




# Memorandum



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To: The Honorable Daniella Levine Cava, Mayor, Miami-Dade County  
The Honorable, Oliver G. Gilbert, III, Chairman  
and Members, Board of Commissioners, Miami-Dade County

From: Felix Jimenez, Inspector General 

Date: July 31, 2024

Subject: OIG Final Audit Report – Audit of the Guardianship Program of Dade County's Custodianship and Sale of Wards' Real Property; Ref: IG23-0002-A

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Attached please find the above-captioned final report issued by the Miami-Dade County Office of the Inspector General (OIG). The audit focused on the Guardianship Program of Dade County's (GPDC) procedures for managing and selling ward-owned real property, including the appraisal, advertisement, and sale of said properties as prescribed by Florida Statutes and Florida Administrative Code (FAC) requirements, in addition to GPDC's own internal policies. The audit looked at every sale or disposal of a ward's real property during a five and a half-year period. There were 60 transactions.

This report, as a draft, was provided to GPDC for its review and opportunity to provide a written response. GPDC's response is attached in its entirety in Appendix A.

We note that GPDC's response did not specifically address the OIG's recommendations but provided information centered on the OIG's four finding areas, addressing new procedures that touch on several recommendations. We are also aware that the County's Office of Management and Budget (OMB) may be entering into a new annual funding agreement with GPDC for fiscal year 2024-2025. As such, the OIG is requesting a status report from OMB by November 1, 2024, regarding the status of the funding agreement and any requirements or provisions in that agreement relating to the sale of real property.

During the audit, in addition to meeting with members of the County's Office of Management and Budget, we met with the Chief Judge of the Eleventh Judicial Circuit, the Administrative Judge over the Probate Division and other members of the Administrative Office of the Courts. From the Clerk's Office, we met with the General Counsel and members of its Audit Unit who have some oversight responsibilities pertaining to ward assets. The OIG would like to thank all these individuals for making themselves available during the audit.

Last, the OIG would like to thank the staff of GPDC for their cooperation and for the courtesies extended to the OIG throughout this audit. We are encouraged by GPDC's response and its willingness to implement new procedures as the "guardian of last resort" serving some of the most vulnerable members of our community.

#### Attachment

cc: Juan Fernandez-Barquin, Clerk of the Court and Comptroller  
Nushin G. Sayfie, Chief Judge, Eleventh Judicial Circuit  
Yvonne Colodny, Administrative Judge, Probate Division, Eleventh Judicial Circuit  
Taroub J. Faraj, Inspector General, Florida Department of Elder Affairs  
Clark Gates, Executive Director, Office of Public and Professional Guardians  
Florida Department of Elder Affairs  
Carladenise Edwards, Chief Administrative Officer, Office of the Mayor  
David Clodfelter, Director, Office of Management and Budget  
Ofelia Tamayo, Director, Audit and Management Services Department  
Yinka Majekodunmi, Commission Auditor, Office of the Commission Auditor  
Theresa Therilus, Acting Interim Chief, Office of Policy and Budgetary Affairs  
The Guardianship Program of Dade County, Inc. (under separate cover)

**MIAMI-DADE COUNTY**  
**OFFICE OF THE INSPECTOR GENERAL**



# **FINAL AUDIT REPORT**

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***Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties***

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**IG23-0002-A  
July 31, 2024**

**MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL**  
**OIG FINAL AUDIT REPORT**

***The Guardianship Program of Dade County's Custodianship and Sale of Wards' Real Properties***

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# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

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### *The Guardianship Program of Dade County's Custodianship and Sale of Wards' Real Properties*

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#### **I. INTRODUCTION**

One of the primary responsibilities of any society is to ensure the welfare of its citizens, primarily those who are incapable due to illness, disability, or other incapacity to manage their affairs. For many of these susceptible individuals, Florida courts serve as monitors and arbiters of the legal documents of professional guardians that manage their matters. Courts can adjudicate individuals to be incapacitated, designate them wards of the state, and appoint a professional or willing and able friend or family member as a guardian to act on their behalf.

The most imperiled are the ones who have no advanced legal directives in place, lack a willing and qualified family member or friend to serve as their guardian, and have no financial means to compensate a professional guardian. These most vulnerable individuals must rely on the appointment of a public guardian to protect them, their rights, and their property. Since the 1990s the Guardianship Program of Dade County, Inc. (GPDC) has been designated a public guardian in Miami-Dade County and the Eleventh Judicial Circuit. GPDC is a “guardian of last resort” for our most vulnerable citizens.

For fiscal years 2022 and 2023, GPDC actively cared for 1,619 and 1,493 wards, respectively. As the “guardian of last resort” one of the initial determinations to be made by GPDC staff upon appointment of a new ward is to inventory any assets of the ward. A small percentage of wards appointed to GPDC’s care own real property. Such an asset may be sold for the benefit of the ward.

In early March 2023, a series of media reports concerning GPDC and its sale of the real estate assets of its wards raised alarms given the vulnerable population served by GPDC. The County’s District 5 Commissioner, noting the County’s \$2.7 million annual funding to GPDC, requested the Inspector General to review its practices and procedures relating to the sale of real property. This request was promptly followed by a formal request from the County Mayor to also launch a review into how GPDC sells the real estate assets of its wards. The OIG responded that while we had already initiated a limited review into GPDC’s sales of real property, the OIG would conduct an audit of the same. A few days later, the OIG notified GPDC of our audit and requested an audit entrance conference.

#### **II. PURPOSE & SCOPE**

As requested, the OIG reviewed GPDC’s practices and procedures relating to the sale of real property. The sale of real property is permitted under Florida Statutes Section 744.441 with a court’s approval. Florida Administrative Code (FAC) Rule 58M-2.009(19) imposes factors that should be taken into consideration in determining whether property should be sold. However, once a decision has been made to sell the real property, neither

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Florida Statutes nor FAC Rules impose standards that must be followed in how that property is to be offered for sale. For this, the OIG assessed these transactions against the procedures described in GPDC's own internal procedures and guidelines. The objectives of the audit assessed whether:

1. GPDC's procedures for the solicitation and engagement of real estate sales agents, brokers, appraisers, and potential buyers conform to guardianship best practices and any other legal requirements for guardians receiving public funding.
2. The process used by GPDC to manage its wards' real properties, including the appraisal, advertisement, and sale of said properties, is conducted in a manner that befits its role as the court-appointed fiduciary over the incapacitated person and that its management and disposal of its ward's real properties are in accordance with Florida Statute requirements and FAC Rules.
3. The disposal of wards' real properties is conducted in a manner that precludes a conflict of interest with third parties participating in the sales process of the real property.

OIG auditors examined all real estate transactions for the 5-1/2-year time frame beginning October 1, 2017, through March 31, 2023. The OIG's audit testing consisted of 100% of all real property transactions. Additional audit testing for related party transactions was conducted for transactions outside of the audit period.

### **III. RESULTS SUMMARY**

GPDC is the largest public guardian in the State of Florida and regularly handles 20% of all guardianship cases in Miami-Dade County. The number of wards served by GPDC is constantly changing as new wards are assigned by the courts while other GPDC-assigned wards may be re-assigned to a successor guardian, discharged, or expire. The breakdown of new cases assigned to GPDC for the last five years is 955, and for the fiscal years 2022 and 2023, the total number of wards served by GPDC was 1,619 and 1,493.

**Table 1: New Wards Assigned to GPDC by Year**

Year	New Wards Assigned to GPDC
2019	253
2020	183
2021	181
2022	175

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Year	New Wards Assigned to GPDC
2023	163
<b>Total</b>	<b>955</b>

\*Source: GPDC Executive Director of Internal Affairs

This audit reviewed all property sales by GPDC for a 5-1/2-year time frame beginning October 1, 2017, through March 31, 2023. During the audit period, GPDC managed a total of 2,769 wards and oversaw 60 real property transactions. Of the 60 properties, 48 involved a realtor,<sup>1</sup> 8 were sold directly to investors, and 4 were not handled by GPDC, i.e., the transaction was handled by a family member or the ward's estate. Managing real property transactions for the benefit of the ward is the responsibility of any guardian (private, professional, or public). This may involve maintaining income-earning rental properties and may also involve selling assets. For GPDC-assigned wards, the properties typically involve the latter. Moreover, given the demographic of the wards assigned to GPDC, we highlight that these properties are typically in deplorable shape, and several had open code violations. Photographs of the 60 homes show that almost all had deteriorated interior conditions such as broken flooring, evidence of water leaks, mold, and unmanageable amounts of clutter. Photographs of home exteriors often showed overgrown vegetation, broken windows, and structural deterioration. OIG auditors accompanied GPDC property coordinators to a ward's home and saw the property was in a state of disarray filled with litter, rotted food in the open, and insects.

When necessary, liquidating real property assets is a responsibility that a guardian must undertake, but for GPDC it is a very small portion of GPDC's overall responsibilities. GPDC's organization consists of five departments with 63 employees, the largest being Case Management with 28 employees. In contrast, there are only three positions dedicated to property management. For the period audited, there were 60 real property sales, broken down as follows:

**Table 2: Property Sales by Year Audited**

Audited Year	Properties Sold
10/1/2017 – 12/31/2017	2
Calendar Year 2018	12
Calendar Year 2019	18
Calendar Year 2020	9
Calendar Year 2021	5
Calendar Year 2022	13

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<sup>1</sup> While the term Realtor® is a federally registered collective membership mark, which identifies a real estate professional who is a member of the National Association of Realtors and subscribes to its Code of Ethics, the terms 'realtor' and 'real estate agent' are used interchangeably throughout this Report.

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Audited Year	Properties Sold
1/1/2023 – 3/31/2023	1
Total	60

This report contains four audit findings and 15 recommendations. The first finding addresses the methodology used by GPDC to engage and rotate both appraisers and real estate agents when needed for the sale of real property. GPDC policy mandates appraisers and real estate agents should be rotated from a pre-approved list. That list, provided to the OIG by GPDC at the onset of the audit, consisted of 10 appraisers and 15 real estate agents. Audit fieldwork shows that 84.5% of all property appraisals were performed by three appraisers and 54% of the properties were sold by three real estate agents. Five real estate agents were never engaged to sell any properties, and five real estate agents not on the list were engaged to sell properties.

A second finding addresses the sale of ward property to investors. GPDC policy allows for direct sales, not utilizing the services of a real estate listing agent. These direct sales are permitted under extenuating circumstances, such as insufficient equity to pay a sales commission, hazardous conditions, presence of unauthorized occupants, etc. For the period under review, a total of eight such properties were sold to investors. GPDC maintains a list of 54 named individuals or businesses that comprise a pool of potential buyers for properties. Documentation related to the sale of these eight properties is silent as to how many investors were contacted and how the offers were received and evaluated by GPDC. While the process was verbally explained to the OIG, documentation in GPDC files did not support the stated process.

The third finding discusses the use of real estate agents to sell wards' homes and the agent's listing of properties on the Multiple Listing Service (MLS). Placing a property on the MLS augments the visibility of the property listing. Forty-eight (48) properties were sold using the services of a licensed real estate agent; however, 16 of these properties were not placed on the MLS despite the *Exclusive Right of Sale Listing Agreement* (listing agreement) requiring it. These 16 property sales generated \$211,578 in real estate commissions that were paid to the real estate agents.

The last finding discusses conflicts that are prohibited by statute, administrative code, and/or GPDC's policies and procedures. Actual conflicts concern two GPDC property coordinators. A property coordinator's wife owns and currently lives in a ward's property and a second property coordinator's friend and business partner bought a ward's home. Both property coordinators have since resigned from GPDC. Another conflict involved an organizational conflict by a GPDC Board Member who served as a title/escrow agent for four property sales, thereby representing both sides of the transaction. Last, we found

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vendor conflicts including a real estate agent who acquired an interest in a ward's home, and a vendor who is married to a GPDC employee.

During the course of conducting this audit, OIG auditors were stationed at the GPDC's office and not only interacted with staff members but also observed the day-to-day operations of the program. Though case management and the care of wards were not part of this audit, the OIG auditors noticed a dedicated staff who work hard to ensure the wards are well taken care of, are visited by case managers, and receive benefits they are entitled to.

Underlying these audit findings, the OIG observed a lack of management oversight, as a key supervisory position responsible for supervising the intake and property function, including the direct supervision of the three property coordinators has been vacant for almost four years. As such, the property coordinators reported directly to the Executive Director of Internal Affairs—functionally the CEO with operational oversight of the entire organization. We also observed that the property coordination function, specifically the sale of real properties, requires extensive interaction between the property coordinators and GPDC's Legal Department; however, the Legal Department does not supervise the property coordinators. This creates a disconnect between the two departments. This issue was discussed at the audit exit conference where the OIG suggested realignment of the reporting structure. GPDC management seemed amenable to this recommendation and several others, which we believe will improve GPDC's operations and transparency thereof.

These findings and observations are more fully discussed in the remainder of this report. This audit was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and the *Generally Accepted Government Auditing Standards*. These standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions. Based on our audit objectives, we believe the evidence obtained provides a reasonable basis for our findings and conclusions.<sup>2</sup>

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<sup>2</sup> The OIG has disclosed throughout the entire audit to the GPDC senior management team, the Miami-Dade County Office of Management and Budget, Miami-Dade Clerk of Courts, and Chief Judge and Probate Division Administrative Judge of the Eleventh Judicial Circuit that the GPDC Executive Director of External Affairs' spouse was formerly employed by the OIG in a non-audit position. This former OIG employee retired in April 2022, one year before this audit was initiated. OIG auditors, in consultation with the Inspector General, evaluated whether the fact of the spouse's former employment would impact the OIG's independence in conducting this audit. We determined that it would not. The former OIG employee did not serve in a management or supervisory position, was not employed in an audit position, and did not review or participate in audit work. This disclosure addresses Sections 3.18 – 3.20 of the Government Auditing Standards (2018 Revision).

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**IV. ISSUANCE OF THE DRAFT REPORT, RESPONSE, & COMMENTS THEREON**

This report, as a draft, was provided to GPDC for its review and opportunity to provide a written response. GPDC requested two extensions of time to provide its response, which the OIG granted. GPDC's response consists of a 9-page letter containing introductory remarks and comments pertaining to each of the report's four findings and includes an appendices with six tables of ward/property related information.

To begin, GPDC responds by emphatically stating that the Audit Report does not conclude that it violated any administrative law or rule, but that only documentation was sparse at times. While the latter is correct—and GPDC too acknowledges the absence of documentation, the OIG audit did find that administrative laws and rules were violated. Specifically, those statutes, administrative rules, and contract provisions relating to conflicts of interest that we find to be compromised are discussed in Finding 4.

Further, in its introductory remarks, GPDC stresses the challenging nature of the work that it does and the dedication of its staff providing for the wards' care and wellbeing. The OIG, throughout this report, has acknowledged these challenges and recognized the essential function carried out by GPDC. The response also states that the report lacks context in key areas and makes some significant factual errors.

GPDC's response does not address the OIG's recommendations; although within the response, GPDC advises that it has created new forms and systems, namely a new *Property Checklist* and a new *Vendor Registry System*, however copies of these documents were not included in its response to the OIG. Moreover, specific to Finding 2, GPDC in its response acknowledged that its files were incomplete and that additional documents—correspondence relating to direct investor sales—has been located since receiving the OIG draft report. As such, GPDC challenges the OIG's conclusion.

After reviewing the response to the draft report, especially GPDC's retrieval of correspondence not previously made available, OIG auditors had no choice but to revisit GPDC. While at GPDC, OIG auditors also inquired about the new *Property Checklist* and *Vendor Registry System*. These two areas are more fully discussed in the response and comment section following each finding.

A summary of GPDC's response to each finding is included at the end of each finding, coupled with the OIG's comments thereon.



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#### **V. OIG JURISDICTION**

While Florida Statutes are clear that The Office of Public & Professional Guardians (OPPG) is the entity responsible for supervising the operations of appointed public guardians, GPDC receives approximately 50% of its annual operating revenues from Miami-Dade County (the County). The annual funding agreement between the County and GPDC contains a provision requiring GPDC to permit the County and its representatives “to inspect and audit all books, records, documents and other supportive data and documentation relating to its performance as Public Guardian, whether or not purported to be related to funds provided hereunder.”

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs and audit, inspect and review past, present, and proposed County programs, accounts, records, contracts, and transactions. The annual funding provided to GPDC is approved by the Miami-Dade Board of County Commissioners (BCC), and the agreement setting forth the terms and conditions of that funding is executed by the County Mayor. OIG reports and recommendations are intended to assist the BCC and County Administration in making determinations about particular projects, programs, contracts, and transactions.

#### **VI. BACKGROUND: ABOUT GPDC**

##### ***A. History and Organization of GPDC***

GPDC is the state's oldest and largest public guardianship, handling roughly 50% of all the state's cases. It began operating in 1980 as a pilot project administered and housed by the Jewish Family and Children's Services. As the project evolved, receiving funding from the federal Older Americans Act, it became known as the Guardianship Program for the Elderly of Dade County. In 1990, the Program started servicing all adults from eighteen years old and was designated by the Chief Judge of the Eleventh Judicial Circuit to be the Public Guardian for the Eleventh Judicial Circuit. Since then, GPDC has continuously been appointed by the Florida Department of Elder Affairs, Office of Public and Professional Guardianship as the Public Guardian for the Eleventh Judicial Circuit, serving all of Miami-Dade County.<sup>3</sup>

GPDC is a private, non-profit agency, which is governed by a 7-member board of directors. Based on information provided by GPDC at the onset of the audit, its total staff consists of 63 positions, which includes two vacant positions. Organizationally, GPDC's staffing is distributed among the below-listed departments. (See Table 3 below and

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<sup>3</sup> Source: [About Us – Guardianship Program of Dade County, Inc.](#)



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Exhibit 1a for a copy of the Table of Organization, and Exhibit 1b for a description of each department's function.)

**Table 3: GPDC Table of Organization Position Count**

Department	Personnel Including Vacancies
Administration	10
Bookkeeping / Entitlements	10
Case Management	28
Intake	9
Legal	6
TOTAL	63

\* Source: GPDC Table of Organization Provided to the OIG in March 2023

GPDC is headed by two Executive Directors (ED). At present, one ED oversees External Affairs;<sup>4</sup> the other ED oversees all Internal Affairs and functions as the chief executive officer having all staff (except for the ED of External Affairs) reporting to her. Both EDs communicate monthly updates to the Board of Directors. Housed within the Intake Department are six positions for Intake Coordinator and three positions for Property Coordinator.<sup>5</sup> The Legal Department is comprised of a Director of Legal Services, two attorneys (one shown as Legal Counsel and the other as Staff Attorney), one paralegal, one legal assistant, and one legal secretary.

This audit involved understanding and reviewing the work of the property coordinators and how their work intersects with the work of the attorneys. Supervision of the property coordinators (or lack thereof) was also a topic of discussion throughout this audit as the position of Director of Intake and Property has been vacant since July 2020 and was recently removed from the table of organization. Based on audit interviews, the property coordinators functionally report to the ED of Internal Affairs even though their work dovetails with the work of the attorneys specifically with regards to reporting the wards' property interests (real property and other assets) to the Clerk's Office and the Circuit Court. As discussed further, listing agreements are executed by GPDC attorneys; offers received from interested buyers are forwarded to the attorneys for their review and determination on accepting the offer; and *Petition for Order Authorizing the Sale of Real Property* are filed by GPDC attorneys based on information furnished to them by the property coordinators.

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<sup>4</sup> This individual has held the position of GPCD's executive director since March 2014. In March 2019, the Board of Directors bifurcated the role of ED into internal and external responsibilities.

<sup>5</sup> Two of the three property coordinators resigned during the course of the OIG audit, as further explained in Section IX, Finding 4 of the report.

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#### **B. GPDC's Funding**

GPDC is funded primarily by government grants from the State of Florida's Department of Elder Affairs and the County. The County has funded GPDC from 1992 to the present. The County's funding of GPDC has expanded as the entity has grown from its inception. The County currently funds the program \$2,728,000 per year and has done so since October 2018. (See Appendix A for historical information involving County Funding to GPDC.)

As of September 30, 2022, GPDC received \$3,080,527 from the State of Florida Department of Elder Affairs and \$2,728,000 from the County. The Elder Affairs Department has historically funded GPDC at a rate less than the County, until 2021, when the Department increased its grant funding.<sup>6</sup>

**Table 4: Public Funding Levels FY 2018 – FY 2022 and Expenses**

Fiscal Year	2022	2021	2020	2019	2018
State of FL	\$3,080,527	\$3,036,037	\$2,043,278	\$1,380,006	\$1,245,774
<b>Miami-Dade</b>	<b>\$2,728,000</b>	<b>\$2,728,000</b>	<b>\$2,728,000</b>	<b>\$2,728,000</b>	<b>\$2,428,000</b>
Total Funding	\$5,808,527	\$5,764,037	\$4,771,278	\$4,108,006	\$3,673,774
Total Expenses	\$5,106,278	\$4,747,469	\$4,734,028	\$4,322,989	\$4,166,164

\*Source: GPDC's Annual Audited Financial Statements

In addition to GPDC's primary grant income, GPDC also receives Social Security Administration Fees totaling approximately \$450,000 per year; interest income from a cash sweep agreement of approximately \$40,000 per year, and bequests totaling approximately \$15,000. GPDC also hosts an annual golf tournament that provides fundraising income of approximately \$70,000 annually. The golf tournament income is used to pay employee bonuses. GPDC also receives grant income from the County's Community Based Organization Grant Program totaling approximately \$18,000 per year. Income from GPDC is primarily used to pay GPDC's employee salaries and other related payroll expenses, as well as office occupancy expenses including rent and insurance. Payroll related expenses account for approximately 84% of the organization's total expenses, while office occupancy expenses accounted for 9%.

<sup>6</sup> According to the GPDC's Chief Financial Officer (CFO), GPDC typically spends all of the State of Florida funds because they are not allowed to carry over funds into the next fiscal year; any unspent funds must be returned to the State. (The OIG could not find this requirement in the Department of Elder Affairs Agreement.) The CFO also stated that Miami-Dade County allows GPDC to rollover excess funds, as such, it does not usually spend all the money it receives from the County. (The OIG observes that the County's annual funding agreement requires GPDC to provide an annual budget and submit quarterly financial statements and written reports to the County which fully describe the anticipated use of funds to be provided by the County. The agreement is silent as to unspent funding.)

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GPDC's income exceeds expenses resulting in annual surpluses year after year. The annual surpluses have contributed to the organization's cash balances, which as of September 30, 2022, exceeded \$7 million.<sup>7</sup>

## **VII. GOVERNING AUTHORITIES & THE AGENCIES OVERSEEING GUARDIANSHIP APPOINTMENTS**

### ***A. State of Florida Department of Elder Affairs, Office of Public and Professional Guardians (OPPG)***

In the State of Florida, guardianships are governed by Florida Statutes Chapter 744. Florida Statutes Section 744.2001 et seq. establishes the OPPG within the Florida Department of Elder Affairs and sets forth the statutory framework governing public and professional guardians appointed by the courts, including the registration, education, minimum standards of practice, and regulation of these guardians. Florida Statutes Section 744.2001 et seq. is supplemented by the Florida Administrative Code Rules at Chapter 58M-2 et seq. These rules, in relevant part, are the standards of practice for professional guardians promulgated by OPPG. The rules include twelve factors that the professional guardian shall consider when deciding whether to sell a ward's real property. [See Fla. Admin. Code R-58M.2009(19)]

Florida Statutes Section 744.2006(1) provides that the Executive Director of the OPPG may establish within a county in the judicial circuit or within the judicial circuit, one or more offices of public guardian. Public guardians are appointed for a term of four years, and appointments may be renewed. While GPDC has been the appointed public guardian for Miami-Dade County since 1990, its latest reappointment was on August 31, 2020, and runs to September 1, 2024.<sup>8</sup>

Public and professional guardians must adhere to the same education, instruction and training requirements set forth in Florida Statutes Section 744.2003(3).

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<sup>7</sup> The OIG observes that GPDC does not include ward assets under its management in its audited financial statements. Furthermore, we note that GPDC submits these audited financial statements to the State OPPG and County as required by its funding agreements, and no objections or issues were raised by either entity. It is important to mention that other public guardians do report ward assets in their financial statements for the sake of completeness. The OIG does not consider GPDC's lack of reporting of ward assets under management to be a reportable audit finding. Nevertheless, we suggest that GPDC discuss future reporting methods with its Certified Public Accounting firm and that the County and State OPPG review their funding agreements' reporting provisions to ensure that they are receiving what is contractually required.

