



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued January 31, 2017

Nahant Housing Authority

For the period October 1, 2013 through September 30, 2015





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January 31, 2017

Mr. Mickey Long, Chair
Nahant Housing Authority
194 Nahant Road
Nahant, MA 01908

Dear Mr. Long:

I am pleased to provide this performance audit of the Nahant Housing Authority. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, October 1, 2013 through September 30, 2015. My audit staff discussed the contents of this report with management of the Authority, whose comments are reflected in this report.

I would also like to express my appreciation to the Nahant Housing Authority for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

AAB	Architectural Access Board
AGO	Attorney General's Office
CMR	Code of Massachusetts Regulations
DHCD	Department of Housing and Community Development
FMS	Facilities Management Specialists Unit
LHA	local housing authority
OML	Open Meeting Law

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted an audit of certain activities of the Nahant Housing Authority for the period October 1, 2013 through September 30, 2015. To test the eligibility of a sufficient number of new tenants, we selected the last 10 tenants who had moved in; 5 of these had started their occupancy before October 1, 2013.

In this performance audit, we assessed certain aspects of the Authority's operations related to administrative expenditures, modernization awards, revenue collections, tenant-eligibility determination, rent redetermination, turnaround times for vacant units, procurement of goods and services, site inspections, board activities, and financial reporting and data collection.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 7	The Nahant Housing Authority did not reoccupy units within the 21-day timeframe recommended by the Department of Housing and Community Development (DHCD). The average turnaround time for reoccupying vacant units was 85 days.
Recommendation Page 8	The Authority should take whatever measures it can to achieve DHCD's recommended turnaround time. It should work with its facilities management specialist at DHCD to seek solutions to its maintenance problems.
Finding 2 Page 8	The Authority did not complete tenants' requests for maintenance services within DHCD's recommended 7-day timeframe. The average turnaround time for completing a work order was 56 days.
Recommendations Page 9	<ol style="list-style-type: none">1. The Authority should prioritize all work orders to ensure that all health and safety issues are addressed immediately.2. The Authority should schedule work orders by location and task type.3. The Authority should request assistance from DHCD to review its maintenance operations and determine whether it could make changes to increase efficiency and thereby reduce the response time for work orders.

Finding 3 Page 9	The Authority granted emergency case status and higher priority to some applicants without following required procedures.
Recommendations Page 11	<ol style="list-style-type: none">1. The Authority should collect and verify all required documentation and information.2. The Authority should prepare an emergency case plan and submit it to DHCD.3. The Authority should periodically review DHCD regulations to ensure compliance.
Finding 4 Page 11	The Authority did not document that it had made written offers of units to prospective tenants.
Recommendation Page 12	The Authority should make offers to prospective tenants in writing.
Finding 5 Page 13	The Authority did not always collect rent in a timely manner. Of the rent payments made during our audit period, 121 (53%) were paid late.
Recommendations Page 14	The Authority should ensure that tenants pay their rents on time in accordance with their leases. It could consider doing this by issuing reminder letters to tenants who are consistently late in paying their rent, holding telephone or in-person conferences with delinquent tenants, and charging a late fee when appropriate.
Finding 6 Page 14	The Authority improperly calculated the monthly rents of four tenants: one tenant was overcharged \$30, and three tenants were undercharged a total of \$4,236.
Recommendation Page 15	Authority personnel should ensure that they have adequate written documentation from tenants to verify all income and deductions.
Finding 7 Page 15	Some units did not comply with the State Sanitary Code.
Recommendation Page 16	The Authority should continue to take the measures necessary to ensure that each of its units conforms to the minimum standards for safe, decent, and sanitary housing in the State Sanitary Code.

OVERVIEW OF AUDITED ENTITY

The Nahant Housing Authority is authorized by, and operates under, Chapter 121B of the Massachusetts General Laws as amended. The Authority was established in 1948, and its administrative office is at 194 Nahant Road in Nahant. The Authority currently manages 5 units for families on Greystone Road; 14 units for families on Emerald Road and Spring Road; and 29 housing units for elderly/handicapped residents at Spindrift, a three-story building that was built as an elementary school in 1875 and converted into housing for elderly tenants in 1982.

A five-member board of commissioners, selected from town residents, is responsible for governance of the Authority. Four of the board members are elected for staggered terms at the annual town election. The fifth member is appointed by the Governor. The board has hired a part-time executive director to manage the Authority's day-to-day operations.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Nahant Housing Authority for the period October 1, 2013 through September 30, 2015. To test the eligibility of a sufficient number of new tenants, we selected the last 10 tenants who had moved in; 5 of these had started their occupancy before October 1, 2013.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in this report.

