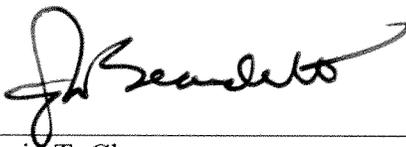
17. Similarly, Respondents' argument that the tenants' leases terminated automatically when the Section 8 housing assistance terminates for any reason is spurious. The regulations cited above make it plain that the tenants are protected from eviction and a rental increase until the owner provides the proper notice and one-year therefrom has elapsed. Clearly, the "for any reason" phrase does not contemplate improper action by an owner, such as allowing the HAP contract to expire, as here, and then claim, as Respondents do, that the tenants are at best squatters.
18. Respondents' arguments with respect to the applicability of UMRA are baseless. Nothing in UMRA suggests that it applies only to multi-year contracts.⁴
19. UMRA, as Respondents well recognize, applies to the imposition of unfunded mandates on states, etc. by the federal government. There was not an imposition, as contemplated by UMRA, on Respondents by HUD with respect to Respondent' having to continue renting their units to tenants at the rental the tenants were paying when the HAP contract terminated, under the conditions discussed here. Respondents obligated themselves as a condition of entering into the HAP contract and other related agreements to comply with the challenged provision. Under these circumstances, the obligation can hardly be characterized as an unfunded mandate.
20. Respondents violations as detailed here were serious. Respondents were dismissive of HUD's and others' concerns and sought to achieve their end without regard to the rights of the other parties affected by their decisions. Respondents' actions and conduct are cause for debarment under 2 C.F.R. §§ 180.800(b)(1) and (3).
21. Respondents have offered no evidence in mitigation of their wrongdoing and none is otherwise apparent from the available record.
22. Respondents' misconduct demonstrates that they are not presently responsible. See 2 C.F.R § 180.125(a).
23. Respondents' actions set forth above, and in the record as a whole, raise grave doubts with respect to their business integrity and personal honesty.
24. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.

⁴ Respondent, of course, had the option of immediately notifying tenants on the signing of the one-year renewal of the expiration of the contract in one-year.

Determination

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined, in accordance with 2 C.F.R. §§ 180.870(b)(2)(i) through (b)(2)(4), to debar Respondents GRIER and MANTUA GARDENS EAST, INC. for a period of five years from the date of this Determination. Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: 7/30/2012



Craig T. Clemmensen
Debarring Official
Departmental Enforcement Center