<sup>8</sup> OPPG also lists Guardianship Care, Inc., as a designated public guardian in Miami-Dade County. This report only addresses GPDC.

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#### **B. State of Florida Circuit Courts**

The 11th Judicial Circuit's Probate Division is responsible for handling matters related to guardianship, including the appointment of guardians, oversight of guardianship proceedings, and the review and approval of guardianship reports.

Pursuant to Florida Statutes Section 744.441(1)(l), a guardian may only sell the ward's real property with the court's approval. The Florida Probate Rules govern the procedure in all probate and guardianship proceedings. Specifically, as it pertains to the scope of this audit, the sale and disposition of real property, *Florida Probate Rule 5.630, Petition for Approval of Acts*, requires, in relevant part the filing of a verified petition stating the facts showing:

- (1) The expediency for necessity for the action;
- (2) A description of any property involved;
- (3) The price and terms of any sale, mortgage or other contract;
- (4) Whether the ward has been adjudicated incapacitated to act with respect to the rights to be exercised;
- (5) Whether the action requested conforms to the guardianship plan; and
- (6) The basis for the relief sought.

OIG Auditors met with the Chief Judge of the Eleventh Judicial Circuit, the Administrative Judge of the Probate Division, the Trial Court Administrator, and other members of its Legal department. During this meeting, the Administrative Judge referred to a checklist entitled, *Checklist and Certification – Sale of Real Property -Guardianship, CC-106*, which is used by Probate judges as a guide in evaluating proposed sales of real property in guardianship. This checklist was created in 2022 and references the applicable Florida Statutes, as well as *Florida Probate Rule 5.630* and the factors to be considered by the Attorney for the Guardian proposing such a sale, as well as by the judge reviewing such a verified petition. (Exhibit 2) This checklist is used for all sales without regard to whether the appointed guardian is a private guardian, professional guardian, or the GPDC. It is signed and certified by the attorney of record for the guardian.

Our review of the relevant guardianship files, as well as documentation filed in support of the sales and disposition of wards' real property, generally showed that the attorneys in the GPDC's Legal department would file a *Petition for Order Authorizing the Sale of Real Property* addressing many of the factors in *Florida Probate Rule 5.630*, and many of those set forth in the *Court's Checklist*, as well as supporting documentation. Having secured the requested *Order* and completing the sale of the ward's real property, GPDC would file a *Sale of Real Property Memo*, setting forth, in relevant part, the ward's name, property address and legal description, date of sale, sales price and net proceeds to the ward, and

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the buyer's name, with a copy of the closing/settlement statement or HUD-1 Form attached.

During our discussions with the judges, they approximated that 20 percent of all new wards were appointed to GPDC. Since April 2023, 916 guardianship cases have been filed in the Eleventh Judicial Circuit. Since April 2023, GPDC has been appointed 182 new wards.

#### ***C. Clerk of Court***

The Clerk of Courts provides support in managing the administrative aspects of guardianship cases, including conducting reviews and audits of guardianship reports and filings, and serving as the official custodian of guardianship records and documents. More specifically, the responsibilities of the Clerk of the Circuit Court in guardianship cases are set forth in Florida Statutes Section 744.368. These responsibilities significantly include completing the review of the initial or annual reports of the guardian of each ward within 30 days of filing; and completing an audit of the verified inventories and accountings filed by guardians of the ward's property, within 90 days of their filing and advising the court of the audit results.

For more information about the roles of the OPPG, the courts, and the Clerk of Courts and their corresponding duties and authorities involving guardianships, please see OIG Appendix B.

### **VIII. OVERVIEW OF GPDC's PROCESSES, PROCEDURES, AND PRACTICES INVOLVING REAL PROPERTY**

#### ***A. The Initial Intake and Inventory Process***

Upon the receipt of the guardianship appointment, GPDC's Director of Legal Services notifies Intake, Entitlements, and Property personnel to begin the required procedures to properly transition the ward to GPDC's care.

Entitlements personnel conduct the initial research to determine what benefits the ward is or should be, receiving. This research may include contacting the Social Security Administration, the Florida Department of Children and Families, Medicare/Medicaid, and other public agencies. Research into the ward's finances is also conducted to determine whether the ward has retirement or other pension benefits, investment and/or bank accounts, and real property. Often, this research is conducted in conjunction with the property coordinators who visit the ward's residence to secure the location and thereafter inventory its contents. Property coordinators, among other inventory duties as described

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below, will look through the ward's mail and personal records to determine if other forms of income or assets exist, which is then reported to the Entitlements Department.

OPPG rules require that newly appointed professional guardians "shall address all issues of the estate that require immediate action, which include, but are not limited to, securing all real and personal property, insuring it at current market value, and taking the steps necessary to protect it from damage, destruction, or loss."<sup>9</sup>

GPDC requires its property coordinators to complete the initial visit of the ward's residence within 72 hours.<sup>10</sup> This is primarily to secure and safeguard the property, which includes changing the locks (for owned property) or making arrangements with a landlord (for rented properties). Thereafter, GPDC requires its property coordinators to complete the initial inventory within 30 days of the appointment date. Inventories are conducted by two GPDC employees (at least one property coordinator and another GPDC employee to serve as a witness, if a second property coordinator is not available.)

The physical inventory includes listing, documenting (through photographs), and safeguarding personal property such as cash, vehicles, electronics, jewelry, or other valuables at the property. GPDC has established additional procedures for the off-site storing of valuables. The inventory should also list assets such as investment accounts, bank accounts, and real property. GPDC's inventory sheet, *Real/Personal Property Inventory Report* that is prepared by the property coordinator, is then reviewed for supervisory approval. Thereafter, it is provided to the Legal Department, which uses the internal inventory as a source document to prepare and file an official inventory with the court within 60 days of appointment. That document is then reviewed by the Clerk of Court's auditor who will inform the assigned judge of its acceptance or of any deficiencies requiring revision.

OIG Auditors attended a physical inventory of a ward's rental property in order to gain an understanding of the inventory process and the obstacles encountered by the property coordinators. The three property coordinators<sup>11</sup> and the two OIG auditors were fully enclosed in hazmat suits, and had on additional personal protective gear, including shoe booties, gloves, and respirator masks. The group encountered deplorable conditions, including foul odors, an infestation of roaches, evidence of mold and water damage, and

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<sup>9</sup> Florida Administrative Code, Rule 58M-2.009(18).

<sup>10</sup> See GPDC's *Property Duties & Guidelines*, revised September 17, 2021. We note that the 72-hour initial visit requirement is not in the August 2022 revision of these guidelines; however, there is a requirement that pets found on the premises be relocated with family, friends, or others within 72 hours.

<sup>11</sup> The three property coordinators were joined by their supervisor, the ED of Internal Affairs, who presumably wanted to attend this inventory knowing that the OIG auditors would be joining.



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rotting foods strewn about. Photographs of the unit's condition were taken for GPDC's file.

In addition to the conditions witnessed physically by OIG auditors, auditors reviewed hundreds of photos from other property files showing interior deterioration, fecal matter, unmanageable amount of clutter aka hoarding, rodents, insects, dead pets, and other deplorable conditions indicative that the individuals could no longer care for themselves and were in need of a guardian.

If a ward owns real property, photographs of the home's condition will be taken. Property coordinators also perform research to determine the property's title and whether mortgages or liens exist on the real property.

OIG auditors reviewed all initial inventories performed for those appointments in our testing scope. The inventories were conducted by two property coordinators and were approved by a supervisor. No exceptions were noted.

Once the respective departments have performed the procedures needed to stabilize the ward's appointment, a case manager is assigned to the ward and all departments of GPDC collaborate to ensure the best interests of the ward are met.

### ***B. GPDC's Property Duties & Guidelines***

If a ward owns real property, the guardian must make a series of assessments regarding the asset. "In the absence of evidence of a Ward's wishes before the appointment of a Professional Guardian, Professional Guardians appointed guardian of the property, having the proper authority, may not sell, encumber, convey, or otherwise transfer property of a ward, or an interest in that property, unless doing so is in the best interest of the Ward."<sup>12</sup> Under its Standards of Practice covering Property Management, OPPG sets forth twelve considerations that professional guardians shall consider. Some of these include the financial health of the ward's estate, tax consequences of a sale and the possible impact of transaction proceeds on the ward's entitlement to public benefits, and the costs of upkeep versus likelihood of deterioration.

GPDC's *Property Duties & Guidelines* manual restates the twelve OPPG considerations and adds two more: 1) the possibility of the ward's restoration of rights to live in the property, and 2) the existence and ability to satisfy liens, fines, foreclosure, etc. The OIG observes that the September 2021 revision of the *Guidelines*, states:

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<sup>12</sup> Fla. Admin. Code Rule 58M-2.009(19)(b)

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GPDC's goal is to have as few real properties as possible in inventory and to get rid of as many properties as possible unless the Ward is living in the property. We want to minimize GPDC's liability and our workload when it comes to all the properties, we have responsibility for[.]

This statement was not included in the August 2022 revision. Instead, the OIG observes:

In cases where GPDC is responsible for Ward's realty, GPDC shall act prudently in order to secure the property's physical and financial condition, minimize liability, and gather information to determine if the property may need to be sold. GPDC should attempt to secure homeowners' insurance whenever financially feasible.

(See Exhibits 3a and 3b for copies of the aforementioned 2022 and 2021 *Property Duties & Guidelines*.<sup>13</sup>)

If GPDC determines that the ward's property is to be sold, the property coordinator's first step is to obtain an independent appraisal.<sup>14</sup> Thereafter, the property should be listed with a licensed realtor. While the property coordinator selects a realtor for the listing, the actual Sales Listing Agreement is executed by a GPDC attorney. Both the 2022 and 2021 *Guidelines* refer to selecting appraisers and realtors from a pre-existing list or a spreadsheet maintained by GPDC. (See Section IX, Finding 1 for our finding relating to vendor rotation.)

GPDC's *Guidelines* provide for the selling of real property directly with investors as an exception to listing the property for sale with a licensed realtor when there are "extenuating circumstances that warrant a direct and/or immediate sale via a Real Property Investor List [request for proposals]."<sup>15</sup> The *Guidelines* are clear that a direct sale, not utilizing a licensed realtor, requires the approval of GPDC senior management and shall be detailed and documented in the ward's case file. (Further observations about

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<sup>13</sup> GPDC has written guidelines for each of its various departments and functions, e.g., Intake, Bookkeeping, Case Management, etc. OIG auditors were first provided with the 2022 revision with the initial tranche of requested documentation. Later during the audit, the OIG auditors requested earlier iterations of the *Property Duties & Guidelines* and were advised to obtain them from the Executive Assistant. **The OIG was provided with the 2021 revision but was advised that no earlier versions could be located.**

<sup>14</sup> The 2022 *Property Duties & Guidelines* allow for a Realtor's Comparable Market Analysis or Real Estate Broker's opinion letter in lieu of an appraisal depending on circumstances and necessity.

<sup>15</sup> GPDC's 2022 *Guidelines*, page 6. The OIG notes that the 2021 *Guidelines* contains one short reference to "maintain[ing] a list of Investors for use in emailing out problem properties for sale." This procedure, however, is not located in the manual section on Real Property; it is located in the section covering Temporary Storage. We do know that sales to direct investors have been occurring since prior to October 2017—the beginning of the OIG's audit period.



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the direct sale of homes to investors are discussed in Section IX, Finding 2.)

At the onset of the audit, the OIG requested and received GPDC's lists of appraisers, real estate agents, and investors. There were ten appraisers on the list, fifteen real estate agents, including their brokerage firms, and fifty-four investors. GPDC advised that the list of appraisers was small given that the appraisers are only paid for their services after the home is sold.

### **C. Monthly Property Meetings**

The OIG also learned that GPDC holds a monthly meeting on the third Friday of every month, with select employees from all GPDC departments to discuss the status of each real property under their custodianship. According to the aforementioned *Guidelines*, the meeting participants include the Director of Intake and Property,<sup>16</sup> all property coordinators, legal assistants with property-related duties, the Director of Legal Services, and the ED of Internal Affairs. Attendance by the Wards' assigned caseworkers and the Director of Case Management is optional, but strongly encouraged to ensure collaboration between the departments. Decisions made at these monthly meetings include whether it is in the best interest to repair, maintain, or sell the real property.

GPDC's policies further require that the "Real Property Spreadsheet" containing GPDC's current inventory of real properties be distributed and reviewed at every meeting.

To gain insight into GPDC's decision-making process on the sale of ward properties, OIG Auditors attended two monthly property meetings at the beginning of our audit (in March and April 2023). For the March meeting, an Excel spreadsheet containing 27 properties was distributed to all attendees. Each property is placed into one of six categories.<sup>17</sup>

1. Ward: The ward is the sole owner and currently resides in the property.
2. Family-Joint Owners: The ward co-owns the property with someone else but does not reside in property.
3. Tenant: The ward owns the property, but tenants or unauthorized occupants (squatters) live there.
4. Vacant: The ward owns the property and it's currently vacant.
5. Heirs of Property: The ward owns the property and heirs have a future interest in the property.
6. Expired: The ward is deceased.

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<sup>16</sup> The Director of Intake & Property position has been vacant since July 2020 and has since been removed from GPDC's Table of Organization.

<sup>17</sup> The spreadsheet only lists out the six categories. The description of what each category means was verbally explained to the OIG auditors during the meeting.

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The spreadsheet also includes details such as the ward's ownership interest (sole owner, joint, life estate, etc.), estimated property value, the assigned property coordinator, address, folio number, mortgage/liens, lender (if applicable), etc. The schedule also indicates whether the property is marked for sale.

The ED of Internal Affairs generally led the meeting by inquiring about each property. The assigned property coordinator then provides a status update on their assigned properties. Thereafter discussion ensued about the ward's benefits, needs, ownership interest (life estate, joint, trust, etc.), financial status and property status, which required input from the Legal, Entitlement and Case Management departments. If it was decided that selling the real property would be in the best interest of the ward, the property coordinator would begin the process to sell the property.

At the conclusion of the March 2023 meeting, OIG Auditors requested prior spreadsheets in an effort to review historical information concerning the respective properties. GPDC's ED of Internal Affairs advised that those could not be provided in the original form, as the prior versions are electronically overwritten and saved as the current version. Instead, GPDC was able to recreate several spreadsheets based on old emails and information housed in GMS (GPDC's electronic filing system).

OIG auditors inquired about the origins of the monthly meeting spreadsheet. The Director of Legal Services stated that she was unsure of the exact date but believed it was probably during the COVID-19 pandemic when it was difficult for the group to meet. OIG auditors were further advised that prior to the use of the spreadsheet, each meeting participant would bring their physical files to discuss each ward and at times, it might have been as simple as an email listing the ward's names.

While we observe that the spreadsheet is a useful tool to categorize their wards' financial interests relative to real estate, its usefulness does not carry through to the actual sales process. The spreadsheet contains a Y/N column for "Sale," but the reasons for selling a property are not noted on the spreadsheet even though there is a column for notes. The spreadsheet does not capture the name of the appraiser hired nor does it contain the name of the real estate listing agent. This lack of documentation regarding the decision-making process on selling ward property is a concern that the OIG observes throughout this audit.

#### ***D. GPDC's Guardian Management System (GMS)***

The Guardian Management System (GMS) is GPDC's system of record for all ward information, files, and accounts. The system was designed exclusively for GPDC and was

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approved by OPPG. GMS assigns a ward number to each ward that GPDC has been appointed the guardian. Wards can be searched by name or ward number. Each ward's file contains important ward information including the ward's personal information and residence history. Each ward's file also contains a database with scanned files recorded by type, date of activity, and date scanned. The database contains all of the ward's applicable documentation including annual plans and documents filed with the court, mental health documents, and other important documents related to each ward. The system also tracks and reconciles all ward accounts. The system maintains five different accounts for each ward (Schedules A- E), including operating and restricted accounts, real and personal property, and a preneed account. If the ward has real property interests, photographs of the real property and real property related documents will also be maintained in the file.

GMS also contains an extensive time log where all GPDC staff members can input their work for each ward. For example, case workers may log in entries denoting visits to the monitor the ward and other entries related to the ward's care; property coordinators may log in entries related to the physical inventory and securing the property; and attorneys may log in miscellaneous Legal department activities such as filing petitions with the courts. Each entry captures the employee's name, date, activity code and amount of time spent. All GPDC employees from Legal, Intake (which includes the property coordinators), Case Management, and Entitlements departments can access the log to determine the status of the ward's file.

OIG Auditors were provided unfettered read only access to the GMS, which was instrumental to our work.

## **IX. AUDIT FINDINGS**

### ***Overview of Audit Approach and Fieldwork***

Audit fieldwork was performed to satisfy our three objectives. OIG auditors first gained an understanding of GPDC's history and mission by meeting with public County officials from the Office of Management and Budget; members of the judiciary and courts, including the Chief Judge of the Eleventh Judicial Circuits and Administrative Judge of the Probate Division; and auditing staff of the Clerk of Courts. The OIG attempted to meet with OPPG officials, but instead they asked us to submit written questions to them, which we did. OPPG's answers laid out its oversight responsibilities. We learned that OPPG last conducted a monitoring review of GPDC in the spring of 2021.

In addition to holding an audit entrance conference with GPDC's senior management, OIG auditors interviewed more than twenty GPDC staff members from all departments of

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the organization to understand the processes used by the program from the intake of the ward to the disposition of ward's real property, and later to the discharge of the wards. OIG auditors interviewed every member of the Legal department, executive administration, and property departments, including the former Director of Property and Intake who resigned in 2020, as well as two of GPDC's board members. Auditors also attempted to interview all of GPDC's property related vendors including those listed on GPDC's certified appraiser, realtor, and investor lists. We were successful in being able to speak with only a few appraisers, realtors and investors.

Auditors performed testing to ensure that GPDC's processes were followed for each ward. OIG auditors reviewed the Probate court file and GMS database and documentation provided in each ward's file including appraisals, listings, offers, and other pertinent information. The OIG also engaged the services of CBRE to determine whether ward properties were listed in the Multiple Listing Service (MLS).

Auditors also performed testing to ensure that the disposal of a ward's real properties precluded conflicts of interest with third parties. Auditors performed testing to determine whether employees or board members had ever lived in or owned interests in homes previously owned by GPDC wards. Auditors obtained appropriate audit evidence to provide a reasonable basis to support our conclusions. The extent of our testing is further described in Appendix C.

#### **Finding Area 1: Appraiser and Realtor Lists**

GPDC's *Property Duties & Guidelines* manual requires the rotation of property appraisers and real estate agents. Rotating vendors is a business best practice, prohibits reliance on a small group of vendors, and ensures that each party acts in its own self-interest. As part of the audit fieldwork, OIG auditors performed testing of documentation related to the usage of appraisers and real estate agents. We additionally interviewed GPDC staff, appraisers, and real estate agents to determine if the mandated rotation of vendors ensued. Our testing and analysis, coupled with interviews and conversations with some appraisers and agents that were willing to speak to the OIG, shows that there was no real rotation and that contracted services were not equitably distributed. The bulk of the appraisals and sales were handled by a small number of vendors.

GPDC explained that it maintains a list of property appraisers and licensed real estate agents and that when services are needed, they select from those lists. As explained to the OIG during the audit entrance conference, property appraisers and realtors are selected from the list on a rotating basis. The 2022 *Property Duties & Guidelines* instructs

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the property coordinators to select appraisers and realtors from the "Property Vendor List" on a rotating basis.<sup>18</sup>

Third party real property related vendors such as appraisers and real estate agents will be selected from the Property Vendor List on a rotating basis. Should the vendor decline the assignment or fail to respond within the timeframe allotted as deemed appropriate for each case, the next vendor on the list will be selected. Vendors may not be repeated until the entire list has been exhausted. Vendor(s) working on a current case should be foregone in the assignment process for the next vendor on the list. (Emphasis in original)

At the onset of the audit, GPDC provided the OIG with a spreadsheet identifying 10 property appraisers and another spreadsheet identifying 15 real estate agents, along with the name of their company/brokerage firm.<sup>19</sup> In an effort to understand how the listings of appraisers and real estate agents were compiled and how the rotation process is supposed to function, the OIG auditors interviewed each of the three GPDC property coordinators, members of the Legal Department, and both GPDC executive directors. Additionally, OIG auditors reviewed all property sales included in the audit period by date of appraisal and date the listing agreement was signed and performed audit testing to determine if appraisers and realtors were rotated as required by the GPDC policy. The audit testing showed a disproportionate distribution of both property appraisers and real estate listing agents with some participants receiving the bulk of the work. Our testing revealed that appraisers and realtors were not rotated equitably and, in several instances, were given consecutive engagements.

We note that ward files were devoid of documentation showing which appraiser or real estate agent was contacted for each property; whether an appraiser or real estate agent accepted or declined an engagement; dates when an appraiser or real estate agent was contacted; or if an appraiser or real estate agent was working on a current case and thus, was being foregone in the assignment process.

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<sup>18</sup> The 2021 *Guidelines* instructs the property coordinators to select appraisers and realtors from the "Property Vendors Spreadsheet" with the concurrence of the Director of Intake/Property (i.e., the supervisor over the property coordinators, a position that has been vacant since July 2020.)

<sup>19</sup> Received from GPDC on March 22, 2023.

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#### **Rotation of Appraisers**

Audit testing shows that three appraisers performed 84.5% of all real property appraisals requested by GPDC, and three appraisers did not perform any appraisals for the period under review as reflected in Table 5 below.

**Table 5 : Appraiser Engagement Distribution**

Number as shown on GPDC's List	Number of Times Appraiser was Engaged	Percentage Used
<b>A1</b>	<b>16</b>	<b>30%</b>
A2	5	9.5%
<b>A3</b>	<b>12</b>	<b>22.5%</b>
<b>A4</b>	<b>17</b>	<b>32%</b>
A5	0	0%
A6	1	2%
A7	0	0%
A8	1	2%
A9	0	0%
A10	1	2%
<b>Totals</b>	<b>53</b>	<b>100%</b>
No appraisal performed	2	
Comparable Market Analysis (aka Comps) used instead of an appraisal	4	
Appraisal ordered by buyer – appraiser not on GPDC's list	3	

As noted below, the OIG's audit testing showed consecutive engagements of appraisers on the list.

#### **Appraiser No. One:**

- Engaged to appraise 16 of the 53 appraisals requested by GPDC
- Appraised three of the first ten real properties listed by appraisal date
- Four instances of two appraisals performed consecutively by appraisal date

#### **Appraiser No. Three:**

- Engaged to appraise 12 of the 53 appraisals requested by GPDC
- Four instances of two appraisals performed consecutively by appraisal date

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**Appraiser No. Four:**

- Engaged to appraise 17 of the 53 appraisals requested by GPDC
- Appraised six of the first ten real properties listed by appraisal date
- One instance of three appraisals performed consecutively by appraisal date
- Three instances of two appraisals performed consecutively by appraisal date

***Rotation of Real Estate Agents***

A review of the 60 GPDC ward properties that were sold during the audit review period revealed that 48 properties were sold using the services of a licensed real estate agent who earned a commission. Audit testing shows that three real estate agents sold more than half of the properties (expanded to five real estate agents), despite fifteen agents being on GPDC's list. Five real estate agents on GPDC's list were never engaged to sell any properties, and six real estate agents who were not on GPDC's list were retained to sell six properties. It is unclear how real estate agents who were not on GPDC's rotational list would have been selected. Table 6, on the next page, shows the distribution of engagements among GPDC's listed real estate agents.

**Table 6: Realtor Engagement Distribution**

Number as shown on GPDC's List*	Number of Times Realtor was Engaged	Percentage Used
R1	1	2%
R2	0	0%
R3 <sup>20</sup>	5	10.5%
<b>R4</b>	<b>7</b>	<b>14.5%</b>
R5	0	0%
<b>R6</b>	<b>12</b>	<b>25%</b>
R7	0	0%
<b>R8</b>	<b>7</b>	<b>14.5%</b>
R9	1	2%
R10	2	4.5
R11	1	2%
R12	0	0%

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<sup>20</sup> Realtor No. 3 (from GPDC's list provided to the OIG) is a named individual, but there are two individuals who work in the same real estate brokerage firm with the same name—albeit different middle initials. The individuals are family members, and one is designated as the 'Team Leader' and is a licensed broker, while the other has a real estate sales associate license. Of the five properties placed with Realtor No. 3 during the audit period, the sales associate's name appears on documentation related to three of the properties, and the broker's name appears on documentation related to two of the properties.