Objective	Conclusion
1. Were the Authority's administrative and maintenance expenditures allowable and related to its operations?	Yes
2. If any modernization money was awarded, was it spent in accordance with the regulations of the Department of Housing and Community Development (DHCD)?	Yes
3. Did the Authority properly collect rent revenue in a timely manner and in accordance with its rent policy?	No; see Finding 5
4. Did the Authority determine tenant eligibility, placement, and monthly rents in accordance with DHCD regulations?	No; see Findings 3, 4, and 6
5. Did the Authority adhere to DHCD's procedures for preparing and filling vacant units in a timely manner?	No; see Finding 1
6. Did the Authority procure goods and services in accordance with applicable laws and regulations?	Yes
7. Were the Authority's procedures for site inspections and maintenance/repairs adequate to ensure that housing units met safety and sanitation requirements?	No; see Findings 2 and 7

Objective	Conclusion
8. Did the board of commissioners comply with the Authority's bylaws and the Massachusetts Open Meeting Law (OML)?	No; see Other Matters <u>1</u>
9. Were there pending legal cases against the Authority?	Yes; see Other Matters <u>2</u>
10. Did the Authority comply with DHCD's financial reporting and data collection requirements?	Yes

To achieve our objectives, we gained an understanding of, and tested, relevant internal controls for reasonableness of expenditures, administration of modernization grants, procurements, and financial reporting.

Based on our review of the Authority's controls and procedures, we conducted audit testing in the following areas:

- We reviewed 20 of the 242 administrative and maintenance expenditures incurred by the Authority during our audit period to verify that they were supported by source documents and related to the Authority's operations.
- We reviewed 16 of the 54 credit-card transactions paid for by the Authority during our audit period to verify that they were adequately documented.
- We tested 20 of 158 payroll transactions from the audit period to determine whether they were paid at the correct rate and supported by time records.
- We examined all 12 modernization expenditures from the audit period to determine whether the amounts paid by the Authority were supported by source documents and authorized by the Authority's board of commissioners and DHCD.
- We reviewed the Authority's accounts-receivable records; identified tenants who had balances as of September 30, 2014 and June 30, 2015; and reviewed 12 months of each one's payment history to determine whether rent collections were timely. We also examined overdue tenant accounts-receivable balances for collectability and to determine whether they were written off properly.
- We tested all five of the new tenants who were admitted into state-aided housing during our audit period to verify that they were selected in accordance with Section 5 of Title 760 of the Code of Massachusetts Regulations (CMR). As a result of our initial test, we expanded our testing to include five more new tenants, who were admitted before our audit period. We also determined whether these tenants were sent written offer letters as required by 760 CMR 5.10(4)(a).
- We tested annual rent determinations for 15 of 48 tenants to verify that their rents were calculated accurately and in accordance with 760 CMR 6.

- We examined the Authority's vacancy records to determine whether the Authority had adhered to DHCD guidelines for reoccupying vacant housing units. In addition, we calculated the potential lost revenue for all units that were vacant beyond the 21-day turnaround period suggested by DHCD.
- We reviewed the Authority's documentation for procurement of goods and services, including modernization contracts, to determine compliance with applicable procurement requirements.
- We inspected 9 of 48 units managed by the Authority to verify compliance with certain requirements of 105 CMR 410 (Chapter II of the State Sanitary Code) and to determine whether selected housing units were safe, sanitary, and in good condition. In addition, we reviewed the inspection records maintained by the Authority to determine whether it had conducted annual inspections of all the units it manages, as required by DHCD. We also followed up on the results of inspections conducted by DHCD to determine whether the Authority had corrected deficiencies that DHCD noted.
- We reviewed 25 of 314 tenants' requests for maintenance services to determine whether the services were performed in a timely manner.
- We reviewed the determination letters of the Attorney General's Office regarding alleged violations of the OML (Sections 18–25 of Chapter 30A of the General Laws). We then reviewed the minutes of the board of commissioners' meetings to determine what corrective actions, if any, were taken to address these alleged violations.
- We asked whether there was pending litigation against the Authority to determine the effect of any such litigation on the Authority's operations and finances.
- We reviewed the process the Authority used to collect financial and operational data and requested copies of the relevant reports to determine whether required reports were submitted to DHCD in a timely manner.
- We obtained data from information systems used by the Authority and from its fee accountant. We compared these data with source documents and various reports and determined that the computer-generated data were sufficiently reliable for the purposes of our report.

Because of the relatively small sizes and varied characteristics of the sample populations, we applied a nonstatistical approach whenever sampling was used. Therefore, our results could not be projected to the various populations.

DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE

1. The Nahant Housing Authority’s average turnaround time for reoccupying vacant units was excessive.

The average turnaround time for reoccupancy of vacant units was approximately 85 days (424 excess days divided by 5 units), which is well beyond the 21-working-day limit that the Department of Housing and Community Development (DHCD) advises. As a result, the Nahant Housing Authority lost the opportunity to earn as much as \$5,729 in rental income (see table below) and eligible applicants in need of state-aided housing may have experienced unnecessary delays in obtaining it.