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Number as shown on GPDC's List*	Number of Times Realtor was Engaged	Percentage Used
R13	1	2%
R14	5	10.5%
R15	0	0%
5 real estate agents not on GPDC's list*	6	12.5%
<b>Total</b>	<b>48</b>	<b>100%</b>

\* The list provided to the OIG identifies the real estate agent by name, as well as the realty firm that they work for. Within the audit period, we noticed that some agents changed realty firms. The numbers and legend correspond to the named individual, not the realty firm.

\*\*Coldwell Banker Paradise was engaged to sell two tracts of vacant land outside of Miami-Dade County.

### ***OIG Audit Interviews of GPDC Staff***

To gauge their understanding of how the mandated rotation of appraisers and real estate agents works, the OIG auditors interviewed various GPDC staff members. Explanations varied between the three property coordinators, with property coordinator 1 (PC1) stating that the list of both appraisers and real estate agents is maintained on an internal drive within GPDC and that anybody in the agency could go in and make modifications to the lists. PC1 stated that when an appraiser or real estate agent does not accept an engagement, it is not noted or documented.

While conducting the audit fieldwork, OIG auditors observed a Property Contact List at PC1's workstation, detailing the names and contact information of different property related vendors. The sheet contained the names and phone numbers for locksmiths, towing companies, gardeners, plumbers, electricians, movers, police, real property appraisers, realtors, and main investors. Most relevant are the four real property appraisers and the eight realtors listed on the sheet. The four appraisers listed on the sheet correspond with A1, A2, A3 and A4, who collectively performed 94% of appraisals engaged by GPDC. The eight realtors listed on the sheet correspond with R3 – R8 and R13 – R14, who were engaged to list 77% of properties where GPDC engaged a realtor. It is significant that the real property vendors listed on PC1's Property Contact List received most of the work.

OIG auditors inquired with PC1 regarding the creation of the Property Contact List that was maintained at his workstation. PC1 stated that he did not know who created this list. He stated that he has had it for a long time, and he thinks it was left over by his predecessors. He referred to the list as a quick way to look at things.



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As it relates to selecting appraisers and realtors, property coordinator 2 (PC2) stated the spreadsheet used at the monthly property meetings is relied upon and that it is constantly updated. PC2 insisted that the spreadsheet contains the names of the realtors and the appraisers. This property coordinator continued to state that another property coordinator is responsible to maintain the spreadsheet and that it is maintained on the internal drive. This is the same internal drive that PC1 stated could be accessed by anyone in the agency and that the data could be modified.

When interviewed, property coordinator 3 (PC3) stated that decisions regarding the rotation of appraisers and realtors are made at the monthly property meetings and that the spreadsheet handed out for that meeting guides the discussion. PC3 also stated that non-responsiveness from appraisers and realtors is not documented.

To gain the management's perspective on how the rotation of appraisers and real estate agents' functions, the OIG interviewed both executive directors. The ED of Internal Affairs stated the responsibility to maintain the rotation is based on a spreadsheet that is distributed at a monthly property meeting. The ED of External Affairs (who prior to the bifurcation of the role of executive director in 2019 served as the executive director for the entire program) stated the rotation is not automated. He stated that the rotation of vendors is the responsibility of each of the property coordinators, and that management must trust that employees comply with the procedure. He too noted that the property monthly meeting spreadsheet is used as a reference.

The OIG observes that the aforementioned spreadsheet that is passed out at the monthly property meetings does not contain the name of the appraiser hired nor the real estate agent engaged. See Section VIII(C).

#### ***OIG Interviews with Appraisers and Realtors***

OIG auditors attempted to contact all the appraisers and realtors on GPDC's lists. Every appraiser was both called telephonically and emailed, and all realtors were sent emails using contact information provided by GPDC.

Among ten appraisers on GPDC's appraiser list, OIG auditors were able to speak with five of them. Two were quick phone conversations, two were in-person meetings, and one was a virtual meeting.

- Appraiser No. 7 stated that he is currently retired but got involved with GPDC through an attorney friend, who is also retired. The OIG notes that Appraiser No. 7 performed no appraisals within the audit scope period.

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- Appraiser No. 6, who conducted one appraisal within the audit period, stated he has no idea who GPDC is and was surprised to learn that he was on GPDC's list. Upon providing Appraiser No. 6 with the property address, he explained that he was hired by the ward's family because the GPDC appraisal had come in too low.
- Appraiser No. 2, who conducted five appraisals within the audit scope period, stated that he became a certified appraiser in 2007 and recalls receiving an email from GPDC asking him to apply to become an appraiser for the program. He explained that he would be contacted, via phone or email, by a GPDC property coordinator and he would inform them of his availability. He stated that if he was being rushed to complete an appraisal, he would not take on the job. He explained that the easy part of an appraisal is the actual site visit. The more tedious part is researching comparable properties in the MLS. He also stated that his last appraisal for GPDC was a while ago and he now is working as a realtor (not with GPDC).
- Appraiser No. 3, who conducted twelve appraisals within the audit scope period, stated that he may have been referred to GPDC from a real estate agent friend and that he has been working with GPDC since 2010. He was able to identify the three property coordinators by name and explained that he typically would be contacted directly by phone or by text message but recalled receiving an email in a few instances. Appraiser No. 3 stated that he was told that GPDC uses a rotational wheel so that all appraisers get equitable amounts of work.
- Appraiser No. 8, who also conducted one appraisal within the audit scope period, stated that he has never done business with GPDC, has never heard of this organization, and was completely unaware that he was on GPDC's vendor list. Upon providing Appraiser No. 8 with the property address, he explained that he was hired and compensated by the buyer. OIG auditors subsequently learned that this buyer is Investor No. 27 (on GPDC's investor list). Appraiser No. 8 further stated that if given the opportunity, he would like to be added to GPDC's list of appraisers. *\*The OIG notes that this one appraisal was performed in November 2020. This appraiser, while unbeknownst to him, is on GPDC's vendor list albeit he has never been contacted by GPDC staff to perform an appraisal.*

The OIG auditors also attempted to schedule interviews with all fifteen realtors on GPDC's realtor list. OIG auditors sent emails to the addresses contained on the list for the fifteen realtors; however, five emails were undeliverable.<sup>21</sup> Of the remaining ten realtors on the

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<sup>21</sup> The five real estate agents with undeliverable emails represented numbers R1, R2, R13, R14, and R15 on the distribution list above.

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list, six realtors did not respond to the OIG's request for interview or phone call.<sup>22</sup> OIG auditors were able to speak with four real estate agents; two of the meetings were in person, one was a virtual meeting, and one was conducted telephonically.

- Realtor No. 6 sold the most properties (12) for the period under review. Realtor No. 6 stated that he signed up to be a GPDC realtor to sell foreclosed homes in 2012, and stated someone from GPDC would contact him by phone regarding a listing. Realtor No. 6 would place a for sale placard on the lawn of the property; he further stated that GPDC properties rarely get to the point where an open house is necessary because offers are received right away. He continued to state that while many offers are received, he only submits the highest three cash offers to GPDC. Realtor No. 6 stated that in addition to placing placards in the lawn of the homes he also lists the properties on the MLS, sending information to potential buyers, and posting information about the property on social media accounts.
- Realtor No. 7 became aware of GPDC when she worked for a tenant in the same building where the GPDC office was previously located. This Realtor sold one home for GPDC in 2011 or 2012, but none within the audit period. She stated that throughout the years, she periodically received emails from GPDC regarding selling homes by RFP. Realtor No. 7 stated she was not interested in the sale of homes via RFP, as it required too much work and real estate is not her primary job. *\*The OIG notes that Realtor No. 7 is not on the list of GPDC investors that was provided to the OIG.*
- Realtor No. 11 became aware of GPDC through a gym partner who is a real estate agent. Realtor No. 11 stated that he visited a property and was looking through the window when a GPDC property coordinator approached him. Realtor No. 11 introduced himself and offered his services. A year after the encounter, Realtor No. 11 was contacted to sell a home for GPDC. Realtor No. 11 stated he was not provided with an appraisal of the property; he performed his own market analysis of the property and used other units in the building as comparable properties. He explained the process of selling the property including listing the property on the MLS and the process used to submit the offers to GPDC. Realtor No. 11 stated he was only contacted once by GPDC to sell a property.
- Realtor No. 12 stated that she has been involved with the probate community since 2006 and that she was familiar with a previous GPDC executive director. She stated that, many years ago in 2009, she would receive emails from GPDC

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<sup>22</sup> The six real estate agents that did not respond represented numbers R3, R4, R5, R8, R9, R10 on the distribution list above.

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regarding home sales by RFP and that these emails contained addresses of several properties with open house dates and dates to submit bids. She stopped receiving these emails when there was a change in the executive directorship. Realtor No. 12 stated that, recently in 2023, she was added to the Realtor list after asking the current ED of Internal Affairs to add her to the list. Realtor No. 12 stated she has never been contacted by GPDC to sell a property.

GPDC's own procedures require selecting appraisers and real estate agents on a rotating basis. This policy was reiterated by GPDC executive management at the audit entrance conference and in the executive directors' interviews. Moreover, the three property coordinators also acknowledged this requirement and referenced the spreadsheet used at the monthly meetings as guiding their selection process. As noted earlier in this report, the OIG attended two monthly meetings and were provided with the spreadsheets that guide each month's discussion. Nowhere on this spreadsheet is the identity of the appraiser and real estate agent for each ward property that is put up for sale.

GPDC provided the OIG with its list of appraisers and real estate agents. There is no documentation demonstrating that the property coordinators are selecting appraisers and agents in accordance with the *Guidelines*, which require that vendors not be repeated until the entire list has been exhausted. Conversely, audit testing performed by the OIG demonstrates that a handful of appraisers and real estate agents have been receiving the bulk of the engagements. With regards to appraisers, several were hired to perform appraisals in consecutive engagements. The OIG was unable to verify the application of any rotational policy.

Selecting appraisers and real estate agents on a rotational basis is a sound and laudable practice. Rotation avoids the appearance of favoritism. The inclusion of the rotational language in the 2022 version of the *Guidelines* is a notable improvement over the language contained in the 2021 *Guidelines*. However, simply including the language is worthless if processes are not created, implemented, and adhered to.

We note GPDC is substantially publicly funded and, therefore, it should not limit the number of vendors it regularly uses to an exclusive group, rather, it should strive to create fair opportunities for all vendors.

### ***Summary of GPDC's Response to Finding Area 1***

GPDC reaffirms its goal to evenly distribute work (appraisals and listings) among its vendors and acknowledges that its files do not contain the documentation necessary to show that its staff followed the rotational policy mandated by its *Guidelines*. GPDC then claims that the OIG "did not find that any particular appraiser or realtor was improperly

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selected; that GPDC or the third-party received any improper benefit; nor that the selection resulted in a less than satisfactory result for the Ward.”

GPDC then explains that it must act quickly to sell the property “due to unsafe conditions, the Ward’s need for cash or the definite accruing expenses to the Ward.” GPDC reiterates that due to the unsanitary conditions of some properties, “several of the vendors on GPDC’s list are simply not interested in this difficult kind of work.” As such, GPDC explains why a full rotation through the approved vendor list is sometime infeasible.

Last, acknowledging its shortcomings, GPDC states that it has created a new Vendor Registry System to screen vendor applications, “to include a managerial-level vetting committee, a service agreement, renewal requirements, conflict of interest clearances, and communication expectations.” GPDC has also “created a Property Checklist that tracks the status of property from the pre-hearing criteria analysis stage, through the intake system and possible sale process.”

#### ***OIG Comments on GPDC’s Response***

GPDC’s declaration that the OIG did not find that particular appraisers or realtors were improperly selected is technically correct. However, the lack of documentation makes it practically impossible to determine proper or improper conduct, but the statistics contained in Tables 5 and 6 show the vendor engagement disparities.

Regarding unsafe conditions and other exigent circumstances requiring expediency, these factors do not excuse deviating from the rotational policy. Whereas there may be justification to engage the investor pool for a direct sale, it should not preclude also calling the next appraiser/realtor on the rotation list. The contact should be documented and, if the assignment is turned down, the next appraiser/realtor in the rotation should be contacted.

The OIG reiterates that we believe GPDC’s policy of rotating vendors to be a sound and laudable practice. Public funding sources, such as the State of Florida Department of Elder Affairs and Miami-Dade County, should be assured that GPDC is following a process that is fair, equitable, and transparent.

Regarding GPDC’s new *Vendor Registry System* and *Property Checklist*, OIG auditors returned to GPDC and met with the ED of Internal Affairs, the ED of External Affairs, and the Director of Legal Services. OIG auditors were provided with a draft document that outlines GPDC’s Vendor Registry process, including how it will register and requalify its vendors annually. A Vendor Registry Screening Committee comprised of five senior staff members would review and screen applicants. A separate *Vendor Service*

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*Application/Agreement* in draft form was also provided to the OIG auditors. This form requires vendors to attest to and disclose conflicts of interest, update business information, and ensure proper licensing on an annual basis.

OIG auditors were also provided with a draft *Property Department Intake Checklist* and draft *Real Property Pre-Sale Checklist*. The *Intake Checklist* is used to determine if a ward owns real property. If "yes" the form guides GPDC personnel through a series of queries to obtain information available regarding the financial and physical status of the property, e.g. property taxes, insurances, mortgages, unsafe conditions, etc. The *Intake Checklist* contains spaces for employees to initial that they have completed the tasks with a date of completion. If it is determined that the ward's property will be sold, the *Real Property Pre-Sale Checklist* will be used. This second checklist provides a detailed list of items to be completed by GPDC personnel to include repair information, conflicts of interest checks for appraisers, real estate agents, and buyers, as well as offers, and other important information needed for Court Petitions. The GPDC executive team stated that they hope to implement these new processes by October 2024.

GPDC also provided the OIG auditors with an updated appraiser list and updated realtor list. These lists were updated to reflect the removal of appraisers and realtors with outdated information and those who were no longer interested in providing services to GPDC. Two appraisers and six realtors were removed from the lists. GPDC has yet to add any new appraisers or realtors, as this will take place during the vendor registry implementation scheduled for October 2024. What is not clear is how GPDC will advertise these opportunities to the vendor community. The OIG will recommend that the County monitor this implementation as a condition of the annual funding agreement.

The OIG observes that GPDC's response to the draft report did not specifically address the audit recommendations; however, we note that the updated forms and policies do touch upon Recommendation Nos. 2, 3, 4, and 10. We are pleased with the level of effort and care employed by GPDC in creating these new forms for a more responsible and transparent process.

## **Finding Area 2: Direct Sales to Investors**

The OIG sought to assess GPDC's process of selling ward properties directly to investors without engaging a licensed realtor to list the property. Within our audit scope period, we determined that there were eight properties sold that did not have an executed sales listing agreement, the property was not listed on the MLS, and no commissions were paid. For these eight property transactions, we determined that there was a lack of transparency in how the sales opportunities were communicated to potential buyers, raising concerns about the competitiveness of any offers received. This lack of



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transparency calls into question how GPDC fulfills its fiduciary duties and whether the ward's best interests were served. Despite GPDC management providing a detailed description of the sales process during the entrance conference, the auditors did not observe this during fieldwork.

GPDC's policies and procedures require that real property be listed with a licensed realtor, "unless there are extenuating circumstances that warrant a direct and/or immediate sale via a Real Property Investor List [request for proposals]." According to the *Guidelines*,

An example of such circumstances when a realtor's involvement is not feasible could be when the property's equity is insufficient to pay the realtor's commission, closing costs or, the condition of the property, including the presence of unauthorized occupants presents liability and/or hazardous conditions to the community and/or the property is at risk of being wasted or lost if not for an urgent sale. The approval of senior GPDC staff is required for any direct investor offers/proposed sales. The reasons for a direct sale shall be detailed and documented in the Ward's electronic case file.<sup>23</sup>

According to the GPDC *Guidelines*, direct investors may also consist of those who access property information via the Daily Business Review, Miami-Dade County foreclosure listings, lawn placards, or other means, and contact GPDC with direct offers. The *Guidelines*, however, provide no instruction or guidance on how these sales opportunities are to be communicated to the investors on GPDC's list.

During the audit entrance conference, the GPDC ED of External Affairs explained that the property coordinator assigned to the case would send out an email to all the investors on the list requesting that any interested buyers submit their best offer. While this sounds like a straightforward and reasonable approach, the OIG did not find any records or notations in the ward's electronic case file documenting this practice.

At the onset of the audit, the OIG requested from GPDC its Real Property Investor List. We were provided with a list of 54 named individuals and/or businesses. The GPDC ED of External Affairs explained that sometime after he joined the organization, he developed this list as a pool of potential buyers for properties that would not be conducive to a traditional sales listing with a realtor. He recalled creating the list sometime between 2015 and 2017. He described several circumstances where a direct sales approach would be

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<sup>23</sup> GPDC *Property Duties & Guidelines*, Revised August 25, 2022, pages 6-7. See also footnote 15 regarding a reference to investors in the 2021 *Guidelines*.

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more appropriate than listing the property with a realtor, e.g., when the conditions of the property are so poor (e.g., mold and other infestations) that a traditional showing would not be appropriate; when there is not enough equity in the property to pay a real estate commission; and when for expediency, cash buyers are preferred.

The ED of External Affairs further explained that he and his legal assistant managed the direct sales process. At his direction, the legal assistant would send a mass email to all the investors on the list with a deadline for submitting offers. As explained by the ED, the potential buyers, at times, would request appointments to inspect the property, however, that became cumbersome and later communications offering sales opportunities would contain a date and time when the property could be inspected. The ED would direct the property coordinators to open the homes and be present during these scheduled open houses. The ED also explained that while the RFP process is still in the *Guidelines* as an available means to sell a house, it hasn't been done in the last several years.

In our interviews with the three property coordinators, they corroborated the ED's description of the direct sales process, including the mass emailing to GPDC investors and their having to open the properties for the showings. They further echoed that the direct sales process has been inactive recently. This could be attributed to the departure, in December 2017, of the aforementioned legal assistant who handled the email communications to the investors.

For the audit period examined, OIG auditors determined that 12 sold properties did not show that a sales commission was paid to a listing agent, thus indicating that the sale may have been made directly to an investor. Further examination determined that eight properties were direct sales.<sup>24</sup> These eight properties were sold between October 2017 and September 2022, broken down as follows:

**Table 7: Eight Direct Sales Within Audit Period**

No. of Properties	Date(s) of Sale
1	October 2017
1	May 2018
1	June 2018
1	July 2018
2	September 2018
1	April 2019
1	September 2022

<sup>24</sup> The remaining four properties fell outside the category of direct sales. Three were co-owned with another family member, meaning a direct sale would not have been appropriate. The last property involved a pending foreclosure action.



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Only in the October 2017 property file did the OIG locate evidence that the sales opportunity was emailed to investors. In that file, we found the email from the aforementioned legal assistant to investors stating:

Good afternoon,  
Attached please find a Request for Proposals (RFP). Only proposals submitted at or above the minimum bid amount will be considered. Following are important notes to review:

- Please review all pages of the attachment. Scroll through each page.
- Follow the guidelines throughout.
- This includes notifying us if you are interested in seeing any of the properties.
- We will develop a schedule to view the properties and forward to each person expressing an interest.

Thank you.

It was not clear what the attachments were to the email, and exactly whom the email was sent to, as the sender appeared to have blind copied all the recipients; but we also observed that the legal assistant sent out a reminder email noting the deadline to submit offers. For this property, it appears that only one offer was received. It was accepted. The property was appraised at \$238,000 in June 2017. The offer, and subsequent sale price, was \$263,000 in October 2017. The purchaser is an investor on GPDC's Real Property Investor List.

As mentioned above, the legal assistant left GPDC in December 2017, and GPDC interviewees remarked that they had not been using the direct sales process in the last several years. The OIG's review, however, determined that there were seven subsequent direct sales as depicted in Table 7.

- None of the 7 files contained any documentation demonstrating how the sales opportunity was communicated to potential buyers; nor was there any notation in the GMS log that a communication (email) was sent out.
- Only 2 of 7 files contained limited notes entered by the assigned property coordinator that the property was being shown in accordance with an RFP process; the remaining 5 files had no documents or notations regarding an RFP process.

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- ✓ One of the 2 positively referenced files noted that six potential buyers showed up for the viewing and signed GPDC [liability] waivers, albeit only one offer was received.
- ✓ The other electronic file contained a log entry by the property coordinator that he traveled to the ward's property to conduct a RFP showing.  
*\*Even with these limited notes, there was still no documentation showing how and which investors were notified of the sales opportunity.*
- One file describes a condominium unit cited with building violations by the City of Miami Beach due to a balcony being enclosed without permits; these violations were several years old, but never rectified. The file and GMS log entries describe that a second appraisal was conducted, because it was felt that the first appraisal was too low (\$225,000). The second appraisal, performed two months later, was \$20,000 higher. It was sold in September 2022, as is, to an investor on the Real Property Investor List for \$245,000 (the higher appraised value). While these notations were fairly comprehensive, this file contained no documentation or notation on how the sales opportunity was communicated to any investor, let alone the one investor that offered to purchase the property for \$245,000. (See GPDC's response, specifically GPDC's Table G3, wherein GPDC notes that there was no RFP information available for this sale.)
- One of the seven properties sold for only one thousand dollars above the appraised value of \$270,000. Given the absence of documentation in the file, it is unknown whether the appraised value was communicated to the investor(s). (See GPDC's response, where it states that appraisal information is not communicated to investors and specifically GPDC's Table G3, wherein GPDC notes that the minimum bid was \$280,000.)
- Only two files contained a GMS log entry that a purchase contract was received, albeit all the files contained a copy of the Contract for Sale and Purchase.
- Seven of the eight properties that were direct sales were sold to individuals/entities on the Real Property Investor List
  - ✓ Two properties were sold to Investor No. 14
  - ✓ Two properties were sold to Investor No. 34
  - ✓ Two properties were sold to Investor No. 20
  - ✓ One property was sold to Investor No. 2
- The eighth property, located in unincorporated Miami-Dade County directly west of the City of Aventura, was purchased by the owner of the house next door. An

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undated Contract for Sale and Purchase for the property was sent to GPDC by the next-door neighbor. The contract was accepted and signed by the GPDC property attorney on January 30, 2018, however, there were no entries in GMS about the offer received.

While the ED of External Affairs and property coordinators all commented in their interviews with OIG auditors about the discontinuance of the direct sales to investor approach, timed with the departure of the legal assistant, there were seven direct sales that took place. Whether the RFP process was utilized more frequently prior to the audit period, we do not know. With the exceptions of the property sold to the next-door neighbor and the property with the note that six investors signed waivers to inspect the property, the other five properties were sold with no notation on who and how the property was marketed. In one case, the investor re-sold the property the same day for \$18,800 more.<sup>25</sup>

Moreover, none of the personnel interviewed seem to be taking responsibility for initiating contact with these investors, unlike the previous practice of mass emails handled by the former legal assistant. This lack of documented marketing efforts and the single-offer scenarios raises a significant question: How were these investors contacted, and by whom, and how many were contacted?

OIG auditors were unable to obtain a complete and thorough process flow regarding the sale of ward property to direct investors. More specifically, there was no clear and well-defined outline of the specific steps involved in this type of sale. Furthermore, GPDC's property coordinators struggled to effectively explain to the auditors how the direct sales process worked, leading to a lack of clarity, thoroughness, and auditability.

To gain a better understanding of the process, OIG auditors sought to interview GPDC investors who had purchased ward properties through direct sales. OIG auditors attempted to contact all 54 investors on GPDC's Investor List. Some contacts were made by email and/or by phone call. Research was performed on investors listed as corporate entities to verify they were still in existence and, if so, auditors attempted to obtain an address or other contact information. For a few investors that purchased several properties, OIG auditors visited their place of business in an attempt to interview them. In all, OIG auditors were able to interview four investors.

- Investor 54 could not recall when or how he was placed on the list. He recalled receiving emails from GPDC whenever properties were available. He recalled having made some offers that were not accepted. He stated that it has been

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<sup>25</sup> See Miami-Dade County Property Appraiser's website, Folio No. 36-6008-006-1280.

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a long time since he interacted with GPDC. (The OIG notes that this investor never purchased a GPDC property within the audit scope period.)

- Investor No. 21 described her practice as doing real estate closings. She emphasized that her business relationship with GPDC was limited to serving as a closing agent on behalf of the purchaser. She also noted that her last interaction with GPDC was around 20 years ago when she may have communicated her interest in being an investor. She recalled periodically receiving an email from GPDC's legal assistant advising of properties available for sale. She recalled discussions with one of GPDC's attorneys and even inquired about the possibility of being hired by GPDC as a staff attorney. She also provided the OIG with emails that she received about sales opportunities. These emails were dated prior to 2018.
- A third person from the Investor List was interviewed. The investor is the principal behind Investor No. 41 (a limited liability company). He became acquainted with GPDC when he was attempting to purchase a foreclosure property and it became apparent that the homeowner was in an incapacitated state and presented a danger to himself and, as such, he contacted the authorities to report the individual. After that episode, a GPDC representative reached out to him and asked if he was interested in being placed on the investor distribution list. He agreed and recalled periodically receiving emails about properties for sale. He described that some of the emails contained photos, property descriptions, and estimated bidding prices. The individual noted that none of the properties interested him and, as such, he never responded. The individual provided the OIG with a couple of emails that he received in 2016 and 2017 (sent by the aforementioned legal assistant) notifying him of properties for sale.
- A fourth person from the Investor List was interviewed. This investor is the principal behind Investor No. 34 (an investment company). He also indicated that he is affiliated with Investor No. 2 and Investor No. 20 (both companies), although his affiliation was not made clear in the interview. He described himself as an experienced real estate investor and often buys distressed properties only having driven by the house but not having been inside the house. When asked about the purchases made in June 2018 and April 2019 (see Table 7 above), this investor stated that he assumed he was selected from GPDC's investor list and was notified that these properties would be available for purchase at the upcoming auction. He explained that he would send an email to GPDC with his bid amount; he would typically receive an acceptance notification ranging from a few days to a week or two. He noted

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that both properties were in “really bad shape.” He also identified a member of the GPDC Legal Department as his main point of contact.

Collectively, these interviews did not shed much light on how the process worked from 2018 onward after the aforementioned legal assistant left. The only clue was one investor's comments that he interacted with an attorney in the Legal Department for his 2018 and 2019 purchases. The OIG has been unable to identify this attorney.

It is important to recognize that while GPDC's procedures do provide certain allowances for selling properties directly to investors in exceptional cases, those same procedures require staff to document the reasoning behind these decisions. In none of the eight direct sales did the OIG find documentation or notations that would have satisfied GPDC's own requirement that: “The approval of senior GPDC staff is required for any direct investor offers/proposed sales. The reasons for a direct sale shall be detailed and documented in the Ward's electronic case file.” It is essential for GPDC to ensure that comprehensive and well-documented justifications are provided for each direct-sale transaction, outlining why it was deemed more beneficial to bypass listing through traditional channels.

Conversely, in two cases, the ward's property was listed with a licensed real estate agent where there was insufficient equity. Given the GPDC *Guidelines*, which require GPDC to consider whether disposing of the property will benefit or improve the life of the ward, in these two property sales the wards the commissions paid to the real estate agents far exceeded the proceeds received by the ward after the completion of the sale. These transactions may have been better suited to be sold via the investor pool:

- Ward No. 8097 – This property had a mortgage in the amount of \$151,155. The property was listed on February 24, 2020. Per GPDC documentation, two offers were received on February 24, 2020, and a third offer was received on February 25, 2020. GPDC accepted an offer within one day. The home sold for \$170,000, the real estate agent received a commission of \$10,200, while the ward received \$5,141.
- Ward No. 7992 – This property had a mortgage of \$128,510 and an indebtedness due to the Homeowners Association of \$78,141, as well as other charges owed by the ward. Per GPDC documentation, an appraisal was not performed on the property. Instead, a real estate agent obtained property comparable values as the home could not be shown or appraisals performed due to mold. The property sold for \$230,000 and a real estate agent received a commission of \$13,800, while the ward received \$2,897.

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Just as the *Guidelines* required documentation showing management's approval of the RFP sales approach, we would have expected to see some justification of why a realtor was used for the sale of these properties.

While those procedures do not similarly require documenting the various means of communication to the investor pool, we believe that, at a minimum, they should. If GPDC is going to forego listing the property with a licensed real estate agent, it should at least document that all interested investors are simultaneously notified of the sales opportunity. The lack of documentation and clear communication methods raises concerns about whether the entire group of investors was informed about the opportunity to purchase the properties, or if it was communicated selectively to a few individuals—or even to one investor—through undocumented means, such as a phone call. It is crucial that the pool of investors is promptly and simultaneously notified of the purchase opportunity, potentially including a deadline for their response and that the notification was documented. This would ensure fairness in providing equal access to the investment opportunity and avoids any perceptions of favoritism or bias towards certain investors. The lack of transparency in GPDC's property sales process to direct investors indicates a potential failure by GPDC to fulfill its fiduciary duty to act in the ward's best interest by seeking the best and highest offer possible.

#### ***Summary of GPDC's Response to Finding Area 2***

GPDC acknowledges there were eight direct sales to investors during the audit period. GPDC defends these direct sales due to the extenuating circumstances in each case and fervently states that seven of the eight properties sold above the appraised value.

GPDC acknowledges that while its policies allow for a direct sale utilizing an RFP process, it too acknowledges that its *Guidelines* were deficient as it did not provide any guidance on how the RFP process was to work. But GPDC asserts that the OIG is “mistaken to conclude that GPDC did not communicate these sales to multiple investors.”

GPDC admits that it “had incomplete documentation in the Ward's electronic files of each communication with investors. However, the ward's [sic] files have since been updated with copies of the emails evidencing the communications.” As part of its response, GPDC submitted a Table G3, which lists the eight properties sold directly to investors and notates RFP-related email communications, the RFP minimum bid, and offers received.

#### ***OIG Comments on GPDC's Response***

GPDC's disclosure about new documentation being added to the wards' files was surprising. The OIG carefully reviewed the information contained in Table G3; however,



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because no actual emails or other documentation was attached to the GPDC's response, the OIG determined it necessary to meet with GPDC to conduct follow-up inquiry and documentation review.

The OIG learned that GPDC used a generic email address "Guardianship-RFP@GPDC.org" for RFP-related communications. As admitted by GPDC, none of these correspondences, which involve the sale of a ward's real property, were maintained in the ward's file. GPDC provided the OIG auditors with six packets relating to six of the eight direct sales.<sup>26</sup> Each packet contained an email thread(s) starting with an investor responding with an offer, the thread also contains the original email that was sent by GPDC containing the RFP solicitation. These were the documents recently uploaded into the wards' files. Not contained in these packets, however, was the originating email that notified investors about the property sale opportunity.

The OIG inquired about the origins of the Guardianship-RFP@GPDC.org address and who had access to it. We observe that emails emanating from said address do not identify the author/sender by name. We were advised that the ED for External Affairs and a paralegal<sup>27</sup> had access to it. The ED for External Affairs also stated that he deletes emails. OIG auditors made a copy of entire Outlook email .pst files for the Guardianship-RFP@GPDC.org email address. Our review of both the Inbox and Sent Folder reveal the following:

- The email address was created on or about December 1, 2017, as evidenced by the first email received in the Inbox with the subject line "Test" from GPDC's tech support personnel. This date corresponds to the departure of the legal assistant who used to send out the RFP email solicitations.
- There are 70 emails in the Sent Folder.
  - 35 emails were sent from 8/7/2018 to 4/4/2019.
    - 28 of the 35 sent emails relate to only one property RFP where the recipients of the email were not blind copied. We note that there were only 33 recipients of this offer of which 22 were investors from GPDC's investor list.
    - 5 of the 35 sent emails were "test" emails
    - 1 of the 35 sent emails involved notifying investors of properties listed with realtors

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<sup>26</sup> The two property sales that the OIG did not receive a packet for was the 1) the property that sold in October 2017 (refer to OIG Table 7), where the legal assistant sent out the email RFP solicitation, and 2) the property that sold in September 2022 (refer to OIG Table 7), where GPDC responded that RFP information was unavailable.

<sup>27</sup> This is not the same legal assistant that left the employ of GPDC in December 2017.



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- 1 of the 35 emails involved a property sale in September 2018
- 3 emails were sent on 3/17/2023. These emails reveal that GPDC officials were searching this email folder and attempting to locate previously sent emails and attempting to ascertain the recipients that were blind copied. We note that the OIG's audit notification letter was sent two days earlier on 3/15/2023.
- 32 emails were sent after GPDC received the OIG's draft report. These emails all involved forwarding an item from the Inbox to GPDC staff presumably in order to assist in preparing a response to the OIG.
- There are 125 emails in the Inbox. GPDC used many of these emails (individuals responding to RFP solicitations) to compile its response and prepare its Table G3. What is not visible from these emails are the recipients of the originating email solicitation. The only visible recipient of an RFP email was GPDC itself. In other words, GPDC emailed itself and blind copied the other recipients.

Even with the GPDC's newly discovered information, the OIG still stands by its original audit finding. We acknowledge these as subsequent events, and we are including this information in the final report. Except for the one property RFP where the recipients were not blind copied, a review of the Outlook .pst files does not show who or how many investors were on the receiving end of the RFP solicitations. The ED for External Affairs, who was one of two people with access to this email address, stated that he deletes emails. GPDC was aware of this deficiency at the start of the audit as evidenced by the emails sent from this address on 3/17/2023, but it was never disclosed to the OIG auditors. None of this documentation was provided to the OIG auditors or uploaded to the wards' files even though this audit was expressly about real property sales. As such, we continue to find that there is still a lack of transparency regarding the direct sales to property investors.

During our follow-up meeting with the GPDC executive team, we inquired, and they advised that going forward GPDC would not be updating the investor list. Instead, they would start from scratch with a new investor list if given the opportunity (and necessity) to dispose of a ward's real property. The ED for Internal Affairs clarified that going forward, they will list the property with a licensed realtor and if a property has negative equity, they will consider listing the property in the *Daily Business Review*.

While the *Daily Business Review* is a sound publication for the investor community, the OIG recommends GPDC to consider placing properties for sale by owner on popular web-based platforms that are accessed by interested buyers (see Recommendation No. 6).

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#### **Finding Area 3: Listing Agreements with Realtors - Multiple Listing Service (MLS) Requirements**

The MLS is a database of homes for sale, by region, that is produced and maintained by real estate professionals to help their clients buy or sell property. Access to MLS helps ensure that sellers' properties are visible among a broad group of potential buyers and that buyers have sufficient information to make informed decisions on purchasing properties.

GPDC has a duty of care to act in the ward's best interest, which includes managing their property responsibly. This includes the duty to maximize the value of the ward's estate and administer it for the benefit and protection of the ward. This also includes making decisions about selling the ward's property and ensuring that any expenses incurred, including commission fees, are reasonable and necessary. The OIG audit determined that 16 commissions were paid to realtors where the property was not placed on the MLS. These commissions totaled \$211,578.

#### ***GPDC Execution of Listing Agreements***

OPPG's *Policy and Procedures Manual* contains a specific section titled "Procedure for Liquidation of Wards Assets," which emphasizes that properties should be listed for sale through licensed real estate agents. Moreover, GPDC's *Guidelines* state: "Real property should be listed with a Licensed Realtor."<sup>28</sup> While GPDC's *Guidelines* provides for an exception to the realtor requirement when extenuating circumstances exists, the norm is to engage a realtor.

Out of the 56 property transactions managed by GPDC, 48 transactions involved the engagement of a licensed real estate agent. The listing agreements found in these files were, for the most part, the standard agreements provided by the Florida Association of Realtors. One of the key responsibilities of the agent, unless the seller opts out, is to place the property on the MLS and utilize various online platforms for advertising the property for sale, thus maximizing the sales potential of the property. We find that GPDC's requirement that the agent be a Realtor underscores the importance of listing the property on the MLS. We also note that GPDC, on behalf of the wards, never sought an "opt-out" of the MLS requirement.

Paragraph 5 of the standard Florida Exclusive Right of Sale Listing Agreement states:

**Multiple Listing Service:** Placing the Property in a multiple listing service (the "MLS") is beneficial to **Seller** because the Property will be exposed to

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<sup>28</sup> See footnote 1, earlier referenced, regarding the terms 'realtor' and 'real estate agent.'

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a large number of potential buyers. As a MLS participant, **Broker** is obligated to timely deliver this listing to the MLS. This listing will be promptly published in the MLS unless **Seller** directs **Broker** otherwise in writing. **Seller** authorizes **Broker** to report to the MLS this listing information and price, terms, and financing information on any resulting sale for use by authorized Board / Association members and MLS participants and subscribers unless **Seller** directs **Broker** otherwise in writing.

According to the Florida Realtors' Preparation Manual, the purpose of paragraph 5 is to "notify Seller of Broker's MLS requirement."<sup>29</sup> This is a requirement; it is not discretionary.

The MLS Rule 7.5 mandates that broker participants, and their agents, input exclusive right to sell or exclusive agency listings for one to four unit residential properties, such as single-family homes, condominiums, duplexes, triplexes, and fourplexes, and vacant residential lots, within the MLS' service area within three days of obtaining all necessary seller signatures. Failure to comply may result in a penalty fine. Alternatively, if a property is marketed or advertised to the public on such listings, it must be inputted within one business day for cooperation with other participants.<sup>30</sup>

Complying with MLS Rule 7.5 ensures transparency within the real estate market. It allows other brokers, agents, and their potential buyers to be aware of available properties, fostering competition and potentially leading to a faster sale and a better price for the seller. Violations of MLS Rule 7.5 could result in disciplinary action against the broker participant by the MLS. The specific consequences might vary depending on the MLS's governing structure, but could include fines, suspension, or even expulsion from the MLS.<sup>31</sup>

The OIG engaged the services of real estate firm CBRE to investigate the MLS listing history of the audited ward properties. The OIG tasked CBRE with verifying whether the properties had been listed, identifying the listing agent, documenting any price adjustments, determining the duration of the listing and the recorded sales price. Upon scrutinizing the GPDC property records and reviewing the findings from CBRE, the OIG identified a notable disparity between the executed listing agreements and whether the properties were listed on the MLS. The audit revealed that out of 48 properties where a real estate agent was hired, only 32 (67%) were listed on the MLS. The remaining 16

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<sup>29</sup> See [Exclusive-Right-of-Sale-Listing-Agreement-Preparation-Manual-Updated-February-2018.pdf](https://floridarealtors.org/exclusive-right-of-sale-listing-agreement-preparation-manual-updated-february-2018.pdf) (floridarealtors.org).

<sup>30</sup> See <https://support.mlslistings.com/s/article/Rules-Regs-7-Listing-Procedures-Part-1>.

<sup>31</sup> See also [MLS Rules and Regulations Frequently Asked Questions](#)

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properties (33%) were not listed on the MLS, thus significantly limiting the pool of potential buyers.

Listing a ward's property on the MLS offers several benefits that enhance the visibility and marketability of the listing. These listings often automatically populate major real estate websites, such as Realtor.com, Zillow.com, and Redfin.com, as these websites receive direct data feeds from the MLS. Listing the property on the MLS exposes properties to a broader audience of potential buyers, including those actively searching for properties through these popular real estate websites without the assistance of a licensed real estate agent. Overall, utilizing the MLS optimizes the property's exposure, attracting more potential buyers, and ultimately streamlining the sales process for a more efficient transaction.

The OIG recognizes that there may be instances where a property is not in its optimal condition for showcasing, however, even properties needing repairs could benefit from an MLS listing with exterior photos of the home or the building in the case of condominiums. An MLS listing with even the simplest of photos offers interested parties a vantage point that allows them to form an idea of the property. The MLS listing might tout the location of the property and its proximity to other desirable attractions. The listing may also note that the property is a fixer-upper.

### ***Real Estate Commission Fees Paid for Unlisted Properties***

The 16 properties that were not listed on the MLS are shown below in Table 8.

**Table 8: GPDC Ward Properties Not Placed on MLS and Commissions Paid**

	Property Address	Real Estate Agent	Real Estate Commission Paid	Properties Listed with Agent	MLS	Non-MLS	% Not Placed on MLS
1	1220 NW 9th Ave Miami, FL 33136	R3*	\$18,000	5	2	3	60%
2	100 NE 203 Terr # 2 Miami Gardens, FL 33179		\$3,510				
3	6501 SW 4th St Miami, FL 33144		\$21,438**				
4	6610 SW 63 Ave Miami FL 33143	R4	\$14,100	7	2	5	71%
5	410 SW 56th Avenue Miami, FL 33134		\$14,400				
6	830 NE 135 Street North Miami, FL 33161		\$8,250				
7	496 NE 88 Street El Portal, FL		\$16,500				
8	1415 NE 200 Terr Miami, FL 33179		\$13,650				

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	Property Address	Real Estate Agent	Real Estate Commission Paid	Properties Listed with Agent	MLS	Non-MLS	% Not Placed on MLS
9	19740 SW 87 Court Cutler Bay, FL	R6	\$14,580	12	9	3	25%
10	8408 NE 2nd Court Miami FL 33138		\$5,700				
11	7242 SW 138th Place Miami, FL 33136		\$25,800				
12	7775 SW 86 St, #F1103, Miami, FL 33143	R13	\$8,910	1	0	1	100%
13	12590 NE 16 Ave, Apt 305 North Miam, FL 33161	R14	\$3,000	5	1	4	80%
14	1043 NW 112th Street Miami, FL 33168		\$6,900				
15	1450 SW 17th St Miami, FL 33145		\$27,300				
16	3845 W 9th Ave #37 Hialeah, FL 33012		\$9,540				
			\$211,578	30	14	16	

\* See footnote 20.

\*\* The real estate commission was paid by the buyer. This property transaction is also discussed in Finding 4 as it was sold to the realtor's mother.

As shown above, a total of \$211,578 was paid in commissions even though the retained real estate agent did not fulfill their obligation to list the property on the MLS. We note that these properties were assigned to real estate agents who, during the same timeframe, also handled other GPDC properties. Notably, these same realtors placed their other GPDC properties on the MLS. For example, Realtor No. 3 was hired to sell five GPDC properties within the review period, yet only placed two on the MLS. Similarly, Realtor No. 4 had seven properties but listed only two. Realtor No. 6 had twelve property listings and nine (75%) were placed on the MLS demonstrating an awareness of the value and exposure that the MLS provides.

This selective use of the MLS suggests a deliberate decision to bypass the wider exposure and potential competition it offers. Inclusion in the MLS could have generated wider exposure, attracted more competition, and potentially led to higher sale prices for the ward properties. We note that 4 of the 16 properties received only one offer, which ultimately resulted in the sale. Without more information on how the properties were marketed (e.g., use of yard signs or use of social media) the decision not to place the property on the MLS cannot be justified. GPDC, in its fiduciary role as Seller, did not opt out of the MLS requirement. Ultimately, had the properties been placed on the MLS, they could have received more exposure, with the potential for more offers, resulting in a greater financial benefit to the wards.

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#### ***Non-MLS Listed Properties Sold to Known GPDC Investors***

The audit identified a concerning trend. Despite having signed listing agreements with licensed realtors, who were required to place the properties on the MLS, 7 of the 16 properties (44%) were ultimately sold to known GPDC investors, i.e., these individuals and companies were on the list of investors provided to the OIG by GPDC at the onset of the audit.<sup>32</sup> This raises questions about how these properties were marketed and advertised by the realtors to these individuals. It is unclear how these potential buyers were contacted. As off-market listings, aka pocket listings, did the realtors contact certain individuals over others through private channels? Moreover, it is unclear who else, besides GPDC known investors, were also made aware of the pocket listing. We do know that in 6 of the 7 of the transactions, more than one offer was received. In the one sale where only one offer was received, we observe that Realtor No. 14 was engaged on 8/22/2017. The one offer, submitted by a known GPDC investor (Investor No. 43) was received on 10/26/2017—two months after the engagement. That one offer was 23% below the asking price, but it was accepted. Had this property been included on the MLS, there could have been the potential for more offers.

GPDC's *Property Duties and Guidelines* allow for homes to be sold directly to investors in extenuating circumstances. Using the direct sales approach, no real estate commission fee is paid from the ward's net proceeds. Here, without knowing how and to whom the realtor is marketing these pocket listings, the OIG questions the commissions paid.

While marketing to known GPDC investors can be a strategy, bypassing the MLS entirely creates an uneven playing field. Investors within the pool gain an unfair advantage, potentially leading to lower sale prices and reduced financial benefit for the wards. The engaged realtors can reach out to the known investor pool but should only do so when concurrently placing the property on the MLS.<sup>33</sup>

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<sup>32</sup> Another three purchases were made by an attorney representing a land trust. For two of the three properties, documentation on file with the Clerk of Court pertaining to a subsequent conveyance of the property show that the attorney represented GPDC Investor No. 14. (In the third instance, there has been no subsequent conveyance of the property, and, as such, it is unclear who the attorney represents.) In two other purchases (of the 16), the buyer was a sole individual who purchased the property with cash (i.e., no mortgage) and on the same day of the closing quit claimed the property to GPDC Investor No. 14. Because these four sales were not made by individuals/entities on GPDC's Investor List, the OIG did not include them in the 44%. However, since we do have information that the beneficial owner (in the case of the trust) and the subsequent owner (in the two instances of quitclaim deeds) are associated with Investor No. 14, this would bring the percentage sold to known investors from 44% to 69%. Compared to the 32 properties listed on the MLS, six (19%) were sold to known investors on GPDC list.

<sup>33</sup> We observed an email sent by GPDC to unknown recipients (see OIG Comments on GPDC's Response on Finding 2) where GPDC advised that it has properties for sale listed through realtors.



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The OIG finds that it is the realtors' responsibility to place these properties on the MLS. They did not, even though we observed that in other GPDC engagements they did. GPDC did not opt-out of MLS placement requirement. GPDC should do more to ensure that the properties that they list with realtors are placed on the MLS. Entrusted with acting in the best interest of the wards to maximize the proceeds of the sale, GPDC should follow-up to verify that the ward's property is placed on the MLS to obtain the widest exposure, and that its contracted agents are rightfully earning their commissions and acting in GPDC's best interest.

#### ***Summary of GPDC's Response to Finding Area 3***

GPDC's response declares that the audit did not find any breach of fiduciary duty to the wards. "Each sale garnered fair market value and was approved by the Court."

As to the trend noted by the OIG that real estate listing agents were getting bids from and selling directly to the known GPDC investors, GPDC states that it "can only speculate as to why some of the non-MLS properties were sold to GPDC investors." But GPDC then goes on to speculate and rationalize stating:

We know from experience and from speaking with realtors and investors that it is crucial to move with expediency and often do not have time to wait for multiple offers on the MLS. For example, most Wards' properties are uninsured. If a hurricane or fire were to happen while waiting for additional offers on the MLS, the Ward would bear the entirety of that loss. Additionally, some buyers who go through the MLS require inspection of the property, which further delays the sale. Those buyers try to use this as a bargaining chip to drive the price down, and by the time the property falls out of escrow, the other potential buyers have moved on.

GPDC does agree that, going forward, it will verify that properties listed with realtors are actually listed on the MLS. Last, GPDC notes that two properties originally listed on OIG Table 8 were listed on a Vero Beach/Indian River County MLS and that one commission shown on Table 8 was actually paid by the seller.

#### ***OIG Comments on GPDC's Response***

As a fiduciary, GPDC oversees the wards assets including the proceeds from the sale of the ward's property. Getting the best price is part of that duty, and any real estate commission paid impacts the net proceeds. While the OIG did not express that GPDC breached its fiduciary duty, we do believe obtaining MLS verification would have been a



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simple task. We are glad that, going forward, GPDC will verify that properties listed with a realtor are placed on the MLS.

Regarding our observation that properties placed with realtors are being sold to known GPDC investors, it would be more comforting to know that the property was, in fact, placed on the MLS and that a larger buying audience had access to the sales opportunity. Bypassing the MLS requirement of their Sales Listing Agreement, gives rise to speculations about an arm-in-arm transaction (the opposite of an arms length transaction). The OIG reiterates our Recommendation No. 4 that GPDC discontinue its contracting relationship with the non-compliant realtors identified in this report. Based on follow-up fieldwork conducted by the OIG, we learned that GPDC has updated its Realtor List. Based on the new spreadsheet provided to the OIG, GPDC removed four of the five realtors that were identified in OIG Table 8.<sup>34</sup>

Last, the OIG has removed two properties (located in Vero Beach, FL) from Table 8<sup>35</sup> and we have noted that a commission for one property (6501 SW 4st Street) was paid by the seller. This is the same property sale that is questioned in OIG Finding 4 wherein we call to question the realtor's action of selling the property to his mother (see *Conflicts Involving GPDC Vendors*).