Unit Type	Number of Units with Excessive Vacancies	Total Number of Days above DHCD Limit	Average Daily Rent	Potential Lost Income
Housing for veterans	1	114	\$17.92	\$ 2,043
Housing for elderly tenants	4	310	\$11.89	3,686
Total	<u>5</u>	<u>424</u>		<u>\$ 5,729</u>

Authoritative Guidance

Chapter 1 of DHCD’s Property Maintenance Guide states,

[DHCD] believes a reasonable outside limit for turning around vacancies is 21 working days where notice has been given. . . . This calculation of time includes all days from the first date on which rent is not collectible (either legally or practically) until the first day on which rent payments resume under the new lease. The maintenance portion of the vacancy process should not take longer than 14 days. Many vacancies should take far less time, such as routine vacancies in elderly buildings, and some will take substantially more. The 21 days should be seen as a good target for your average turnaround time. [DHCD] requires your vacancy ledger to document the reasons for vacancy periods of longer than 21 days.

Reasons for Excessive Average Turnaround Time

According to the executive director, prolonged vacancies occurred because vacancy turnover work was more extensive than usual and already-occupied units required extensive maintenance. In addition, DHCD’s Facilities Management Specialists Unit (FMS) performed inspections of units on various dates (May 6, June 9, June 23, and October 20, 2014) that revealed conditions, including emergencies, requiring additional repairs. These needs, according to the executive director, exceeded what could be

accomplished by the Authority's one full-time (32 hours per week) maintenance employee and the limited funding it had available to hire contractors to perform some of the work.

Recommendation

The Authority should take whatever measures it can to achieve DHCD's recommended turnaround time. It should work with its facilities management specialist at DHCD to seek solutions to its maintenance problems.

Auditee's Response

The [Authority] had contacted DHCD Facilities Management Specialist for assistance in improving the maintenance compliance with DHCD timeline.

2. The Authority did not always promptly complete maintenance work requested by tenants.

The Authority did not always complete requested maintenance/repair projects within the timeframes suggested by DHCD. We examined 25 out of a total of 314 work orders initiated by tenants during our audit period for repairs or services needed in their units. Our examination showed that the average turnaround time for completing a work order was 56 days.

When tenants' requests for maintenance and/or repairs are not completed in a timely manner, initial problems might eventually escalate to more serious health and safety issues.

Authoritative Guidance

Chapter 1 of DHCD's Property Maintenance Guide describes five priority levels for maintenance work. They are, in order of priority, emergencies, vacancy refurbishment, preventive maintenance, programmed maintenance, and requested maintenance. With regard to requested maintenance, the guide says,

Requests from residents or others for maintenance work which does not fall into one of the other categories should have the lowest priority for staff assignment, but should ideally be attended to within three to seven days [after the request].

Reason for Noncompliance

According to the executive director, the Authority had a backlog of work orders due to inspections conducted by FMS and this amount of work was too much for the Authority's maintenance employee to complete within DHCD's timeframe.

Recommendations

1. The Authority should prioritize all work orders to ensure that all health and safety issues are addressed immediately.
2. The Authority should schedule work orders by location and task type.
3. The Authority should request assistance from DHCD to review its maintenance operations and determine whether it could make changes to increase efficiency and thereby reduce the response time for work orders.

Auditee's Response

The [Authority] staff has been working with DHCD FMS for the past year on improving the turnaround time and expedites the work order process. The [Authority] will continue to work with FMS for improvement and guidance.

3. The Authority granted some tenants emergency status and gave them priority for housing without following required procedures.

The Authority granted emergency case (priority 4) status,¹ without performing required verifications and documentation, to 3 of the 5 new applicants it provided with housing during our audit period. Based on the results of this initial test, we selected 5 more tenants, who had moved in before our audit period, and found problems with the placements of 3 of those tenants. There was also no DHCD-approved Authority-wide emergency case plan. Without ensuring that all required application information is obtained, completed, and verified, and without an approved emergency case plan, the Authority is at risk of improperly skipping some applicants on its waiting lists to grant housing to others whose need is actually no greater.

Each local housing authority (LHA) is required to submit an emergency case plan to DHCD for approval before granting emergency case status to prospective tenants. According to Section 5.11 of Title 760 of the Code of Massachusetts Regulations (CMR), the purpose of the plan is as follows:

It shall set out circumstances under which the LHA shall grant emergency case status to homeless applicants. Each emergency case plan shall be reasonably reflective of the needs of persons who are homeless, in abusive situations, or encountering severe medical emergencies.

1. An emergency case status applicant is one who meets the definition of "homeless" in Section 5 of Title 760 of the Code of Massachusetts Regulations (CMR) and either is a victim of abuse through no fault of his/her own or is suffering from an injury imposing a severe and medically documented threat to life or safety that was caused by, or the recovery from which is impeded by, a lack of suitable housing.

LHAs use emergency case status and other circumstances to determine the order in which to place applicants; applicants with this status are in the fourth of seven priority categories, housed before tenants who are not facing any emergency but after tenants who have been displaced by natural disasters, urban renewal, or violations of the State Sanitary Code.

Although the above-mentioned six applicants submitted standard housing applications, four of them did not submit the required additional emergency housing application and accompanying documentation. However, they were given housing before seven other applicants who had properly completed the Authority’s standard housing-application process but had not requested emergency case status. There is no assurance that these four applicants had more need of housing than the seven who were not selected.

For the other two tenants, the Authority did not stamp or sign the emergency applications; in one of the two cases, it also did not require a form to verify the applicant’s lack of suitable housing. This applicant should not have been given emergency case status without submitting proof of unsuitable housing such as a letter from a landlord, a visiting nurse, or a local Board of Health documenting the unsuitability of the applicant’s current housing situation. The table below details the documentation problems we identified in this area:

Tenant Number	Emergency Application Filled Out and on File?	Emergency Application Date and Time Stamped?	Emergency Application Signed by the Reviewer?	Third-Party Verification Obtained?
1	No	NA	NA	No
2	No	NA	NA	No
3	No	NA	NA	No
4	No	NA	NA	No
5	Yes	No	No	Partially
6	Yes	No	No	Yes

Authoritative Guidance

According to 760 CMR 5.11,

Each LHA shall have an emergency case plan approved by the Department. . . . Any granting of or denial of emergency case status shall be made only after verification of circumstances warranting emergency case status. Non-receipt of requested documentation, without good cause established by applicant, shall be cause for determining applicant unqualified.

In addition, the Universal Emergency Application for State-Aided Housing used by the Authority states, "Emergency applications submitted without required documentation will be denied."

Finally, 760 CMR 5.05(2) states, "Each application form received by the LHA shall be date and time stamped, and the applicant promptly provided with a receipt including the control number."

Reasons for Noncompliance

The executive director said that she did not know about the required procedures for granting emergency case status. She also stated that she did not prepare an emergency case plan because of time constraints, as she works only 18 hours per week.

Recommendations

1. The Authority should collect and verify all required documentation and information.
2. The Authority should prepare an emergency case plan and submit it to DHCD for approval.
3. The Authority should periodically review DHCD regulations to ensure compliance.

Auditee's Response

The Executive Director unequivocally states that she did not improperly skip over any individual. The DHCD advises, in training sessions, discretion on these matters. The Executive Director always has utilized good faith in evaluating all 3rd party documentation. The [Authority] does have an Emergency Case Plan Policy, which was reviewed and re-approved by the [Authority's] Board of Commissioners at the December 1, 2015 Board Meeting. The Executive Director has implemented the recommendation of the Auditor.

Auditor's Reply

According to 760 CMR 5.11, the Authority must have an emergency case plan before emergency case status can be granted to any applicant. The emergency case plan that the board approved was developed at the suggestion of the Office of the State Auditor and approved after the end of the audit period. Further, to date, the executive director has not given us documentation that the board-ratified emergency case plan has been approved by DHCD as required by 760 CMR.

4. The Authority did not document that it had made written offers of units to prospective tenants.

The Authority did not document that it had offered units to prospective tenants in writing. We reviewed the 5 tenants who had been placed in housing during the audit period and found that 4 of them had not

received written offers. Based on the results of this test, we tested the last 5 tenants who had been placed in housing before the audit period and determined that none of them had received an offer letter.

It is crucial that offers be documented and dated, because if a prospective tenant does not accept an offer within seven days, s/he must be removed from the waiting list. If this happens, s/he will then have to file a new application, but will lose any priority/preference for three years. Furthermore, if a prospective tenant alleges premature removal from the waiting list and initiates legal proceedings against the Authority, an oral offer will not provide adequate proof that the prospective tenant was given the full seven days required by the regulation.

Authoritative Guidance

According to 760 CMR 5.10(4)(a),

An applicant offered a unit must accept the offer within seven days of the date of the written offer. For good cause the LHA may extend the time for response. . . . An applicant who fails to accept the offer of a unit within seven days or to provide such documentation within that period, shall be removed from the waiting list. After being removed from the waiting list, if the applicant files a new application with the LHA the applicant shall not be entitled to any priority or preference received on the prior application(s) for a period of three years.

Reasons for Noncompliance

The executive director stated that written offers of units were generally not made to prospective tenants because of time constraints. She further explained that when a prospective tenant approaches the top of the waiting list, the Authority sends a letter to schedule an interview with the applicant in order to make a final determination of eligibility. The letter states that if the prospective tenant does not respond within seven days, s/he will be removed from the waiting list. If the tenant is deemed eligible, the executive director notifies the applicant in person or by telephone rather than in writing.

Recommendation

The Authority should make offers to prospective tenants in writing.