#### **Finding Area 4: Conflicts**

Under Florida Guardianship law, guardians are appointed to serve as legal decision-makers and fiduciaries for wards and, as such, have an implied duty to act in good faith. It is required that for the proper conduct and management of guardianship cases that guardians must be independent and impartial.

Florida Statutes Section 744.446 prohibits a guardian from having "any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship."<sup>36</sup> Florida Administrative Code Rule 58M-2.009(20) provides that an "appointed guardian of the property may not sell, encumber, convey, or otherwise transfer a Ward's real or personal property or any interest in that property to himself or herself, a spouse, a family member, a friend... [or] any corporation or trust in which the professional guardian, a friend of the professional guardian or a family member of the professional

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<sup>34</sup> Only Realtor No. 6 remains on the updated spreadsheet of the five realtors the OIG identified in Table 8. Overall, GPDC removed six of the original 15 from the list and has not added in new realtors to the list.

<sup>35</sup> Percentages and commissions paid in Finding 3 have been updated to reflect the 16 properties listed in Table 8.

<sup>36</sup> See Florida Statutes Section 744.446(2)(a).

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guardian has a substantial beneficial interest.”<sup>37</sup> GPDC’s *Property Duties and Guidelines* require that their handling of properties remain consistent with Rule 58M.2. Further, the County’s grant agreement also contains an extensive conflict of interest section that references the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance,<sup>38</sup> as well as additional conditions the grantee must abide by as a condition of funding.

As part of the OIG’s audit testing for related parties, the OIG reviewed business relationships between GPDC board members, employees, vendors, and purchasers of homes. We found actual personal conflicts, organizational conflicts, and conflicts involving GPDC’s vendors.

### **Actual Conflicts**

At the inception of the OIG’s audit, GPDC employed three property coordinators. These employees administered all processes related to the sale of real property for wards under GPDC’s care. Through related party testing, the OIG discovered actual conflicts involving two of the three property coordinators (PC2 and PC3). Both have resigned from GPDC.

A GPDC property coordinator (PC2) currently lives in a home previously owned by a GPDC ward.<sup>39</sup> As the assigned property coordinator over this ward’s property, PC2 was responsible for performing the initial physical inventory on November 13, 2013.<sup>40</sup> On April 21, 2014, the property was appraised for \$120,000. GPDC then engaged the services of a real estate agent from Florida New Realty. The property was not listed on the MLS.<sup>41</sup>

In its petition to the Court to sell the subject property, filed on September 11, 2014, GPDC represented that MAIA Investments, Inc.’s offer of \$125,000 was the best of three offers received. The GMS file was devoid of any documents or notations regarding any offers received for this property. Since the property was not listed on the MLS, there is no indication of who the property was marketed to or how it was advertised for sale. MAIA Investments, Inc. ultimately purchased the property on October 31, 2014. MAIA Investments was a known investor to GPDC. At the time of the sale, MAIA Investments

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<sup>37</sup> See Chapter 58M-2(20)(d), Florida Administrative Code.

<sup>38</sup> See Section 2-11.1 of the Code of Miami-Dade County.

<sup>39</sup> Pursuant to Florida Statutes Section 744.21031, the home addresses of current or former public guardians and employees with fiduciary responsibility are exempt from disclosure and the OIG is intentionally not providing this information in the report.

<sup>40</sup> This property is outside the scope of our audit period; however, the OIG performed audit tests of related parties including Board of Directors and GPDC employees to determine if the disposition of real properties was conducted in a manner that precludes any conflicts of interest.

<sup>41</sup> Confirmed by the review of properties listed on the MLS performed by CBRE.

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was owned by the father of certified Appraiser No. 1. This appraiser was frequently hired by GPDC to perform appraisals (see Table 5 ), and PC2 had engaged Appraiser No. 1 a total of 9 times within the audit period.

On January 23, 2015, MAIA Investments sold the property to PC2's girlfriend for \$149,000.<sup>42</sup> The subsequent offering of the property for sale was also not placed on the MLS. OIG auditors questioned PC2 regarding his knowledge of this transaction.

PC2 stated that he told his girlfriend that he couldn't sell the property directly to her as that would be a conflict of interest. PC2 admitted that he told her the property existed and that he advised her to "contact the realtor" and negotiate for the purchase of the home following the sale of the home by GPDC.

Florida Statutes Section 744.446 prohibits a guardian from having "any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship." This transaction is clearly a violation of State statute. The indirect interest is undeniable in this instance. The property coordinator's conduct violates not only State statutes, but GPDC's own standards. The GPDC Employee Handbook also states that "the Agency's employees are required to avoid any situation that involves or appears to involve conflict of interest or use of proprietary information." PC2 acknowledged his unique access to the property, and how he directed his girlfriend to pursue an interest in the property.

PC2 failed to act prudently in disposing of the ward's property. GPDC management did not have knowledge of these transactions until it was brought to their attention by the OIG during the audit—more than nine years after the transfer of the ward's home. Four days after the OIG's interview, PC2 resigned from GPDC.

A second GPDC property coordinator (PC3) failed to disclose that his friend and business partner acquired an interest in a home previously owned by a GPDC ward. GPDC was appointed as Guardian on March 20, 2019, and PC3 and PC1 jointly conducted the physical inventory on April 1, 2019. The property is located at 8408 NE 2nd Court. An appraisal was conducted on the property on April 3, 2019. Certified Appraiser No. 4 was selected to conduct the appraisal, and it was completed within 48 hours after the physical inventory. The property was appraised at \$93,000.

GPDC engaged a real estate agent with Synergy Realty Advisors LLC (Realtor No. 6) on April 11, 2019. The property was not listed on the MLS,<sup>43</sup> and there is no documentation

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<sup>42</sup> The property coordinator and the subsequent purchaser of the home were married in February 2019.

<sup>43</sup> Confirmed by the review of properties listed on the MLS performed by CBRE.

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maintained by GPDC to establish to whom the property was advertised. Three offers were submitted using the Florida Realtors standard *"AS IS" Residential Contract for Sale and Purchase* form. All three were "as is," all cash offers, and the offers were for: \$95,000, \$94,000, and \$90,000. The offer for \$95,000 was accepted and the property was sold to PC3's friend and business partner.<sup>44</sup>

The OIG interviewed PC3 on July 13, 2023. During the interview, PC3 stated that he has a property management company and that he had not disclosed this to his employer, GPDC. He acknowledged that he and his business partner have been friends since they were teenagers.<sup>45</sup> When questioned about this property transaction, PC3 denied knowing that his friend and business partner purchased the property. He also denied knowing how his friend and business partner learned that this property was for sale. Again, we observe that this property was not placed on the MLS by Realtor No. 6, even though he listed 9 of the 12 properties he was engaged to sell.

GPDC management did not have knowledge of these transactions until it was brought to their attention by the OIG. Several days after his interview with the OIG auditors, PC3 resigned from GPDC. Florida Administrative Code Rule 58M-2.009(20) prohibits an appointed guardian from conveying a ward's real property to a friend.

Shortly after the OIG interviews of the property coordinators, GPDC's ED of External Affairs notified the OPPG of the two property coordinator's conflicts of interest by way of a Memorandum dated July 26, 2023. (Exhibit 4) While the OIG acknowledges this proper notification, GPDC's lack of internal controls and failure to properly maintain documentation related to the sale of ward's properties, contributed to the violation of the conflict-of-interest provisions that GPDC was required to uphold. Conflicts are prohibited because they give rise to the question of whether the guardian (or in this case, GPDC staff having fiduciary obligations) is truly acting in the best interest of the ward and whether GPDC obtained the maximum value for the ward's property.

### **Organizational Conflicts**

In addition to the state statutes and administrative code sections previously cited, the Florida Department of Elder Affairs' contract to provide funding to GPDC contains a conflict-of-interest clause that states:

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<sup>44</sup> The OIG notes the expedited timeline of these transactions. GPDC filed a petition to the Court to sell the subject property on April 18, 2019, three days after the offers were made. The Court's Order authorizing the sale is dated April 30, 2019. The sale closing took place on May 16, 2019.

<sup>45</sup> PC3 is the President and Registered Agent of SFL RES, LLC, a property management company. His business partner and friend is the Vice President.

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The Contractor shall establish safeguards to prohibit employees, board members, management, and [s]ubcontractors from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.<sup>46</sup>

On January 15, 2024, the OIG interviewed a GPDC board member, who served as the title/escrow agent for the buyer on four properties sold by GPDC during the audit period. The board member has been on the board since 2003. As the title/escrow agent for these transactions, the board member received financial compensation for his role in the conveyance of certain ward properties. When questioned about these transactions, the board member advised that he was hired by the investor purchasing the wards' properties, and his services were not paid from the ward's sale proceeds. This distinction does not absolve the board member from having created an organizational conflict. Regardless of who paid for the work, the board member essentially sat on both sides of the transaction when serving as the buyer's title/escrow agent for the conveyance of a ward's property. At a minimum, his being on both sides of the transaction created an appearance of an organizational conflict.

Pursuant to Florida Statutes Section 744.446, GPDC was prohibited from having "any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship." We don't see how or why this statutory prohibition would not be extended to board members, especially since the State's funding agreement specifically references board members as individuals who must refrain from engaging in activities that present even an appearance of conflict of interest. Most importantly, board members approve the organization's policies and procedures.

When questioned about this perceived conflict, GPDC's ED of External Affairs downplayed these concerns. GPDC's attorney handling the property transactions also acknowledged the board member's involvement but explained that his role is only at the end of the process once the property has been sold. As the board member was essentially on both sides of the sales transaction, we find this to be an organizational conflict that should have been disclosed to OPPG and to the Court.<sup>47</sup> As a board member, he was under an obligation to avoid even the appearance of personal or organizational conflict of interest or personal gain.<sup>48</sup>

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<sup>46</sup> Paragraph 31 of GPDC's contract with the Florida Department of Elder Affairs.

<sup>47</sup> The disclosure requirement is found in Florida Administrative Code Rule 58M-2.009(16)(b)7.

<sup>48</sup> The OIG notes that the Sale of Real Property Memo, which is filed with the Court, includes the property closing settlement statement. That document lists the GPDC board member's firm's name (surname) as title/escrow agent.

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#### **Conflicts Involving GPDC Vendors**

Additional issues were noted with GPDC's lack of oversight of its selected vendors related to real property sales and maintenance. The most egregious case involves the sale of a ward's home located at 6501 SW 4th Street, Miami, Florida 33144, which is now owned by the contracted real estate agent's family trust. The contracted real estate agent is a realtor with a RE/MAX agency (Realtor No. 3, see footnote 20 previously referenced), who was engaged to sell the property on December 15, 2021. We note that the property was not listed on the MLS. (See Table 8, Realtor No. 3 was engaged five times during the audit period. Two properties were listed on the MLS; three were not.)

In its petition to the Court to sell the subject property, filed on July 8, 2022, GPDC represented that an offer had been received from an individual named Dorian Gonzalez.<sup>49</sup> The petition also noted that the sale was an arm's length transaction. Attached to the petition was a copy of the executed as is, all cash, residential contract for sale. The buyer was identified on the contract as "DORIAN GONZALEZ & OR COMPANY OWNED BY DORIAN GONZALEZ" and the electronic initials of "DG" at the bottom of each page show a date stamp of June 30, 2022. The contract was signed by GPDC on July 7, 2022. The Court issued an Order approving the sale on July 13, 2022. The home was ultimately purchased by 6501 SW 4 ST LLC, a Florida Limited Liability Company, on July 20, 2022. While the contract identified that the would-be buyer could be a company owned by Dorian Gonzalez, research has revealed that the newly established LLC was incorporated by Realtor No. 3's mother.

6501 SW 4 ST LLC was incorporated three weeks before the purported sales agreement bearing the name Dorian Gonzalez as buyer. The incorporator of the 6501 SW 4 ST LLC is not Dorian Gonzalez, and her initials are not DG. Not only did the LLC name use the property location's address, but the incorporation paperwork also uses the ward's address as the principal place of business and for the mailing address. Table 9 below provides a more detailed timeline as it relates to the sale of this property.

**Table 9: Timeline of Sale of 6501 SW 4th Street, Miami, Florida 33144**

Date of Listing Agreement for Realtor No. 3 to sell the property on behalf of GPDC	December 15, 2021
Digital Signature Date of Initial Offer from Dorian Gonzalez	January 5, 2022
Date of Filing/Creation of Florida Limited Liability Company 6501 SW 4 ST LLC, with its principal and mailing address as 6501 SW 4th Street, Miami, Florida. Realtor No. 3's mother is identified as the "MGR" of the LLC.	June 7, 2022

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<sup>49</sup> The OIG observes that all three offers were received within 90 minutes of each other. One of the other offers was made by the spouse of another real estate agent employed by the same RE/MAX agency.



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Date of Executed Residential Contract for Sale with Updated Offer from Buyer (Buyer = Dorian Gonzalez or Company Owned by Dorian Gonzalez)	June 30, 2022
Petition to Court to Sell the Property (Buyer = Dorian Gonzalez)	July 8, 2022
Court Issues Order Approving Sale of Property (to Dorian Gonzalez)	July 13, 2022
Home is Purchased by 6501 SW 4 ST LLC, a Florida Limited Liability Company	July 20, 2022
Sale of Real Property Memo and HUD Closing Statement Filed with the Court	August 9, 2022
Quit Claim Deed filed; the grantee is identified as the Family Trust of Realtor No. 3, and Realtor No. 3 is identified as the Trustee	March 13, 2023

The lack of transparency in this sales transaction is troubling. The contracted Realtor No. 3 sold the ward's property to an LLC that was incorporated by his mother. The ward ultimately received net proceeds of \$4,144 from the sale of the property.<sup>50</sup> The property was not placed on the MLS, as it should have been. GPDC, in its petition to the Court, called this an arm's length transaction—it was not. Eight months after the sale of the property to the LLC, the property was quitclaimed to the family trust bearing the surname of Realtor No. 3, who was hired to sell the property. Realtor No. 3 is identified as the Trustee.<sup>51</sup>

We observe that the attorney identified on the "Dorian Gonzalez" offer also served as the escrow agent and is the same attorney that 1) filed the Articles of Organization for the LLC, 2) is shown as the registered agent for the LLC, 3) is listed as the settlement agent on the HUD closing statement, and 4) prepared and filed the warranty deed that transferred title of the property to the family trust.

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<sup>50</sup> GPDC's *Property Duties & Guidelines* outline the concerns that should be considered when determining whether to sell real property, even providing examples of when GPDC should consider direct sells with an investor as opposed to listing with an agent. One of these examples notes that when a "realtor's involvement is not feasible could be when the property's equity is insufficient to pay the realtor's commission..." In this case, the ward's mortgage payoff amount was \$424,605.97. The closing statement also shows that the Realtor's commission was paid by the buyer.

<sup>51</sup> Realtor No. 3 is licensed by the Florida Department of Business & Professional Regulation (DBPR), and a member of the National Association of Realtors (NAR). Florida Statutes Section 475.278(3)(a) provides the duties a real estate licensee owes to a buyer or seller who engages the real estate licensee. Pursuant to Article 4 of the Code of the Ethics and Standards of Practice for the NAR, Realtors "shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker." There is no indication in the file that buyer's identity was ever disclosed to GPDC. Under separate cover, the OIG will provide GPDC the supporting documentation to this finding as GPDC should consider pursuing this matter further with DBPR and NAR.



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There is no indication in the file that buyer's identity was ever disclosed to GPDC.

In another case involving a GPDC vendor, an OIG auditor learned that GPDC paid Dart Repair Services \$10,148.95 for emergency septic and plumbing repairs on a home owned by a ward. This vendor, Dart Repair Services, is owned by the spouse of a GPDC employee. While this employee does not have responsibilities or duties related to the hiring of vendors, GPDC employees are required to sign a *Non Conflict of Interest Attestation* stating that they "do not have either an active or passive interest in any business or trade that the agency purchases from, either materials or services." When questioned about this expense, GPDC confirmed the marital relationship and the fact that this potential conflict was not reported to the OPPG or the Court.

The OIG recognizes that the initial call out was an afterhours emergency to repair a stoppage (\$525), but the more costly work (\$8,000 for repairs to a septic tank, digging a new drain field, etc.) was performed at a later date. In keeping with its conflict of interest policy, GPDC should have obtained bids from other plumbing companies for the major repairs.

In closing, as the contracted recipient of funds from both the County and the Department of Elder Affairs, GPDC has failed to establish requisite safeguards to prohibit employees, board members, and vendors from using their positions for a purpose that presents the appearance of both personal or organizational conflicts of interest, or personal gain.

***Summary of GPDC's Response to Finding Area 4***

GPDC states: "Although *some* (but not all) of the noted conflicts *appear* to be conflicts, it is clear that Wards were not harmed." (Emphasis in original) GPDC reconfirms that it was in the dark as to the actions of PC2 and PC3 and once it learned of their actions from the OIG's questioning of these two individuals, they were immediately placed on unpaid leave. GPDC intended to engage outside independent counsel to investigate, "but before the investigation was meaningfully underway, both property coordinators resigned."

Related to PC3's business partner's purchase of the house located at 8408 NE 2<sup>nd</sup> Court, GPDC clarified that the Contract for Sale and Purchase allows for financing as long as it does not impede the closing.

Regarding one of its board members, GPDC states that the individual acted as settlement agent and did not receive any financial compensation from GPDC. GPDC contests that an organizational conflict of interest existed, but "to avoid even the Audit Report's suggestion of a conflict, GPDC will prohibit all Board Members from serving as Settlement Agents going forward."

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Regarding Realtor No. 3's sale of a property to his mother, GPDC notes that the commission was paid by the buyer, the accepted offer was \$34,000 over appraisal, and the ward's best interest was served. But that moving forward, it will "require that all vendors certify they will not take an interest in the property they are listing."

GPDC states that it "already has annual conflict training, and will continue to educate staff and has implemented additional measures to ensure that potential conflict matters are documented more efficiently and resolved in a manner that can be readily verified. Specifically, GPDC will now run conflict of interest attestations on its staff annually instead of every two years and will search staff on SunBiz annually to stay apprised of any outside business interests."

***OIG Comments on GPDC's Response***

The OIG's Recommendation No. 1, which recommends realigning the property functions under the supervision of the Legal Unit should enhance GPDC's internal controls over the sale of ward properties. The OIG's report is clear that GPDC management was unaware of the activities of PC2 and PC3, and promptly reported it to OPPG.

The OIG stands by our assessment of an organizational conflict involving the board member. We completely understand that his services were compensated by the buyer, but he sat on both sides of the transaction—on the seller side as a GPDC board member and on the buyer side as a compensated settlement/closing agent. Nevertheless, the OIG is satisfied that going forward GPDC will prohibit its board member from participating in these types of engagements.

The OIG is also glad to see that Realtor No. 3 has been removed from GPDC's list of licensed realtors.<sup>52</sup> Moreover, GPDC's new Vendor Registry System contains provisions requiring vendors to disclose all known potential conflicts or appearances of conflicts. Coupled with the enhanced ethics training and conflict disclosures required of staff, we find these to be steps in the right direction. But because GPDC's response did not indicate whether it would be revising its *Non Conflict of Interest Attestation*, we reaffirm Recommendation Nos. 9, 10, and 11.

**X. FUTURE OUTLOOK**

Prior to holding an exit conference with GPDC, the OIG asked the ED of Internal Affairs for a status update regarding the number of new ward appointments since the inception

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<sup>52</sup> This was not stated in GPDC's response, but noted from the GPDC's current licensed realtor list that was provided to OIG auditors when meeting in July 2024.

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of the audit and whether any of these new wards had real property interests.<sup>53</sup> The OIG requested GPDC provide the following information from April 1, 2023, onward:

- How many wards have been appointed to GPDC?
- How many of these new wards own real property?
- Whether any properties have been sold in the last year and, if so, how many?
- Whether there have been existing wards (appointed prior to April 1, 2023) where a decision was made regarding their property?
- How many properties are currently pending sale?

GPDC provided a comprehensive response to each question with the details of each ward's status. Overall, 182 new wards have been assigned to GPDC, and five of those wards have real property interests. In two cases, the ward expired, and estates were opened. In another case, the ward lives in the home with a family member. In the fourth case, the ward moved to a nursing home, and family members reside in the home in accordance with the ward's wishes. In the fifth case, the ward's real property was discovered by GPDC several weeks after its appointment; GPDC petitioned the Court to appoint a successor guardian, which was granted.

Two sales were pending at the onset of the OIG's audit and were sold in the past year. In one case, the property was jointly owned by the ward and her cousin. The cousin bought out the ward's interest and those proceeds were transferred to the ward. In the second case, the sale was under threat of foreclosure and the sale closed on 5/23/2023. In both cases GPDC was given permission to finalize the sale.

There were an additional six cases where GPDC had already been appointed guardianship over the ward prior to the OIG's audit but required property decisions be made in the last year. In three instances, the ward had expired. One property was subject to foreclosure proceedings by a reverse mortgage company; another was in foreclosure and a guardian ad litem had been appointed; the third ward's property is now under the control of the ward's estate. In two cases where the ward's home did need to be sold, GPDC petitioned for a successor guardian, which was granted. In the sixth case, the

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<sup>53</sup> On March 8, 2023, simultaneous with the Mayor's request to the OIG to review GPDC, the Mayor also ordered the County's Office of Management and Budget (OMB) to suspend grant funding payments to GPDC until further notice. Approximately three weeks later, the Mayor directed OMB to resume payments to GPDC under certain conditions. OMB, in a letter to GPDC dated March 27, 2023, required GPDC to cease listing ward properties with real estate agents or entering into contracts for the sale of real property, although it could finalize property sales already under contract. Other exceptions noted involved foreclosure proceedings and cases of exigent need, such as a hazardous condition that must be rectified or where property ownership interferes with a needed government benefit. As such, the OIG initiated this recent inquiry to understand how GPDC has been managing its wards' real property assets since the inception of the audit.

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ward owned a half interest in a property located in Orange County. While the estate attorney (over the other half interest) sought to sell the property, the Orange County court authorized foreclosure proceedings. There were no surplus funds.

Additionally, GPDC provided information regarding two properties that are pending sale. In the first case, the property has six owners and two estates have been filed. GPDC has filed the appropriate petitions on behalf of its ward, who is also agreeable to the sale. The heirs have been leading and coordinating the sale. The second case also involves multiple owners and heirs and a suspected fraudulent quitclaim deed discovered by GPDC staff. GPDC reports that while they will continue representing the ward's interests, there will likely be litigation amongst the owners.

The OIG highlights these activities because it shows that managing ward property interests is not clear-cut. A ward's ownership interest may not be 100%, other co-owners and heirs are often involved. Foreclosures may be pending and there may be reverse mortgages encumbering the property. The ward may expire prior to liquidation of assets and estates need to be opened; those assets then transfer to the estate. In light of the funding condition that GPDC not handle property sales until further notice, we observe that GPDC petitioned for the appointment of successor guardians, which were granted. Effectively, GPDC has not been handling many real property transactions. Additionally, the property unit is down two property coordinators since July 2023.

On May 3, 2024, an audit exit conference was held at GPDC's offices. An exit conference is an opportunity for the OIG to present the preliminary results of the audit to the management of GPDC and to obtain any final clarifications on proposed findings and observations. At the exit conference attended by two GPDC board members, GPDC's property update, including the petition and appointment of successor guardians, was discussed. The OIG noted the decrease in property-related activities and queried GPDC management of its future outlook on this matter. GPDC management stated that nothing has been decided. However, one of the board members stated GPDC agreed to sell properties because nobody else wanted to do it. The board member continued to explain that current property values put a ward over the GPDC monetary threshold and that in the future GPDC will not be involved in property sales to the extent that it has been in the past. While they will likely have more limited involvement, it is still an area that has not been decided upon by GPDC.

Since April 2023, there have been 916 new guardianships opened by the courts; 182 wards were appointed to GPDC. Only five had real property ownership interests. The OIG notes that there will be wards appointed to GPDC in the future with real properties. This fact may not always be known from the onset of the appointment. The level of equity and existence of co-owners, heirs etc. will also require research. GPDC may petition the

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courts to appoint successor guardians for those wards with real property interests, but being the guardian of last resort, we are doubtful that GPDC will be totally discharged of these duties. As the public guardian being appointed approximately 20% of all new wards, there will most certainly be cases in the future where GPDC will have to involve itself in the real property interests of its wards. These situations will require GPDC to have better procedures in place when it needs to sell real property.