Auditee's Response

It was the Authority's practice, for efficiency in the vacancy turnaround, for the Executive Director after the interview meeting to verbally contact the prospective tenant to relate approval for housing. This practice, upon the Auditor's recommendation, has been discontinued. All unit offers are and will be in writing.

5. The Authority did not always collect rent in a timely manner.

The Authority did not always collect rent from its tenants in a timely manner. As a result, it is not promptly receiving all the revenue to which it is entitled; this could adversely affect its financial position.

We reviewed the Authority's accounts-receivable records as of September 30, 2014 and June 30, 2015 and identified 19 tenants who had rents in arrears. We then reviewed these tenants' payment histories for 12 months within the audit period to determine whether rent collections were timely. Our review of these 228 payments showed that 121 (53%) were made after the 7-day grace period allowed in each tenant's lease. Of these 121 late payments, 41 were made more than 30 days after the due date. Despite this, the Authority did not send reminder letters to tenants who consistently paid their rent late, did not declare any of these rents delinquent and issue a Notice of Termination, and did not impose any late fees when payments were more than 30 days late.

Authoritative Guidance

According to DHCD's Form Lease for Public Housing, which mirrors the language in 760 CMR 6.04(3) and is used by the Authority,

In the event that Tenant shall fail to pay all or any part of the rent within seven (7) days of its due date, the LHA may declare the unpaid rent delinquent and issue a Notice of Termination of Lease which may include a Notice to Quit. . . .

In the event that Tenant fails to pay all or any part of the rent within thirty (30) days of its due date, LHA may impose a fee in the amount of \$25 for failure to pay rent when due.

According to 760 CMR 6.04(3)(a), before initiating eviction procedures, "the LHA shall provide the tenant with an opportunity to discuss the reason for the late payment." The Authority has developed a reminder letter that informs the tenant that the rent is overdue; warns of possible sanctions, including late fees and/or eviction; and gives him/her the opportunity to discuss the reasons for the late payment(s) with the Authority's management.

Reasons for Noncompliance

According to the executive director, difficult economic times have made it tough for some tenants to make payments on time and imposing a late fee would only add to their hardships. She also stated that rent reminder letters had not been sent consistently because of time constraints, since her position is budgeted by DHCD for only 18 hours a week.

Recommendation

The Authority should ensure that tenants pay their rents on time in accordance with their leases. It could consider doing this by issuing reminder letters to tenants who are consistently late in paying their rent, holding telephone or in-person conferences with delinquent tenants, and charging a late fee when appropriate.

Auditee's Response

The [Authority] is working with residents who are or going to be over 30 days past due by entering into Repayment Agreement Plan to resolve the delinquency.

6. The Authority did not properly calculate tenants' rent determinations.

We reviewed 15 rent determinations to determine whether they were accurate and whether they complied with DHCD regulations. We found 4 cases in which rents were improperly calculated. As a result, during the audit period, one tenant was overcharged by \$30 and three tenants were undercharged by a total of \$4,236.

Authoritative Guidance

Section 6.04(1) of Title 760 of the CMR sets forth specific income-based formulas for calculating rent. Section 6.04(6) requires tenants to submit documentation of income, exclusions from income, and applicable deductions so that the rent can be calculated correctly. To comply with the rent-calculation requirements, the Authority must verify the submitted information and calculate rent accordingly.

Reason for Noncompliance

The Authority did not ensure that it had adequate written documentation to verify income and deductions in order to determine tenants' rent. Four examples are described in detail below.

- A tenant's net income was computed as \$24,721, but it should have been \$24,630. The difference was attributed to an error in the reporting of investment income. Using the correct investment income, we determined that the tenant's monthly rent should decrease from \$618 to \$615. The error caused a total overcharge of \$30 during the audit period.
- A tenant received a medical deduction of \$180 for prescriptions, but there was no documentation in her file for this deduction. Our recalculation showed that the tenant's monthly rent should be changed from \$1,072 to \$1,077. The executive director will recalculate the tenant's rent pending receipt of the proper documentation. This error resulted in a loss of income of \$60 during the audit period.

- A tenant's deduction of \$14,350 for work-related daycare costs was not supported by adequate documentation. When satisfactory documentation was obtained from the tenant, it was found that the amount of the deduction should have been \$2,460 instead of \$14,350. This change resulted in an increase in monthly rent from \$564 to \$832—a difference of \$268 per month. The tenant will pay a total of \$1,608 (\$268 per month for 6 months) retroactively, using a payment agreement to avoid financial hardship on the household.
- A tenant declined to provide medical documentation and bank-account information that the executive director and the DHCD regional counsel feel are required to produce an accurate rent determination. The Authority has recalculated the tenant's monthly rent three times (as \$91, \$267, and \$276) since October 1, 2013, but in calculating these rents, it accepted medical deductions without sufficient documentation. The tenant has continued to pay only \$108 per month since October 2013 and has declined to sign any lease addendums agreeing to the Authority's rent calculation. As a result, according to the Authority's records, it did not collect \$2,568 in rent to which it was entitled. The executive director told us that DHCD directed her not to take further action against the tenant because the tenant had filed a lawsuit against the Authority, the Town of Nahant, and DHCD and any such action would be considered retaliatory.

Recommendation

Authority personnel should ensure that they have adequate written documentation from tenants to verify all income and deductions.

Auditee's Response

The Administrative staff has implemented the Auditor's recommendation. The Authority has adjusted the rent on the overcharged resident. The staff will send Reminder Letters within the month for which payment is due.

7. Some units did not comply with the State Sanitary Code.

During our audit, we inspected seven units for families and two units for elderly/handicapped tenants and found 27 instances of noncompliance with Title II of the State Sanitary Code (105 CMR 410), which affected eight of the nine units examined. We found bathtubs in disrepair, peeling interior paint, drawers with missing knobs, loose cabinets, detached drainpipes, rotting support posts, cracked ceilings, loose shingles, detached cove bases, cable television wires running across floors, missing baseboard heat covers, holes in sidings, rusted handrails, and other health and safety hazards (see Appendix A).

DHCD also conducted inspections at the Authority on May 6, 2014 and cited 45 life and safety deficiencies. As of October 20, 2014, DHCD reported that 17 deficiencies had been corrected and 28 still existed. We followed up on these 28 deficiencies to determine whether corrective action had been taken and found 5 still uncorrected (see Appendix B).

These deficiencies could result in injuries and illnesses, and postponing the necessary repairs could result in further damage/deterioration and additional costs at a future date.

Authoritative Guidance

Chapter 3 of DHCD's Property Maintenance Guide states,

In the Commonwealth of Massachusetts, all dwelling units must meet the conditions described in Title II of the State Sanitary Code. This is the standard DHCD uses.

The purpose of Title II of the State Sanitary Code is as follows:

To protect the health, safety and well-being of the occupants of housing and of the general public . . . and to provide a method of notifying interested parties of violations of conditions which require immediate attention.

Reasons for Noncompliance

Authority officials know about most of these deficiencies, because they conduct inspections as required by the Property Maintenance Guide, but indicated that the Authority did not have the funds and maintenance staff to rectify the major problems. The Authority has been working with its facilities management specialist at DHCD to correct the State Sanitary Code issues found during our inspections and the life and safety deficiencies disclosed by DHCD.

Recommendation

The Authority should continue to take the measures necessary to ensure that each of its units conforms to the minimum standards for safe, decent, and sanitary housing in the State Sanitary Code.

Auditee's Response

In its written response to our draft report, the Authority stated,

The Nahant Housing Authority in conjunction with [its] DHCD Facilities Management Specialist will continue to improve the maintenance procedure and the quality of work. The Executive Director states to her knowledge that there have been no injuries or illness resulting.

OTHER MATTERS

1. The Nahant Housing Authority is not complying with the state's Open Meeting Law.

During our audit period, the Division of Open Government within the Attorney General's Office (AGO) received six complaints regarding the Nahant Housing Authority's noncompliance with the state's Open Meeting Law (OML), Sections 18–25 of Chapter 30A of the Massachusetts General Laws. In response to four of the complaints, AGO determined that the Authority had violated the OML. The executive director and the chair of the board of commissioners informed us that the violations occurred because they did not know the intricacies of the law, but that after working with AGO, they have a better understanding of the legal requirements. Also, in its written response to our draft report, the Authority stated that to improve compliance with the OML, its board of commissioners had obtained and reviewed the Attorney General's Open Meeting Law Guide.

The table below summarizes all the complaints, the AGO rulings, and any corrective action that the Authority indicated that it had taken. The full text of AGO's determination can be found on AGO's website at <http://www.oml.ago.state.ma.us/>.

Complaint	The Authority did not post notice of a meeting in the lobby of its building or place a complainant on the agenda for future meetings.
AGO's Determination	Per AGO publication OML 2014-55, dated May 27, 2014: The board did not violate the OML by not posting a notice in the Authority building, since it posted one on a bulletin board outside the town hall. The OML does not require that public bodies allow public participation in any form without the permission of the chair. The Authority did violate the OML by meeting in a location that was not accessible to people with disabilities.
Authority's Corrective Action	Although not required to do so, the Authority agreed to post notice of meetings in the reception areas of the buildings where the meetings take place. The Authority designated a handicapped-accessible parking space in the lower-level parking lot.