## **XI. RECOMMENDATIONS**

During the exit conference with GPDC management, the OIG voiced two recommendations, which we believe, will go a long way to address the operational deficiencies revealed in this audit. These involve 1) the lack and disconnect of supervision over the work of the property coordinators and 2) the lack of documentation and managerial approval over the entire decision-making process as it relates to real property liquidation. GPDC management was receptive to both recommendations. As articulated at the exit conference, the OIG recommended that:

1. GPDC should realign its property staff from the Intake Department to the Legal Department. The work of property coordinators dovetails with the required filings submitted by the Legal Department. These include the initial inventory report and various petitions to expend funds for repairs, cleaning, storage, etc. If a decision is reached that real property should be sold, a *Petition for Order Authorizing the Sale of Real Property* is filed with the Court. The basis for the petition is based, in part, on job duties under the property coordinator's purview, e.g., obtaining the appraisal, engaging a licensed real estate agent, receiving offers, etc. Moreover, as the property coordinators often work with GPDC paralegals, it is sensible to realign the property coordinators under the Director of Legal Services' supervision.
2. GPDC should create a comprehensive checklist that captures all the decision-making and supervisory approvals relating to the sale of real property. This document should demonstrate that the 12 criteria stated in Florida Administrative Code Rule 58M-2.009(19)(c) have been considered, which are:
  1. Whether disposing of the property will benefit or improve the life of the Ward,
  2. The likelihood that the Ward will need or benefit from the property in the future,
  3. The previously expressed or current desires of the Ward with regard to the property to the extent that they are known to the Professional Guardian,
  4. The provisions of the Ward's estate plan as it relates to the property, if any,
  5. The tax consequences of the transaction,
  6. The impact of the transaction on the Ward's entitlement to public benefits,
  7. The condition of the entire estate,
  8. The ability of the Ward to maintain the property,

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9. The availability and appropriateness of alternatives to the disposition of the property,
10. The likelihood that property may deteriorate or be subject to waste,
11. The benefits versus the liability and costs of maintaining the property; and,
12. Any other factor that may be relevant to the disposition of the Ward's property.

The checklist should also include open fields where the selection of the appraiser and real estate listing agent can be documented. Additional information should include the date the vendor(s) was contacted, the date the appraisal was received, the date of the listing agreement, verification that property was placed on the MLS, and the dates/amounts of all offers received and terms of offer (e.g., cash, contingencies etc.).

Similarly, if a Direct Sale to Investor approach is utilized, the checklist should allow for an explanation as to why this method was selected. Factors such as low equity, premise liability due to hazardous conditions, presence of unauthorized occupants, etc., should be noted. The date(s) of emails sent to investor distribution list and corresponding due dates should be noted. The dates/amounts of all offers received should be captured on this document.

Essentially, this document is the paper trail that memorializes the decisions made, managerial approval of those decisions, and the activities that followed.

The OIG makes the following additional recommendations:

3. GPDC should update its list of real property appraisers by advertising a request for qualifications, thereby opening the pool to other licensed appraisers to submit their interest in doing work for GPDC. Prospective use of the appraiser pool on a rotational basis should be strictly enforced.
4. As it relates to the current pool of licensed real estate agents, GPDC should consider discontinuing its relationship with the agents identified in this report that did not comply with the MLS placement requirement (see Table 8).
5. GPDC should update its list of licensed real estate listing agents by advertising a request for qualifications, thereby opening the pool to other real estate agents to submit their interest in doing work for GPDC. GPDC may also want to negotiate lower commissions with the agents as a condition of being in the pool. Prospective use of the real estate listing agent pool on a rotational basis should be strictly enforced. GPDC property staff must verify that the property is placed on the MLS.
6. GPDC should research the feasibility of listing properties for sale 'By Owner' on web-based platforms such as Zillow.com, Redfin.com, ForSalebyOwner.com, etc., which are directly accessed by interested buyers. Selling a property using these



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platforms resembles the Direct Investor Sales, by avoiding sales commissions, but reaches a larger audience of potential buyers.

7. GPDC should update its list of investors by advertising an Expression of Interest, thereby opening the pool for other potential investors. Current investors on the list should be asked to reconfirm their interest and their contact information.
8. GPDC's *Property Duties & Guidelines* should be revised to include detailed steps of how the request for proposals (RFP) process is administered for soliciting direct sales from the investor list. The *Guidelines* should also address record keeping requirements and should require that the entire distribution list of investor recipients be clearly visible on the retained records thereby demonstrating that all investors were notified concurrently.
9. GPDC should update its *Non Conflict of Interest Attestation* to match the requirements of Florida Statute, Florida Administrative Code, and the Miami-Dade County Conflict of Interest boilerplate, which includes but is not limited to the County's Conflict of Interest and Code of Ethics Ordinance (see Recommendation No. 13 below). Employees should also disclose whether any member of their family has an active or passive interest in a business or trade that GPDC purchases either materials or services from. (We note that currently employees disclose whether they have an active or passive interest in a business or trade, but that notification requirement does not extend to the ownership interest of the employee's family members.
10. GPDC should extend its *Non Conflict of Interest Attestation* to its board members as the State of Florida, Department of Elder Affairs funding agreement is clear that the Conflict of Interest provisions contained therein applies to GPDC's board members.
11. GPDC should also require its employees to disclose whether they have outside employment, including whether they are officers and/or principals in companies regardless of whether those companies are vendors to GPDC.
12. GPDC should update its *Property Duties & Guidelines* to reflect the new reporting structure, new processes, new forms, and any other new requirements and procedures implemented as a result of this audit.
13. OMB should update the boilerplate provisions of the annual funding agreement with GPDC to match the Article 10 Conflict of Interest provision found in the County's General Funds grant agreement.



# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## OIG FINAL AUDIT REPORT

### The Guardianship Program of Dade County's Custodianship and Sale of Wards' Real Properties

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14. OMB should require GPDC to comply with Article 1(I) of its annual funding agreement to submit quarterly written reports which “fully describe the anticipated use of funds to be provided hereunder[.]” The OIG notes that GPDC does comply with the requirement to submit quarterly financial statements, which consists of a QuickBooks generated *Balance Sheet* and *Profit & Loss Budget vs. Actual YTD* report.
15. OMB should review recommendations 1 – 12, above, and GPDC’s response to the OIG as to its acceptance/implementation of the recommendations. OMB may want to include these aspects as conditions and/or requirements in future funding agreements.

## **XII. CONCLUSION**

The GPDC performs an essential function, and the residents of Miami-Dade County are fortunate to have an organization with a dedicated staff to care for some of the most vulnerable in our community. Functioning as a guardian for so many individuals is challenging and requires that all decisions made by GPDC staff be made in the best interest of the ward. Deciding to sell a ward’s assets is a multi-faceted decision and requires that supporting documentation be maintained. The documentation needs to demonstrate that decisions were evaluated against the administratively-required criteria, confirm that the property was marketed in a fair and transparent manner, and leave no doubt that the sale was an arm’s length transaction.

The OIG’s audit revealed questionable transactions and it exposed deficiencies in GPDC’s internal controls, particularly in its failure to follow its existing policies and procedures, which would have prevented, or detected and corrected many of the issues identified in this audit. Our detailed recommendations are designed to address each of our findings with the goal of improving GPDC’s effective and accountable management of a ward’s real property.

We note that GPDC’s response did not specifically address each recommendation but provided information centered on the OIG’s four finding areas, addressing new procedures that touch on several recommendations. We are also aware that the County’s Office of Management and Budget (OMB) may be entering into a new annual funding agreement with GPDC for fiscal year 2024-2025. As such, the OIG is requesting a report from OMB by November 1, 2024, regarding the status of the funding agreement and any requirements or provisions in that agreement relating to the sale of real property as stated in OIG recommendations 13, 14, and 15, directed to OMB.

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# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### SCHEDULE A

**Miami-Dade County Historical Funding Levels to GPDC**

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***Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties***

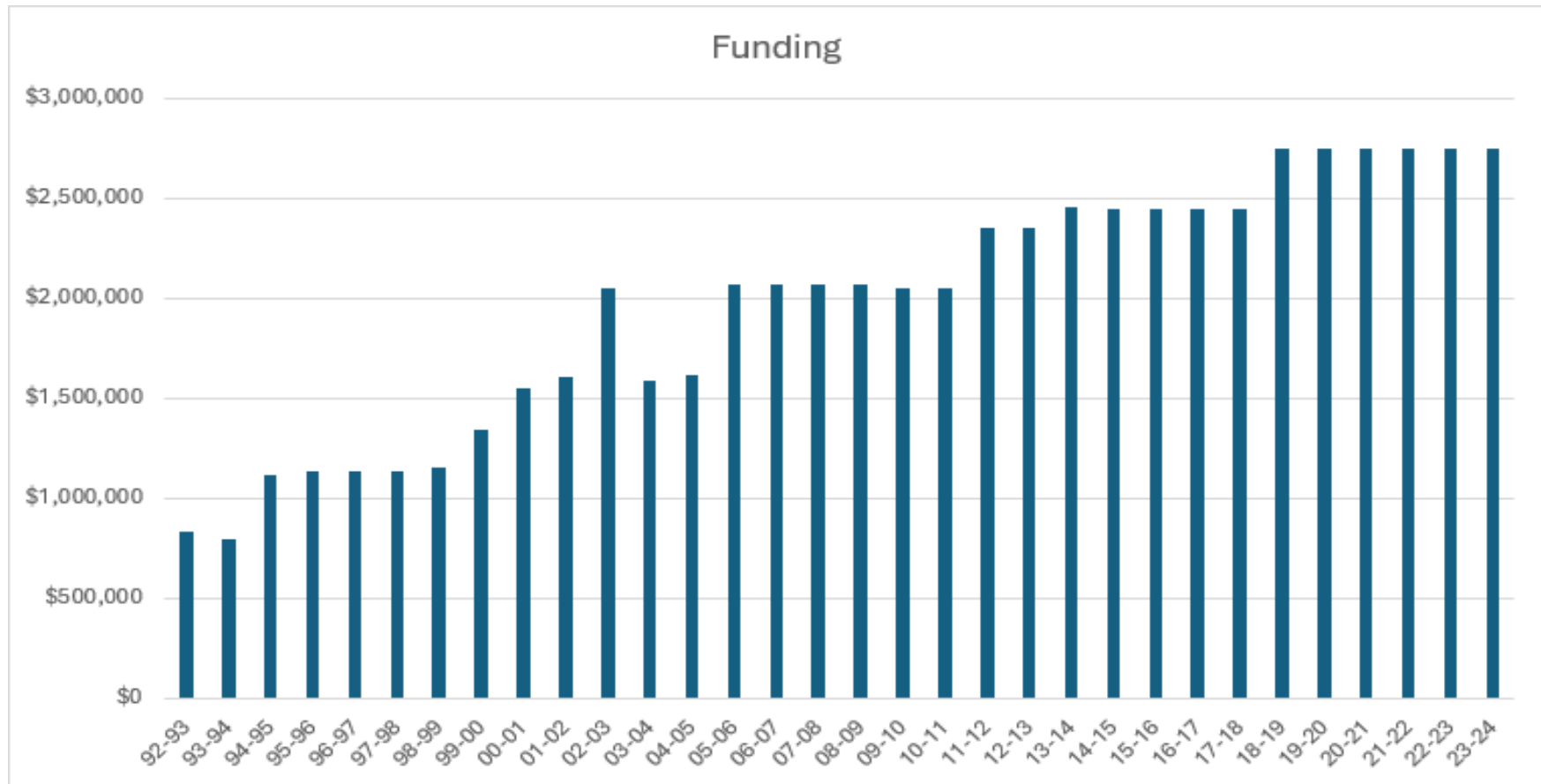
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**IG23-0002-A  
July 31, 2024**

## OIG SCHEDULE A

### Miami-Dade County Historical Funding Levels to the Guardianship Program of Dade County, Inc.

Since 1992,<sup>1</sup> Miami-Dade County has provided funding to the Guardianship Program of Dade County. Currently, Miami-Dade County's annual funding agreement is \$2,728,000. It is included in the County's ordinance adopting the countywide General Fund Budget. There is a separate smaller grant agreement for \$19,600 that is approved as part of the budgeted funding for Community Based Organizations. allocations. Historically, funding from the County has been based on GPDC's caseload, i.e., the number of wards assigned.



<sup>1</sup> A review of the County's budget archives maintained by the Office of Management and Budget shows the first reference to the Guardianship Program of Dade County appearing in the 1990-1991 operating budget. There is a reference to increasing Circuit and County Court filing fees in order to provide funding for the GPDC and other judicial related programs. The 1991-1992 makes no reference to the GPDC. Neither year identifies funding for the GPDC.

# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### SCHEDULE B

Relevant Governing Authorities

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*Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties*

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IG23-0002-A  
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## **OIG SCHEDULE B**

### **RELEVANT GOVERNING AUTHORITIES**

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In the State of Florida, guardianships are governed by Florida Statutes Chapter 744. Florida Statutes Section 744.2001 *et seq.* establishes the Office of Public and Professional Guardians (OPPG) within the Florida Department of Elder Affairs and sets forth the statutory framework governing public and professional guardians appointed by a court, including the registration, education, minimum standards of practice, and regulation of these guardians. These Florida Statutes are supplemented by the Florida Administrative Code (FAC) Rule Chapter 58M-2, which provides the standards of practice for professional guardians promulgated by OPPG.

#### **The Office of Public and Professional Guardians (OPPG)**

OPPG oversees 16 contracted offices of public guardianship throughout the state, which are structured as nonprofit entities under state law and are required to employ or contract with qualified personnel, including an attorney experienced in probate matters and at least one person with a master's degree in social work, gerontology, or nursing.<sup>1</sup>

#### **Florida Statutes Section 744.2001(2)(a)-(c)**

The executive director of OPPG shall, within available resources:

- a) Have oversight responsibilities for all public and professional guardians.
- b) Establish standards of practice for public and professional guardians by rule, in consultation with professional guardianship associations and other interested stakeholders.
- c) Review and approve the standards and criteria for the education, registration, and certification of public and professional guardians in Florida.

#### **Florida Statutes Section 744.2006**

The OPPG appoints local public guardians to provide guardianship services to persons who do not have adequate income or assets to afford a private guardian, or family or friends willing to serve in that capacity.

Subsection 744.2006(5) reads:

Upon appointment of the public guardian, the executive director shall notify the chief judge of the judicial circuit and the Chief Justice of the Supreme Court of Florida, in writing, of the appointment. The public guardian is to be appointed for a term of 4 years, after which her or his appointment must be reviewed by the executive director and may be reappointed for a term of up to 4 years.

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<sup>1</sup> OPPG website: <https://elderaffairs.org/programs-services/office-of-public-professional-guardians-oppg/>

## **OIG SCHEDULE B**

### **RELEVANT GOVERNING AUTHORITIES**

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#### **Florida Statutes Section 744.102(9)**

A “guardian” is a person who has been appointed by the court to act on behalf of a ward’s person or property, or both.

A “limited guardian” is distinguished as a guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of a limited guardian.

A “plenary guardian” is distinguished as a person who has been appointed by the court to exercise all delegable legal rights and powers of the ward after the court had found that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property.

#### **Florida Statutes Section 744.2002**

In managing the registration process for public and professional guardians, the OPPG conducts background screenings, ongoing qualifications verification, and monitoring of guardian activities, aimed at maintaining high standards of care and accountability for public guardians, including the GPDC.

- 1) A professional guardian must register with the Office of Public and Professional Guardians established in part II of this chapter.
- 2) Annual registration shall be made on forms furnished by the Office of Public and Professional Guardians and accompanied by the applicable registration fee as determined by rule. The fee may not exceed \$100.
- 3) Registration must include the following:
  - (a) Sufficient information to identify the professional guardian, as follows:
    1. If the professional guardian is a natural person, the name, address, date of birth, and employer identification or social security number of the person.
    2. If the professional guardian is a partnership or association, the name, address, and employer identification number of the entity.
  - (b) Documentation that the bonding and educational requirements of s. 744.2003 have been met.



## **OIG SCHEDULE B**

### **RELEVANT GOVERNING AUTHORITIES**

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- (c) Sufficient information to distinguish a guardian providing guardianship services as a public guardian, individually, through partnership, corporation, or any other business organization.
- 4) Prior to registering a professional guardian, the Office of Public and Professional Guardians must receive and review copies of the credit and criminal investigations conducted under s. 744.3135. The credit and criminal investigations must have been completed within the previous 2 years.

#### **Eleventh Judicial Circuit Court, Probate Division**

The Probate Division interacts with the Clerk of Courts to ensure the proper functioning and oversight of guardianship cases, including those assigned to any office of public guardianship.

#### **Florida Statutes Section 744.372**

Judicial review of guardianships ensures that the court retains jurisdiction over all guardianships. The court shall review the appropriateness and extent of a guardianship annually.

#### **Florida Administrative Code Chapter 58M-2.009(19)**

sets forth an additional 12 factors for a court to consider in evaluating sales of ward property, and provides specifically:

#### **Standards of Practice for Property Management**

- (19)(a) When disposing of a Ward's assets, pursuant to Section 744.441, F.S., a Professional Guardian appointed guardian of the property must seek court approval and notify interested persons as required by Chapter 744, F.S.
- (b) In the absence of evidence of a Ward's wishes before the appointment of a Professional Guardian, Professional Guardians appointed guardian of the property, having the proper authority, may not sell, encumber, convey, or otherwise transfer property of a ward, or an interest in that property, unless doing so is in the best interest of the Ward.
- (c) In considering whether to dispose of a Ward's property, Professional Guardians appointed guardian of the property shall consider the following:

## **OIG SCHEDULE B**

### **RELEVANT GOVERNING AUTHORITIES**

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1. Whether disposing of the property will benefit or improve the life of the Ward,
2. The likelihood that the Ward will need or benefit from the property in the future,
3. The previously expressed or current desires of the Ward with regard to the property to the extent that they are known to the Professional Guardian,
4. The provisions of the Ward's estate plan as it relates to the property, if any,
5. The tax consequences of the transaction,
6. The impact of the transaction on the Ward's entitlement to public benefits,
7. The condition of the entire estate,
8. The ability of the Ward to maintain the property,
9. The availability and appropriateness of alternatives to the disposition of the property,
10. The likelihood that property may deteriorate or be subject to waste,
11. The benefits versus the liability and costs of maintaining the property; and,
12. Any other factor that may be relevant to the disposition of the Ward's property.

(d) Professional Guardians appointed guardian of the property shall consider the necessity for an independent appraisal of real and personal property.

(e) Professional Guardians appointed guardian of the property shall obtain insurance coverage, as appropriate, for property in the estate.

#### **Clerk of the Courts**

##### **Florida Statutes Section 744.362(1)**

The initial guardianship report for a guardian of the property must consist of a verified inventory. The initial report for a guardian of the person must consist of an initial guardianship plan.

##### **Florida Statutes Section 744.368(1)**

In addition to the duty to serve as custodian of the guardianship files, the clerk shall review each annual guardianship report to ensure that it contains information about the ward addressing, as appropriate:

## **OIG SCHEDULE B**

### **RELEVANT GOVERNING AUTHORITIES**

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- (a) Physical and mental health care;
- (b) Personal and social services;
- (c) The residential setting;
- (d) The application of insurance, private benefits, and government benefits;
- (e) The physical and mental health examinations; and
- (f) The initial verified inventory or the annual accounting.

#### **Florida Statutes Section 744.368(2) and (3)**

- 2) The clerk shall, within 30 days after the date of filing of the initial or annual report of the guardian of the person, complete his or her review of the report.
- 3) Within 90 days after the filing of the verified inventory and accountings by a guardian of the property, the clerk shall audit the verified inventory and the accountings. The clerk shall advise the court of the results of the audit.

#### **Florida Statutes Section 744.368(5), (6), and (7)**

- 5) If the clerk has reason to believe further review is appropriate, the clerk may request and review records and documents that reasonably impact guardianship assets, including, but not limited to, the beginning inventory balance and any fees charged to the guardianship. As a part of this review, the clerk may conduct audits and may cause the initial and annual guardianship reports to be audited. The clerk shall advise the court of the results of any such audit. Any fee or cost incurred by the guardian in responding to the review or audit may not be paid or reimbursed by the ward's assets if there is a finding of wrongdoing by the court.
- 6) If a guardian fails to produce records and documents to the clerk upon request, the clerk may request the court to enter an order pursuant to s. 744.3685(2) by filing an affidavit that identifies the records and documents requested and shows good cause as to why the documents and records requested are needed to complete the audit.
- 7) Upon application to the court supported by an affidavit pursuant to subsection (6), the clerk may issue subpoenas to nonparties to compel production of books, papers, and other documentary evidence. Before issuance of a subpoena by affidavit, the clerk must serve notice on the guardian and the ward, unless the ward is a minor or totally incapacitated, of the intent to serve subpoenas to nonparties.

# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### SCHEDULE C

Audit Methodology

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*Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties*

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IG23-0002-A  
July 31, 2024

## **OIG SCHEDULE C AUDIT METHODOLOGY**

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Audit fieldwork was performed to satisfy the objectives of the OIG's audit. Auditors first gained an understanding of GPDC's stakeholders including the State of Florida, the Eleventh Judicial Circuit Probate Court, the Clerk of the Court Auditor, and Miami-Dade County. Auditors attempted to meet in person with the Office of Public and Professional Guardians (OPPG), who are responsible for monitoring GPDC and other public guardians throughout the state. Instead, OPPG provided written responses to OIG's questions, and provided the OIG with their respective policies and monitoring reports pertaining to GPDC, and a memo submitted to the OPPG from GPDC's External Director.

### **INTERVIEWS**

The OIG also met with members of the Judiciary from the Probate Division of the Eleventh Judicial Circuit to understand how they interact with GPDC and the court requirements for public guardianships related to the sale of real property. Members of the Probate Division informed the OIG that members of the judiciary often relied on information provided from the Clerk of Courts Auditor. Accordingly, the OIG met with the Clerk Auditor in two separate meetings. The first meeting was held to gain an understanding of the responsibilities of the auditor with respect to the sale of ward real properties and other audit testing requirements for guardianships. The second meeting was held to gain an understanding of the work process flow, how documents are received, and the disposition of the documents after the auditor has completed the audit; as well as what steps are taken and what is ultimately communicated to the involved parties, such as the guardian and the judiciary.

Finally, we met with the Miami-Dade County Office of Management and Budget (OMB) to ascertain the County's role in funding the program. To ensure completeness in testing and to ensure that funding requirements were met to receive funding from the State of Florida and the County, auditors also reviewed both the State of Florida contract and any related amendments that provide funding to the GDPC, as well as the County's Funding Agreement and the County's Grant Agreement that also funds the GDPC.

OIG auditors interviewed more than 20 GPDC staff members across the organization to understand the processes used by the program from the intake of the ward to the disposition of ward's real property, and later to the discharge of their wards. Auditors interviewed all members of the executive staff including the Executive Directors, the Chief Financial Officer, the Director of Entitlements and Bookkeeping and the Director of Legal Services. OIG auditors also interviewed employees across all departments. OIG auditors interviewed the three property coordinators, the property assistant, and the former Director of Intake and Property who resigned from the Program in 2020. During those discussions, auditors learned of Monthly Property Meetings attended by GPDC's property

## **OIG SCHEDULE C AUDIT METHODOLOGY**

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and legal divisions, as well as senior staff to collaborate regarding ward real property decisions. OIG auditors attended two property meetings during this audit.

Auditors met with the newest GPDC board member as well as a board member with tenure of twenty years serving the GPDC. Auditors obtained and read all minutes of GPDC Board of Directors meetings for the scope period and made inquiries of GPDC staff regarding issues noted in those minutes.

At the onset of the audit, OIG auditors were provided with lists that GPDC uses to hire vendors of the program to assist with the disposition of real property. The lists consisted of certified appraisers, realtors, and investors used by the program for real property sales. The list contained the names and contact information of 10 appraisers, 15 realtors, and 54 investors. OIG auditors attempted to contact all realtors and appraisers to schedule interviews. OIG auditors also emailed all 54 investors and attempted to meet in person with those investors who were given opportunities to submit bids during the scope of our audit. Some contacts were made by email and/or phone call, auditors were able to interview four investors. Auditors eventually were able to speak with five appraisers, two were quick phone conversations, two were in-person meetings, and one was a virtual meeting. OIG auditors were able to speak with four real estate agents; two of the meetings were in person, one was a virtual meeting, and one was conducted telephonically.