Complaint	The Authority did not provide board minutes of an executive session after submission of a request for the minutes to the executive director.
AGO's Determination	<p>Per OML 2015-7, dated January 15, 2015:</p> <p>The board did not violate the OML because requests for board minutes must be made to the board rather than to an employee of the Authority.</p> <p>Generally, once a request is served upon a public body, it must supply the minutes within 10 days unless it determines that continued confidentiality is warranted.</p> <p>Ultimately, the complaint was forwarded to the board chair, who responded to the complaint and, through the executive director, supplied the minutes requested. This practice could violate the OML because the law requires the entire board to review the complaint before responding.</p>
Authority's Corrective Action	No corrective action was required by the board.
Complaint	<p>Notice of a meeting was improper because it did not designate the meeting as an open session; it only stated that the meeting was an executive session regarding complaints made to various administrative agencies.</p> <p>An executive session was held for an improper purpose.</p> <p>Business conducted outside a board meeting was improper.</p> <p>A meeting was held in an inaccessible location.</p>
AGO's Determination	<p>Per OML 2015-13, dated January 29, 2015:</p> <p>The board notice should have specified that an open session would be conducted, since a procedural requirement of holding an executive session is announcing the reasons for it at an open session.</p> <p>The notice of the meeting and the chair's verbal statement prior to the executive session indicated that the executive session was for the purpose of discussing legal strategy regarding complaints by various administrative agencies. This statement was a violation because before going into an executive session, the board should have discussed information about the specific litigation-related matters it planned to discuss. Also, the board should have made a statement that an open meeting would have a detrimental effect on its litigating position.</p> <p>Two board members and the executive director gathering after the meeting to sign checks was not improper because three members of the board are required for a quorum and the executive director is not a board member.</p> <p>There was no violation of accessibility requirements because the meeting started as an open session in a location that was handicapped-accessible. There is no requirement that an executive session, which is closed to the public, be held in an accessible location.</p>
Authority's Corrective Action	<p>Subsequent notices regarding executive sessions indicated that they would be preceded by open sessions.</p> <p>Subsequent executive sessions regarding litigation were properly announced.</p>

Complaint	The Authority did not respond to a complainant’s request for a copy of board minutes and documents used in a February 12, 2015 meeting.
AGO’s Determination	Per a letter dated June 25, 2015: The complaint was dismissed because it was received by AGO on May 29, 2015, after the May 27, 2015 deadline.
Authority’s Corrective Action	No corrective action was required by the board.
Complaint	The board held discussions about the complainant behind closed doors on three dates (May 6, June 3, and July 1, 2014) without giving the complainant notice and an opportunity to attend those discussions.
AGO’s Determination	Per a letter dated July 21, 2015: AGO declined to review the allegation because the complainant did not file the complaint to the board within 30 days of the alleged violations. Although AGO did not review the merits of the complaint, it informed the board that the notices for the anticipated executive sessions for two meetings that were listed as “Personnel Policy Review” were not proper because the OML does not classify general discussion of personnel matters as a reason to hold an executive session.
Authority’s Corrective Action	No corrective action was required by the board.
Complaint	During the board’s February 12, 2015 meeting, it discussed a topic that was not listed on the meeting notice. The board’s meeting notice and the chair’s verbal statement prior to the executive session lacked sufficient detail regarding executive-session topics.
AGO’s Determination	Per OML 2015-111, dated August 5, 2015: The board did not violate the OML by adding a topic to the agenda on the day of the meeting, since the topic could not have been reasonably anticipated within 48 hours before the meeting. The board violated the OML by not including sufficient detail both in its meeting notice and in the chair’s verbal statement prior to the executive session. A precise statement of the reason for convening in an executive session is necessary under the OML so the public will know if the reason for the executive session is proper.
Authority’s Corrective Action	No corrective action was required by the board. The board noted in its minutes AGO’s determination on this matter.

2. Handicapped-access issues have led to litigation.

As a result of issues regarding handicapped access at the Spindrift Building,² a tenant filed complaints with various state and federal agencies: the Massachusetts Commission against Discrimination, the

2. The Spindrift Building is at 194 Nahant Road and has 29 apartments for elderly and disabled tenants. It has two units that are designated as wheelchair-accessible. The structure was built as an elementary school in 1875 and converted into housing for the elderly in 1982. It has a chair stairway lift between floors, but no elevator.

Massachusetts Office on Disability, AGO, the Massachusetts Architectural Access Board (AAB), the Department of Housing and Community Development (DHCD), and the US Department of Housing and Urban Development.

Most of the access issues occurred because the building was converted from a schoolhouse to public housing in 1982, but the conversion did not comply with various provisions of Title 521 of the Code of Massachusetts Regulations, whose purpose, as stated in Section 2.1, is “to make public buildings and facilities accessible to, functional for, and safe for use by persons with disabilities.”