Communications with GPDC's certified appraisers revealed that appraisers engaged to appraise real properties owned by GPDC wards were not always engaged by GPDC and paid for by their wards. Accordingly, OIG auditors performed a test to determine for the 60 properties audited, who paid the appraiser and whether the payment was credited to the ward's account. Auditors performed rotational policy testing using those lists to ensure that GPDC's policy and procedures requiring a rotational selection process was adhered to for the solicitation of services of real estate agents and certified appraisers.

### **REVIEW OF GPDC PROPERTY DUTIES AND GUIDELINES**

OIG auditors were also provided with GPDC's policies and procedures manuals for each internal department within GPDC as well as two versions of the Property Duties and Guidelines. OIG auditors reviewed and analyzed those policies to determine gaps in internal controls as well as to test that the policies and procedures were being utilized by GPDC. To gain an understanding of GPDC's property coordinator's job responsibilities, the OIG auditors accompanied property coordinators on a site visit to perform the initial inventory on a ward's real property. The property visited was in a state of disarray, as many of the ward's real properties are found to be.



# OIG SCHEDULE C

## AUDIT METHODOLOGY

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### **AUDIT TESTING**

OIG auditors performed testing to ensure that GPDC's policies and procedures were effective. To perform testing of documentation related to the sale of a property, OIG auditors requested access to and were granted viewing rights to GPDC's database titled Guardian Management System (GMS). The GMS system acts like a library of ward documents. GMS assigns a ward number to each ward for which GPDC was appointed the guardian. Wards can be searched in the system by ward number or ward name. The GMS system documents general ward information including the guardianship date, birth information, residence name, and other important information. Each ward has a database within GMS. The ward's database contains time log records documented from different staff within GPDC relating to issues noted with the ward or the ward's real property. The OIG used this system to gather documents and information related to the sale of each ward's real property. The case log notes serve to narrate the details of those documents and important events or communications relative to each ward. GMS documentation together with the Court's Probate File, were the main sources of ward information used to address the OIG objectives.

OIG auditors performed property testing to ensure that GPDC's policies and procedures and those procedures required by GPDC's funding agreements were adhered to. As part of the audit tests, OIG auditors reviewed all property related documents, logs, and court files to ensure that the processes were followed and that the representations made to the court could be verified. For each ward, auditors reviewed the following documents from the GMS system and court file, at minimum:

- Letters of Guardianship and Emergency Temporary Guardianship to determine the effective date of GPDC guardianship
- Personal Property Inventory Reports
- Certified Appraisal Reports
- Real Estate Listings
- Offers Received
- Petitions and Orders for Repairs
- Petitions and Orders for Emergency Repairs
- Petitions and Orders to Sell Real Property
- Sale of Real Property Memos
- HUD Statements
- Annual Accountings
- Court Checklists
- Audit Findings, when applicable

## **OIG SCHEDULE C AUDIT METHODOLOGY**

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Initial property testing raised questions about whether real estate agents hired by the GPDC to sell real properties were listing properties for sale as required on the Multiple Listing Service (MLS). The MLS is a closed database established by real estate brokers, it allows brokers and real estate agents to see other broker's listings and its goal is to connect homebuyers and sellers. Brokers pay membership fees to access the MLS and it can only be accessed by licensed agents and brokers. To determine if real properties had been listed on MLS, the OIG engaged the real estate firm CBRE by accessing a State of Florida Department of Management Services contract.<sup>1</sup> A letter of Agreement or an LOA was used to retain the services of CBRE. The OIG created the scope of work which consisted of the following:

- Determine whether the property had ever been listed, and if so, who was the listing agent
- The listing price and any modification to the price
- How long the property was listed
- Any recording of the sales price
- Any subsequent listing of the same address (up to present)

OIG auditors included the results from CBRE for each ward in our audit testing to determine the amount of questioned costs from real estate agent commissions paid when a realtor had not performed the duties they were engaged to provide.

Auditors also performed related party testing for board members and employees to determine whether the disposition of ward real properties was conducted in a manner to preclude conflicts of interest, as required by GPDC's funding agreements, and to ensure that employees and board members do not currently or have not previously owned real properties owned by GPDC wards.

OIG auditors performed testing to determine whether GPDC had the legal status provided in the letters of guardianship to solicit services and sell the ward's real property at the time of the sale. Auditors performed inventory compliance testing to ensure that GPDC's policies and procedures were followed with respect to Personal Property Inventory Reports required to be completed for the appropriate internal deadlines and those monitored by the Clerk of Court Auditor.

OIG auditors performed testing to determine whether vendors who performed licensed services had active licenses needed to perform those services on ward real properties.

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<sup>1</sup> The OIG was provided with the names of two real estate firms including CBRE by the Miami-Dade County's Strategic Procurement Department. CBRE had previously been engaged by Miami-Dade County by accessing a State of Florida Department of Management Services contract.

## OIG SCHEDULE C AUDIT METHODOLOGY

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Auditors performed discharge testing to ensure that the ward's real properties were not sold after the ward had expired.

Our audit testing was performed for all employees, board members, and wards with real properties from the period beginning October 1, 2017, and ending in March 2023, when this audit was initiated. Our audit sample consisted of 100% of ward real properties sold by GPDC during the timeframe. Auditors performed testing at the beginning of our audit to validate the data provided by GPDC and ensure that all wards with real properties sold by GPDC during the scope period had been included. Compliance testing of that sort requires auditors to review a sample of 30; however, auditors tested 50 wards to obtain an increased level of assurance.

### **AUDITING STANDARDS**

This audit was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and the *Generally Accepted Government Auditing Standards*. These standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions. Based on our audit objectives, the evidence obtained provides a reasonable basis for our findings and conclusions.

# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### EXHIBIT 1A

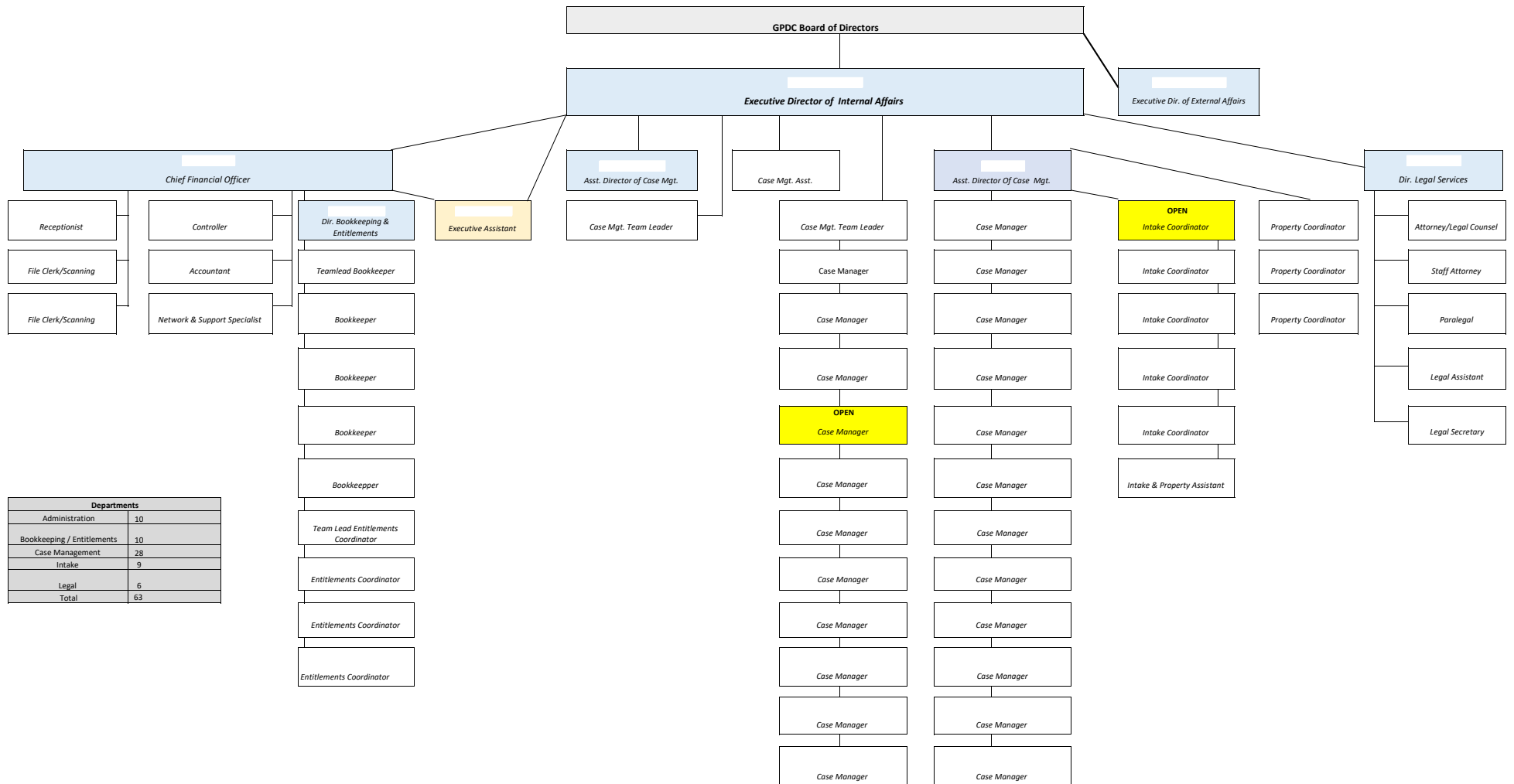
#### GPDC Table of Organization

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*Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties*

---

**IG23-0002-A**  
**July 31, 2024**



Departments	
Administration	10
Bookkeeping / Entitlements	10
Case Management	28
Intake	9
Legal	6
Total	63

\* Table of Organization provided by GPDC on May of 2023  
\* Names have been redacted by **MDG-OIG-B1** and **OIG**

# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### EXHIBIT 1B

Description of GPDC's Departments

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*Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties*

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IG23-0002-A  
July 31, 2024



## **Description of GPDC's Departments**

Bookkeeping/Entitlements: This department's function oversees the ward's financial accounts and ensures that they are reconciled timely to account for income and expenses. Bookkeeping is responsible for ensuring that cash, bank accounts, and investment accounts received from the physical inventory of personal property are entered into the ward accounts. Entitlements is responsible for ensuring that social security payments are transferred to the ward accounts so that the ward has monthly income, and that the thresholds are maintained.

Case Management: Employees in this department account for approximately half of GPDC staff. Case managers care for the wards and attend to their needs. Case managers prepare the initial guardianship report in conjunction with the intake coordinators and prepare the annual plans. Case managers must visit each ward at least once per quarter and document how the ward is doing, including assessing the ward's physical appearance and condition, and the appropriateness of the ward's living situation.

Intake: This department includes both intake coordinators and property coordinators. The department is responsible for completing the ward's evaluation, which includes background information, history, medical and financial information, and contact with friends and relatives. The Intake Department also purchases groceries and personal items for the wards, arranges transportation, completes monthly visits of the wards until the first social security check is received for the ward, and completes the initial visit within 72 hours of appointment. Property coordinators are responsible for conducting the initial inventory of the ward's property, maintaining said property, researching matters involving any real property, and coordinating the sales process if a decision is made to sell a ward's property.

Legal: GPDC attorneys are responsible for all communications with the court. The Legal Department is responsible for preparing and reviewing all petitions and orders to the court, discharges, filing the annual accountings with the court, clearing audit denials from the Clerk of Courts auditor, reviewing agency contracts, trusts, and any other legal issues that are presented by GPDC.

Administration: This department consists of two executive directors (internal affairs and external affairs), the chief financial officer, the controller, an accountant, an executive assistant, two file clerks, a network support specialist, and a receptionist. The Executive Director of Internal Affairs functions as the chief executive officer, supervising the agency's internal operations and staff. The Executive Director of External Affairs liaisons with GPDC's external stakeholders. The CFO is responsible for the agency's financial statements; Along with the controller and accountant, they oversee payroll, bank reconciliations, journal entries, grant funding packages, and the payment of all expenses of the agency except ward expenses. Two file clerks are responsible for filing ward files and scanning all documents into the Guardian Management System. The executive assistant assists with board meetings and keeps the minutes of those meetings.

**\*Document prepared by OIG**

# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### EXHIBIT 2

Checklist and Certification – Sale of Real Property – Guardianship

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*Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties*

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IG23-0002-A  
July 31, 2024

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA PROBATE DIVISION IN RE: GUARDIANSHIP OF _____ ward.  Case no.: _____  Section: _____	<h1>CC-106</h1>
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### Checklist and Certification – Sale of Real Property – Guardianship

I, \_\_\_\_\_, as the attorney of record, have reviewed the applicable checklist(s) on the 11<sup>th</sup> Judicial Circuit Court's website, and filed the following pleadings to the Clerk of Court's docket, for which I have written the docket entry number next to each of the corresponding requirements below:

#### Petition for Sale of Real Property:

- \_\_\_\_\_ ☐ Petition in accordance with Fla. Stat. §744.447; Fla. Prob. R. 5.630.
- \_\_\_\_\_ ☐ Petition states: the sale is an "arm's length transaction" and is for "fair market value".
- \_\_\_\_\_ ☐ Petition contains the street address and legal description for the subject real property.
- \_\_\_\_\_ ☐ Petition states how the sale of the real property is in the best interests of the Ward.
- \_\_\_\_\_ ☐ Petition has been joined by all of the Ward's guardians of the property.
- \_\_\_\_\_ ☐ Waiver and Consent (or proof of notice) to petition by all interested parties – Fla. Prob. R. 5.630(b)
- \_\_\_\_\_ ☐ Joinder to the Petition executed by the ward's spouse - Fla. Stat. §744.457(1)    ☐ Ward does not have a spouse.

#### Supporting Documents:

- \_\_\_\_\_ ☐ Copy of the proposed sale contract AND
- \_\_\_\_\_ ☐ Copy of a Comparative Market Analysis or signed broker's letter with comparable sales OR
- \_\_\_\_\_ ☐ Copy of appraisal (only required when property is valued more than \$600,000)

#### Required Filings:

- \_\_\_\_\_ ☐ Order Appointing Guardian and Letters of Guardianship have been previously entered.
- \_\_\_\_\_ ☐ Inventory – Fla. Stat. §744.365, Fla. Prob. R. 5.620
- \_\_\_\_\_ ☐ Notice of Completion of Guardianship Education Requirements – Fla. Stat. §744.3145; Fla. Prob. R. 5.625
- \_\_\_\_\_ ☐ Order Designating Restricted Depository
- \_\_\_\_\_ ☐ The guardian is up to date with all annual reporting requirements. (List the most current annual reports)
- \_\_\_\_\_ ☐ There are no pending or unresolved 10-day Memorandum's from the Clerk of Court's Auditor.

#### Proposed Order submitted to courtMAP:

- ☐ Proposed Order Authorizing Sale of Real Property in accordance with Fla. Prob. R. 5.630(c)
- ☐ Proposed Order includes street and legal description of subject real property, terms of sale, and directs deposit of Ward's share of sale proceeds to the restricted depository for the Guardianship.

**I HEREBY CERTIFY** that I have complied with the above checklist and filed the required pleadings and supporting documentation on the date indicated above in accordance with applicable Florida Statutes, Florida Probate Rules, local rules, administrative orders, and administrative memoranda. I understand that submission of this checklist is considered an official statement subject to Fla. Stat. §837.06.

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Attorney's Signature  
 Printed Name: \_\_\_\_\_  
 Bar Number: \_\_\_\_\_  
 Email Address(es): \_\_\_\_\_

# **MIAMI-DADE COUNTY**

## **OFFICE OF THE INSPECTOR GENERAL**



## **FINAL AUDIT REPORT**

### **EXHIBIT 3A**

**GPDC's Property Duties & Guidelines – Revised August 25, 2022**

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***Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties***

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**IG23-0002-A  
July 31, 2024**



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# GUARDIANSHIP PROGRAM OF DADE COUNTY

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Property Duties & Guidelines



REVISED AUG 25, 2022  
**GUARDIANSHIP PROGRAM OF DADE COUNTY**  
**8300 NW 53RD ST SUITE 402 DORAL FL 33166**

Maricela Jimenez, Executive Director of Internal Affairs

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**Property Guidelines****Scheduled / Managed Visits procedure:**

- Staff is expected to input their foreseen upcoming visits for the week. Calendars of each staff member must be shared with all supervisors and team leads.

**Hybrid Schedule:**

- Staff is expected to be in the office 3 times a week, with the exception of time needed to complete visits and other job functions that require that they be in the field.

**Assignment of New Cases:**

- The Director of Intake and Property will send an email to all the Intake and Property Coordinators. At this time, the case will be assigned to the Intake Coordinator. In the absence of the Director of Intake and Property, this task will be completed by a specified employee.

**MANAGEMENT OF REAL PROPERTY**

Property Coordinators are responsible for maintaining and accounting for all Ward real, personal and intangible property reflected in Schedules C, D and E. For Schedule C, besides in GMS, separate spreadsheets must be maintained reflecting proper values, visits and other items deemed necessary by GPDC management and the Board.

Property Coordinators are designated specific letters of the assigning their specific caseloads. They must go through all 3 Schedules as required in the procedures regularly and update as needed and at year-end to ensure that the personal property is located where it is indicated, valued properly, and that no changes have taken place with the property. Schedules C, D, and E should be reviewed on a monthly basis. Case Management or the Intake Coordinators should be contacted if they are involved.

If any property appears to be missing, it must be documented immediately to the Director of Intake/Property and the Executive Director.

Property Coordinators are responsible for handling all inventories to be completed. The individuals doing the inventories will be assigned by the Director of Intake/Property or another employee in his/her absence. Each inventory will require at least a Property Coordinator and another employee from the Agency as a witness. At least two employees will attend an inventory.

All inventories must be completed within 30 days of the date of guardianship or ETG date. Some inventories will need to be performed sooner than 30 days, depending on the circumstances. Director of Intake/Property will advise priority cases.

All inventories and appraisals must include photographs of any items described in the inventory or appraisal. If there is an appraisal, the appraisal must include a dollar value for each item listed.

All Property Coordinators are required to keep appropriate equipment and protective clothing/masks, etc. in their cars at all times to handle inventories that may be problematic and to safeguard themselves

**THE PROPERTY COORDINATORS SHOULD CONTACT THE POLICE IF THEY SUSPECT ANY IMMINENT DANGER OR REQUIRE ANY ASSISTANCE WITH A PROBLEMATIC WARD OR INDIVIDUAL(S) INVOLVED IN A VISIT.**

**Property Coordinators should consider notifying local police prior to an on-site visit to ensure safety, especially when there is knowledge or suspicion that occupants may be present on the premises, and they should request the presence of law enforcement.**

### **Real Estate Property (Schedule C)**

#### **Real Property Procedures/Categories:**

Single family home, Duplex/multi-family, Condominium, Commercial/Business property, and Vacant Land.

All Real Property should be entered in Schedule C and the Property Data Spreadsheet. If the property has negative equity, enter the value as \$1.00. Schedule C should reflect the net value of the property including the mortgage. These values should be updated in GMS, and the property spreadsheet as needed, especially in November prior to annuals.

The Property Coordinator should verify the following information:

- Secure the asset, ensure it is properly protected.
- Contact locksmith/change locks.
- Secure entry points, broken windows; board-up if necessary, address water intrusion (roof leaks, etc.)
- Title/ownership of the property.
- Property Deed (location and details).
- Status of mortgage or estimate of any reverse mortgage.
- Status of property taxes, and any applicable exemptions: Homestead, Widow, Sr., etc.
- Insurance (Homeowner, flood, rental, and windstorm, if applicable).
- Maintenance fees, if applicable, including monthly assessments, arrearages owed, etc.
- Home repairs (status and details). Property damage due to natural disaster, fire, etc. If applicable, check the status of insurance claims, FEMA, etc.
- Occupancy (verify if property is occupied by anyone such as family members, tenants, unauthorized individuals, etc.).
- Verify and document liens, violations, etc.
- Foreclosure case(s)

#### **Property Visits:**

- Vacant properties within Miami-Dade and Broward County should be visited at least once monthly.

- Vacant properties located in Monroe County, Palm Beach County, Collier County, and Martin County should be visited at least every six months as long as the property coordinator has telephone contact with realtors, neighbors, family, etc. on a monthly basis. If the property coordinator is unable to establish any contact with any of the previous mentioned people, the visit should be every three months.
- Contact with other Public Guardians should be explored for the purpose of visiting properties in Florida counties other than Monroe, Miami-Dade, Broward, Collier, Palm Beach, and Martin Counties.
- Rental properties should be visited at least every three months.
- Rental properties where the Ward is co-owner should be visited at least every six months.

**Property Hurricane Procedures:**

- The Property Coordinators should obtain **and maintain** information as to homeowners insurance, if any, and hurricane shutters, if any, on all the properties. (Policies may include any or all: windstorm, flood, homeowner's)
  - In the event that Florida is directly threatened by a storm or environmental natural disaster, the Property Coordinators will contact the appropriate vendors who will use every possible effort to install shutters for the Wards living in the community.

**After the storm:**

- In the event of category 1-5 hurricane affecting the area, or any substantial storm that created widespread damage, the Property Coordinators will visit **all** properties to assess possible damages when travel is permitted.
- Case Managers and Intake Coordinators should notify the Property Coordinators as soon as they learn of any property damage for the Wards living in the community.
- Property Coordinators should take pictures and contact Ward's insurance companies, if any, to report damages.
- In the event that Wards living in the community do not have property insurance, the Property Coordinators will contact the appropriate vendors to obtain at least two estimates to repair damages.
- Property Coordinators are responsible to seek authorization to pay for repairs.

**PROCESS FOR DISPOSITION OF REAL PROPERTY**

In cases where GPDC is responsible for Ward's realty, GPDC shall act prudently in order to secure the property's physical and financial condition, minimize liability, and gather information to determine if the property may need to be sold. GPDC should attempt to secure homeowners' insurance whenever financially feasible.

**ACTIVE WARDS – GENERAL CATEGORIES****Wards Residing in Their Homes**

GPDC may not attempt to dispose of the Ward's real property unless the Ward has expressed a desire to do so or it is in the Ward's best interest to do so. Property visits shall be conducted monthly by Case

Management and Property Coordinators. Property Coordinators should assess the condition of the home at each visit, evaluate the need and arrange for services or repairs and document the findings in the Ward's electronic file.

#### **Family Members Residing in Ward's Property**

Real property occupied by Ward's family may be considered exempt property for purposes of Ward's Medicaid/benefits eligibility. Consultation with the Ward's family shall take place and consideration shall be given to the Ward's wishes. GPDC may need to liquidate these properties under certain circumstances in accordance with the guidelines for sale as stated herein and in accordance with applicable laws and rules.

#### **Tenants Residing in Ward's Property**

GPDC may dispose of properties occupied by tenants in accordance with the guidelines for sale as stated herein and in accordance with applicable laws.

#### **Vacant Properties**

GPDC may dispose of vacant properties in accordance with the guidelines for sale as stated herein and in accordance with applicable laws and rules.

### **EXPIRED WARDS**

#### **Ward is Sole Owner**

The assigned Case Worker and/or Property Coordinator must contact known relatives and advise them of the necessity to probate the estate to transfer title to the property in accordance with the Ward's Last Will and Testament, if one exists, or in accordance with Florida law.

If Letters of Administration are not issued within a reasonable time, GPDC Legal may petition the court for the appointment of a Curator. If a Curator is requested, GPDC must formally notice the Ward's relatives of the pending petition. The court may also require a hearing. Once Letters of Curatorship are received, the GPDC Legal Department shall advise the Property Department of the appointment and the property cleared from Schedule C.

#### **Property is Jointly Held**

Property that is jointly held inures to the benefit of the Ward's heirs upon death and may be cleared from Schedule C.

#### **Monthly Property Meetings**

Property meetings will be held every 3<sup>rd</sup> Friday of the month, schedule permitting. Should a meeting need to be rescheduled due to scheduling conflicts, holidays, or any other unforeseen circumstances, the meeting will be rescheduled at the earliest possible time. The participants include, but are not limited to, Director of Intake & Property, all Property Coordinators, Legal Assistants with property-related duties, Director of Legal Services, and Executive Director of Internal Affairs. Attendance by

the Wards' assigned caseworkers and Director of Case Management is optional, but strongly encouraged to ensure collaboration between the departments.

The Real Property Spreadsheet containing GPDC's current inventory of real properties in Schedule C will be reviewed at every meeting. When deciding whether to proceed with the sale of real property, collaboration with senior staff is essential and additional visits to the property are highly encouraged.