During calendar years 2013 through 2015, the Authority made the following improvements to address the issues:

- designating an additional handicapped parking space
- leveling and widening the front and side walkways to the handicapped parking area
- installing a handrail from the front entrance to the handicapped parking area
- upgrading the handrail to the lower-level parking area
- installing an automatic door opener for the front entrance with remote controls (the Authority will shortly do the same for a side entrance)

In addition, on March 13, 2015, AAB granted the Authority a variance from the requirement of having an elevator or ramp to each level by allowing it to install a fully compliant vertical wheelchair lift (actually a small elevator large enough to accommodate a person in a wheelchair). AAB granted the variance because the Authority showed that the cost of installing a standard elevator would be excessive and would not have substantial benefit to the disabled. The Authority and DHCD were considering two proposals for installing the wheelchair lift. However, after we finished our fieldwork, the Authority’s executive director informed us that these plans had been terminated because of objections by two tenants who would face temporary relocation with either option. The executive director further informed us that a more traditional elevator plan was under consideration. In its response to our draft report, the Authority stated,

In cooperation with [the Authority], the DHCD approved a 3-level elevator and agreed to correct all non-compliance issues. . . . The [Authority] submitted a project schedule for completion of these issues on or before January 1, 2018, which the AAB accepted.

Subsequently, the executive director told us that installation of a traditional elevator would require temporary relocation and subsequent expansion of the Authority’s business office. She also informed us

that DHCD expected the project to cost close to one million dollars and that it must be completed by January 1, 2018.

On March 3, 2015, the tenant filed a lawsuit (No. 15-0594-H) in the Suffolk Superior Court naming the Authority, its executive director, its board's chair, the Town of Nahant, and DHCD as defendants. The tenant's claims are based on various violations of state and federal laws, including, but not limited to, discrimination under Chapter 151B of the General Laws; the Massachusetts Architectural Access Act; the Massachusetts Consumer Protection Act; the federal Americans with Disabilities Act; and the federal Rehabilitation Act of 1973. The plaintiff's claims also include civil conspiracy, aiding and abetting in refusing to make reasonable modification of the existing premises, aiding and abetting in policies and practices related to the dwelling, negligence and intentional infliction of emotional distress, and breach of warranty of habitability. The tenant is seeking an indeterminate amount of money in damages, the amount of which will be approved at the trial.

On September 25, 2015, the court allowed DHCD's motion to dismiss. The attorney for the plaintiff intended to appeal that decision after the lower-court proceedings concluded. The case is scheduled for trial in fall 2017.

APPENDIX A

State Sanitary Code Issues Noted during Inspection

Location	Noncompliance	Regulation
194 Nahant Road, #304	The bathtub needs caulking.	Section 410.150 of Title 105 of the Code of Massachusetts Regulations (CMR)
	A cove base is detached from a bathroom wall.	105 CMR 410.500
3 Emerald Road	Paint is peeling on the living-room wall.	105 CMR 410.500
	Knobs are missing or loose on drawers on cabinets in the kitchen.	105 CMR 410.100, 500
	Drainpipe is detached from the building's gutter.	105 CMR 410.500
	A support post is rotting near the first floor of the exterior.	105 CMR 410.500
7 Emerald Road	Cracks on basement ceiling.	105 CMR 410.500
47 Spring Road	Loose shingles above the front entrance.	105 CMR 410.500
49 Spring Road	The wall between the living room and kitchen is in disrepair.	105 CMR 410.500
	The stairway's ceiling is cracking on both sides of the basement.	105 CMR 410.500
	Paint is peeling on the kitchen ceiling and wall.	105 CMR 410.500
	Cabinet under the kitchen sink is in disrepair.	105 CMR 410.100, 500
	The bathroom sink needs to be secured and caulked.	105 CMR 410.150
	Some shingles are loose or missing.	105 CMR 410.500
	The water drainpipe is detached from the building.	105 CMR 410.500
A support post is rotted on the exterior of the building near the electric meters.	105 CMR 410.500	
24 Greystone Road	The sliding door is off track in the closet of bedroom 3.	105 CMR 410.500
	The cove base under the bathroom sink is disconnected from the wall.	105 CMR 410.150
	The ceiling fan does not work in the kitchen.	105 CMR 410.500
	Paint is peeling on hallway doors between units 24 and 26.	105 CMR 410.500
	Handrails are rusting between units 24 and 26.	105 CMR 410.500
28 Greystone Road	There are water marks on the living-room ceiling.	105 CMR 410.500
	The wall behind the entry door and near the stairs is in disrepair.	105 CMR 410.500
	The window in the kitchen is cracked and inoperable.	105 CMR 410.480

Location	Noncompliance	Regulation
30 Greystone Road	Cable television wires run across floors from bedroom 3 to bedroom 2 (trip hazard).	105 CMR 410.256
	The baseboard heat cover is missing in each bedroom.	105 CMR 410.500
	There is a hole on the siding above bedroom 1.	105 CMR 410.500

APPENDIX B

Department of Housing and Community Development (DHCD) Inspection Results Unresolved

From Auditor's Follow-up Inspection after October 20, 2014 DHCD Inspection

Location	Noncompliance
194 Nahant Road, #310	The bathroom door needs replacement.
47 Spring Road	Roof shingles, vents, and downspouts need repair.
22, 24, 26, 28, and 30 Greystone Road 47 and 49 Spring Road 3, 5, and 7 Emerald Road	Siding is rotting and missing.