GPDC guidelines for properties are to remain consistent with the Department of Elder Affairs (DOEA), Office of Public and Professional Guardians (OPPG)'s Administrative Rule Chapter 58M.2. These Rules should be reviewed periodically to ensure general practices involving Guardian of Property, Initial and Ongoing Responsibilities, and Property Management remain consistent throughout.

**Guidelines concerning real property sales:**

GPDC shall consider the following factors prior to sale of a Ward's real property:

1. Whether disposing of the property will benefit or improve the life of the Ward,
2. The likelihood that the Ward will need or benefit from the property in the future,
3. The previously expressed or current desires of the Ward with regard to the property to the extent that they are known to the Guardian,
4. The provisions of the Ward's estate plan as it relates to the property, if any,
5. The tax consequences of the transaction,
6. The impact of the transaction on the Ward's entitlement to public benefits,
7. The condition of the entire estate,
8. The ability of the Ward to maintain the property, including taxes, fees, insurance, etc.,
9. The availability and appropriateness of alternatives to the disposition of the property,
10. The likelihood that property may deteriorate or be subject to deterioration or waste,
11. The benefits versus the liability and costs of maintaining the property;
12. The possibility of restoration of rights, and/or Ward's ability to reside independently or fund appropriate home care services in accordance with medical/mental health needs,
13. Existence/ability to satisfy any liens, fines, foreclosures, condemnation, etc., and,
14. Any other factor that may be relevant to the disposition of the Ward's property.

**Realtors, Investors & Appraisers:**

- Prior to sale, GPDC shall obtain a realtor's Comparable Market Analysis, Real Estate Broker's opinion letter and/or an independent appraisal of the property, depending on circumstances and necessity.
- Real property should be listed with a Licensed Realtor, unless there are extenuating circumstances that warrant a direct and/or immediate sale via a Real Property Investor List (RFP). Direct investors may also consist of those who access property information via the Daily Business Review, Miami-Dade County foreclosure listings, lawn placards, or other means, and contact GPDC with direct offers. An example of such circumstances when a realtor's involvement is not feasible could be when the property's equity is insufficient to pay the realtor's commission, closing costs or, the condition of the property, including the presence of unauthorized occupants presents liability and/or hazardous conditions to the community



and/or the property is at risk of being wasted or lost if not for an urgent sale. The approval of senior GPDC staff is required for any direct investor offers/proposed sales. The reasons for a direct sale shall be detailed and documented in the Ward's electronic case file.

- Third party real property related vendors such as appraisers and realtors will be selected from the Property Vendor List on a rotating basis. Should the vendor decline the assignment or fail to respond within the time frame allotted as deemed appropriate for each case, the next vendor on the list will be selected. Vendors may not be repeated until the entire list has been exhausted. Vendor(s) working on a current case should be foregone in the assignment process for the next vendor on the list.
- Once the Realtor and Appraiser have been selected from the list and confirmed, the Property Coordinator shall request the Appraisal Report, and/or Comparable Market Analysis or Real Estate Broker's Opinion Letter, if necessary, and Listing Agreement. The Property Coordinator shall forward all documents to the Legal Department for review and execution of the listing agreement.
- GPDC employees are expected to communicate with the Realtor/Broker and if a buyer contacts GPDC employees, they should be directed to the assigned Realtor handling the sale.
- All offers to purchase a property shall be sent to the Legal Department and Executive Director via email. The subject line of the email shall include the Ward's name, and property address.
- GPDC Senior Staff shall meet with GPDC property staff to review the offers and once an offer has been approved, the fully-executed sales contract, signed and prepared by the Legal Department, shall be returned to the Broker/Realtor with signatures that clearly indicate the guardian is acting on behalf of the Ward/owner in the transaction, that the property is accepted in "as-is" condition and that the contract and all terms of the sale are subject to court approval.
- GPDC shall maintain contact with the buyer's title agent throughout the sales transaction and provide any court orders or required documentation to satisfy the terms of the sale from the seller's position.
- Once the sale transaction is complete, GPDC Legal shall file the Sale of Real Property Memo with the Clerk of Court which outlines the sale price, Ward's proceeds, buyer's name and includes a copy of the Closing Statement.
- Upon receipt of sale proceeds, GPDC Bookkeeping will deposit the sale proceeds into the Ward's guardianship bank account and/or restricted depository. A restricted depository shall be established for the Ward if needed and if none existed thus far in the Guardianship.
- At the completion of the sale and when the Ward's funds are deposited and secured in his/her guardianship account, GPDC Entitlements and Case Management Departments shall re-evaluate the case for public guardianship indigency criteria. GPDC shall address the Ward's expenses, needs and care. If the Ward still qualifies for public guardianship services based on the remaining assets from the sale proceeds, a pooled trust, or other special needs trust may be warranted and established to preserve income and medical benefits. If the Ward's assets exceed the indigency criteria and the Ward no longer qualifies for public guardianship services, GPDC



shall petition to court for the appointment of a successor guardian, the name of which shall come from the Probate Court's professional guardian appointment wheel which is maintained and controlled by the Court's auditing department.

### **PROPERTY INSURANCE**

- Property Coordinators shall attempt to secure homeowners' insurance for all properties if Ward funds are available. Once obtained, the insurance should be renewed on an annual basis. In order to obtain lower rates, it is suggested that higher deductibles be maintained. If the property cannot be insured because of the age or condition of the property, copies of the rejection letter provided by the insurance companies should be scanned and maintained in the Ward's file.
- In the event that a Ward cannot afford property insurance, or if the property is uninsurable, the Property Coordinator should notify the Director of Intake/Property, the Executive Director, the Director of Financial Services and the Legal Department to determine a course of action. Access to the premises should be limited for the safety of those involved and to shield the Ward from liability.

### **VALUING PROPERTY IN SCHEDULE C**

There is a possibility that an appraisal cannot be feasibly conducted due to inaccessibility, hazardous conditions upon a property, or the presence of uncooperative occupants. In the absence of an actual property appraisal, the Property Coordinators should calculate the average value between Zillow and Miami-Dade Property Appraiser's office less any mortgage balance. A detailed description should be entered in the Schedule C. Property values must be updated at least annually, at the end of the year, prior to annual reports being completed.

### **PROPERTIES WITH NEGATIVE EQUITY**

If the property has negative equity ("upside down") the Property Coordinators should enter a \$1.00 value in the Schedule C and on the property spreadsheet. A description should be entered reflecting the exact amount of negative equity.

### **PROCEDURE TO ABANDON PROPERTIES**

In the event that a property is non-negotiable (cannot be sold), the Property Coordinators should request Legal to obtain a court order to abandon the real property. The Property Coordinators should submit the following:

- Current value of the property
- Current mortgage statement
- Photos showing the condition of the property
- Evidence of condemnation, if any
- Copies of liens, violations, Lis Pendens
- Information regarding any pending foreclosure actions or Final Judgments of Foreclosure
- Status of property taxes

Upon receiving the court order, the Property Coordinators should clear the property from Schedule C and the property spreadsheet.

### **PERSONAL PROPERTY (LOCATED IN SCHEDULE D IN GMS)**

The Property Coordinators are responsible for all Ward-related Property and all entries in Schedule D for their applicable letters/cases assigned to them. They must review all entries regularly and ensure the property's location in the Schedule and that it is properly valued. All new personal property should be photographed and appraised. In addition, the description, value, and location of the items should be recorded in Schedule D. Schedule D must be updated at least annually prior to the preparation of annual accountings. Court orders shall be obtained for any property sales.

### **PERSONAL PROPERTY INVENTORIES AND CATEGORIES**

- Household furnishings, knick-knacks, etc: A value of \$1.00 should be entered in the Schedule D when initially inputted into the Schedule. If said items are deemed to contain possible value and are in good condition, items must be appraised by a personal property appraiser. If the personal property is valued in excess of \$1,500, then a second appraisal is required. If items are unsalvageable and unable to be sold due to deplorable conditions, a court order to donate, abandon and/or dispose of said items will be requested.
- Jewelry: These items must be appraised. The appraisal must include photos, description, and location of each item and the appraised value.
- Rare coins and bills: These items must be appraised. The same requirements exist for the appraisal as that of jewelry.
- Automobiles, trailers, and mobile home, and boats: An accurate value should be entered in the Schedule D. The Kelly Blue Book, which estimates vehicles up to 21 years old, or other reliable websites such as: nada.com, edmunds.com, cars.com or eBay should be utilized as a reference to determine the value of the automobiles. If the automobile is over 21 years old, the Property Coordinator will enter an estimated value in the Schedule D. In the event that the automobile is inoperable, a junk value of a minimum of \$100.00 should be entered in Schedule D. The Property Coordinator will obtain the necessary legal documents in order to liquidate the trailer, automobile, etc. Property Coordinator should locate or apply for a duplicate title. Status on loans and balances should be verified. In the case where the Ward expires and the personal property has not been sold, the Property Coordinator must meet with the Legal Department to determine the disposition of said property.

### **TEMPORARY STORAGE**

- Personal Property located in rental units: Appraisal and/or inventories of the Ward's personal property must include a copy of the lease agreement and attempt to obtain a copy of the keys to the apartment. Inventories and liquidation of said property must be expedited if the Ward continues to be charged a rental fee.

- All utilities must be disconnected immediately if not already disconnected if the Ward is no longer residing on the premises and there is no expectation of returning. This should be done on a case by case basis. Prior to disconnecting electricity, the refrigerator should be emptied and cleaned out.
- The Property Coordinator must obtain a statement from the landlord/manager as to the amount of overdue rent, if any. A copy of the lease must be routed to the Legal department to review the termination of the said lease. Rent arrearages should be paid only if the Ward has available funds.
- Any safe deposit boxes must be inventoried pursuant to court order and filed within ten days of the inventory of said box. A separate court order will be needed to remove items from the safe deposit box.

**Personal Property Appraisers/Vendors:**

- The Property Coordinator will maintain a spreadsheet of personal property vendors to be used on a rotating basis. This list should be updated regularly.
- The Property Coordinator will maintain a spreadsheet of personal property appraisers who will be used on a rotating basis. It is common and unfortunate in indigent cases for the personal property appraisal fees to exceed the personal property value. This dilemma presents a challenge to value such property. It severely reduces the pool of potential appraisers to only those who can provide services at an extremely low discounted rate or on a volunteer basis. The guardian may access references from local personal property appraisers' websites and networks. They may rely on references from other public or professional guardians, guardianship or estate attorneys, or professional colleagues within the probate and guardianship community. Email list-service groups such as ProGuard, or guardianship association groups such as the South Florida Guardianship Association may provide guidance and support in locating local personal property appraisers. If the Ward's personal items, other than those the Ward has retained with the guardian's assistance, contain no value, would incur moving and/or storage expenses that exceed the items' value, or are not sellable, then a court order must be obtained requesting items to be disposed of, donated or abandoned. GPDC shall always seek the input of family or friends as to the disposition of a Ward's personal property in the case of family mementos or monetarily worthless items with possible sentimental value.

**WEAPONS**

- If a firearm is discovered during an inventory, the Property Coordinators should notify their immediate Supervisor and the Executive Director. Property Coordinators shall immediately notify a designated firearms expert in order to take possession of the firearm, appraise said firearm and store the firearm. The Property Coordinator shall submit a request to sell the firearm(s) through a licensed firearms expert. Weapons discovered, other than firearms, such as knives, BB guns, swords, etc., should be stored at an outside storage unit until further disposition can be arranged. The designated firearms expert may be helpful in some cases, but need not be contacted in all cases involving non-firearm weapons. The Property Coordinators should notify their immediate Supervisor and the Executive Director for instructions regarding transport and/or delivery of any non-firearm type of weapon(s) to the GPDC office, or storage or if/when any are transferred from the GPDC office to another location.

**CASH AND OTHER VALUABLES**

Cash shall be counted with at least two designated GPDC staff members present and listed on the GPDC designated inventory sheet. Any cash discovered shall be immediately turned over to the Bookkeeping Department for deposit into the Ward's operating and/or restricted account, depending on the amount. A cash receipt should be obtained from the Bookkeeping Department.

**Jewelry:** All jewelry items must be photographed and listed on inventory sheet. Items must be stored in the file cabinet located inside the property room upon returning to the GPDC office. This cabinet shall be locked at all times. The key will be kept in the GPDC safe. Two GPDC staff members are required to be present in order to open the file cabinet. Jewelry should be appraised by a licensed gemologist. Once the Jewelry is appraised and if deemed authentic, and valued over \$500 then said Jewelry is to be placed in the GPDC safe, along with a copy of the inventory sheet. Jewelry should be itemized in the log that is located next to the GPDC safe. Due to the limited space in the safe log, jewelry could be itemized in the log that is located in the Public Drive/Storage. There is an item log kept atop the filing cabinet to be used for this purpose. If the Ward does not have any family to claim costume jewelry, or other sentimental jewelry-type items of no marketable value, the property coordinator should seek to sell the jewelry as soon as possible. If the Ward has family, they shall be notified of the intention to sell a Ward's jewelry in case there is sentimental value and the family would wish to assume the first right of refusal to purchase the jewelry from the Ward instead of selling it to a third party; either method shall be conducted with court approval. If unable able to contact family, the property coordinator will send certified letters with a required response date.

- **Rare coins and bills:** Photographs taken and listed on inventory sheet. Items to be placed in GPDC safe, along with a copy of the inventory sheet upon return to the office. Rare coins and bills must be itemized in the log that is located next to the safe. Items must be appraised by a numismatist.
- **Stock Certificates:** Must be entered in the Schedule E. Any stocks deemed valued over \$50,000 shall be turned over to a Brokerage house. If the value of the stocks is under \$50,000, they should be liquidated pursuant to court approval, the proceeds of which shall be deposited into a restricted depository. All stocks certificates should be placed in the safe deposit box at the designated bank which services the GPDC accounts.
- **Pre-Need Funeral Contracts/Burial Plots and arrangements:** Contract information must be given to Intake Coordinator/Assistant. Contact shall be made with funeral home/cemetery in order to verify any outstanding payments due or if the contract is paid up to date. Intake Assistant will enter information into Burial Info section of GMS, and Property Coordinator will enter Pre-need Funeral information into Schedule E.
- **Utility bills:** Property Coordinator to verify status of utility bills and effectuate change of billing address to GPDC address.
- **Original Last Will and Testament:** Must be delivered to Legal Department for deposit at courthouse and a copy placed for scanning. If any Wills are discovered that appear to belong to Ward's family, etc., they are to be delivered to the Legal Department.
- **Driver Licenses/ ID Cards:** Property Coordinator must check with the Intake Coordinator and verify I.D. as needed for Entitlements purposes before scanning.

- Telephone/personal address books, telephone bills, calling cards must be given to Intake Coordinator to try to locate possible relatives and/or friends.
- Personal documents: Health Insurance Cards, Medicare Cards, Social Security Cards, Medicaid Cards, Birth Certificate, etc. must be reviewed, documented and submitted for scanning.
- Advance Directives/Living Wills: Notes must be entered by Intake Assistant to reflect the Ward's end-of-life wishes in accordance with any specific documents discovered. Source of information must be identified. Documents must be delivered to Legal Department and filed with the court as needed. Document must be filed in the Ward's burial file.
- Clothing, photos, religious artifacts should be retrieved and provided to the Ward for use or to qualified family members for sentimental purposes. Items must be logged in/out of the property room.
- Insurance papers: Renters, homeowners, windstorm and/or flood insurance, automobile insurance, life insurance, and mortgage information, etc., must be verified by Property Coordinator and documented accordingly.
- All documents received should be scanned and kept in the Ward's file.

**INTANGIBLE ASSETS (SCHEDULE E)**

Entry of Life Insurance Policies, Stocks, Bonds, Annuities, Brokerage Account (s), Pooled Trusts, and Pre-Need Burial Arrangements. Accurate values and detailed descriptions should be entered in Schedule E. Property Coordinators shall obtain monthly or quarterly statements for all annuities, bonds, investments, mutual funds, IRA's, life insurances, pooled trusts, etc. Some exceptions may apply. All values must be updated annually, by the end of the calendar year.

**PROCEDURE FOR PETS**

The following procedure should be followed during a residential relocation of a Ward:

In the event that no person including family, friends, neighbors, etc. can provide care for the Ward's pet(s) on a temporary or permanent basis, an alternative placement should be arranged by the Property Coordinators. It is the guardian's understanding that pets are considered companions to the Wards and it is the guardian's goal to make all reasonable efforts to keep the Wards united with their pets in their new placement whenever feasible.

- Alternative placement: Animal boarding facilities.
- The animal boarding facility should provide transportation for the animal. The Property Coordinators are not obligated to transport the animal to the boarding facility or any other place without a proper cage, based on the size of the animal.
- Emergency funds will be available to cover the cost of the temporary boarding for up to four days. After such time, permanent housing decisions must be made. The cost of transportation may be covered by the GPDC emergency fund, if necessary. Each case will be individually assessed.



- In some circumstances, the animal may remain at the home and plenty of food and water will be provided by GPDC Property Department. In these cases, the Property Coordinators will have 72 hours to arrange a proper placement with family, friends, neighbors, or others, or temporary boarding facilities. The property coordinators will be required to monitor the care of the pet daily until placement is arranged.
- In the event that the property coordinators feel that they are unable to handle the animal or would place themselves in danger by doing so, or that the animal is found in a deteriorated medical condition Animal Control should be contacted to handle the animal. Miami Dade County Animal Services' phone number is (305) 884-1101 and in Broward it is (954) 359-1313.

### **EVICTIION & EJECTMENT OF TENENT / FAMILY PROCEDURES**

- Overdue or unpaid rent or household expenses of occupant(s): The Property Coordinators will post a "3 Day Notice." This notice serves as a warning to the occupant(s).
- Meet with the Legal Department if/when no payments have been made. Property Coordinators will meet with the GPDC attorneys to determine if eviction or ejectment of the tenant(s) would be beneficial to the Ward:
  - Determine if occupants are lawfully residing and/or if Ward permitted arrangement
  - Determine if occupants are maintaining or damaging the property
  - Determine property value, Ward's wishes and considerations involved in selling or retaining property.
  - Evaluate funds to determine whether or not Ward has enough funds for an eviction.  
(Basic estimate of attorneys' fees and costs: \$1200.00+)
- Legal action: After reviewing the case, the Legal Department may refer an attorney to handle the eviction/ejectment.
- Retention of Counsel: The Legal Department will obtain a court order to retain an attorney to file the eviction/ejectment.
- A Writ of Possession Order: Upon receiving the Writ of Possession based on the legal action, the Sheriff will contact the Property Coordinators to coordinate a meeting at the Ward's property. At this time, the Sheriff will post the Writ of Possession Order, and the Property Coordinators will take possession of the Ward's property:
  - \*Ensure that the tenants leave the Ward's property with their belongings.
  - \*Contact Locksmith to secure the property.

### **DECEASED WARDS**

#### **Open an Estate**

- Upon the expiration of a Ward and following the case worker's notification to the family and funeral arrangements, etc., the Property Coordinator will notify the Legal Department. The Legal Department will determine if it is necessary to contact the Ward's family to encourage them to open an Estate.
- The legal department is responsible to contact the attorney who will be handling the Estate, if any.

#### **Appointment of a Curator**

The Property Coordinator will notify Legal Department regarding any remaining property immediately after the Ward's expiration. The Legal Department will determine if a court appointed Curator would be needed in the case, as follows:

- If the Ward does not have family to open an estate.
- If the Ward has assets (real and personal property in excess of \$5,000.).
- Legal should file for an appointment of a curator within 1-3 months of the Ward's expiration.
- Property is responsible to visit the property and monitor for break-in, city violations, trash, etc., until a curator has been appointed. Upon the appointment of a curator, the property should be transferred to the removed list on the property spreadsheet and removed from Schedule C.

### **DRUG PROCEDURE**

If unidentified suspicious substances are discovered while conducting a visit, inventory, or other related Ward activity, the Property, Intake Coordinators, or Case Managers should contact their immediate Supervisor, Executive Director, Director of Legal, or Director of Finance. Local law enforcement may need to be contacted. There shall be no circumstances where controlled substances are transported by the Property Coordinators or any GPDC staff members.

### **PROPERTY/HOME REPAIRS AND PERSONAL ITEMS**

When the Ward is residing in a home in need of repairs and that Ward owns or shares ownership, upon being made aware of the need for repairs, the GPDC case workers are to notify the Property Department. The Property Department will contact several local companies to obtain an estimate of 2-3 bids with an estimated cost for completing the work. A vendor's reputation for reliability and timeliness is a determinative selection factor.

The Property Coordinator will submit a court order request or the work to be completed by the appropriate company. The Property Coordinator and the Case Manager will meet the company at the Ward's home to begin the work and take photographs of the condition of the property before and after the work. If the Ward is comfortable and manageable, the Ward may remain in the home during the process as the repairs may take some time to complete. Once the work is completed, GPDC will inspect the repaired area. Once the area is approved the invoice will be submitted to bookkeeping for payment. A follow up report to court should be prepared to document the completion of the project.

When a Ward resides with a relative (mother, father, sister, brother, etc.) and major repairs and replacements are needed to the property, the Ward may need to be temporarily relocated to a suitable facility. If the Ward has the means to fund the repairs, but does not own the property, the following must be considered and addressed prior to agreement for repairs or seeking court approval:

- Status of the home's condition and ownership
- Ward's monthly expenses, contribution, if any
- Mortgage holder, if shared ownership
- How would the owner repay the Ward if needed
  - What provisions are made to repay the Ward in case the owner shall predecease the Ward
  - Whether the property owner is willing to sign a Promissory Note
  - Consult with the Legal Department for review



If it is in the best interests of the Ward to remain living at the property and if the guardian were to allow for the repairs, purchase of items such as appliances, etc., once it has been established that the Ward will be fully repaid, all documents, along with pictures, will be submitted to court for approval. No remodeling or substantial repair work is to precede court approval.

# **MIAMI-DADE COUNTY**

## **OFFICE OF THE INSPECTOR GENERAL**



## **FINAL AUDIT REPORT**

### **EXHIBIT 3B**

**GPDC's Property Duties & Guidelines – Revised Sept 17, 2021**

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***Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties***

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**IG23-0002-A  
July 31, 2024**



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# GUARDIANSHIP PROGRAM OF DADE COUNTY

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Property Duties & Guidelines



REVISED: SEPT 17, 2021  
GUARDIANSHIP PROGRAM OF DADE COUNTY  
8300 NW 53RD ST SUITE 402 DORAL FL 33166

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**I. Property Guidelines****A. Scheduled / Managed Visits procedure:**

- Staff is expected to input their foreseen upcoming visits for the week. Calendars of each staff member must be shared with all supervisors and team leads.

**B. Hybrid Schedule:**

- Staff is expected to be in the office 3 times a week, with the exception of time needed to complete visits and other job function that require that they be in the field.

**C. Assignment of New Cases:**

- The Director of Intake and Property will send an email to all the Intake and Property Coordinators. At this time, the case will be assigned to the Intake Coordinator. In the absence of the Director of Intake and Property, this task will be completed by a specified employee.

**D. New Active and ETG Cases:** The Intake Coordinators will complete the following tasks:

- Review petitions and court files prior to the Initial Visit.
- Complete the Initial Visit within 72 hours of appointment of guardianship.
- Take a photograph of ward for identification purposes.
- Provide Intake Assistant information to update ward database.
- Make contact with relatives, doctors, social workers, friends, for more information on ward.
- Family notification: If the ward expired, changed placement, hospitalization, DNR requested, prior to complete pre-needed arrangements, any other major changes.
- Inform Entitlements to apply for benefits (SSI, SSA, OSS, ICP, Food Stamps, ETC).
- Purchase groceries, clothes, personal items, etc, if necessary.
- Move ward from home, if necessary.
- Arrange transportation and other services, if necessary.
- Enroll wards with the Public Internment Office, if applicable.
- Enter time logs in the computer system within 48 hours of the activity.
- Place ward on auto-pay upon receiving income.
- Complete monthly visits.
- Review and submit bills for payment.
- Review the ward over assets report monthly. Funds in Schedule A should not exceed 2,000.00.
- Prepare report to court, if necessary.
- Check the legal calendar on a daily basis.
- Attend criminal court hearing, if necessary.
- Attend Re-Determination and Restoration hearings.
- Complete Entitlement check list within 10 days of guardianship.
- Submit request to bookkeeping to open a burial account if funds are available.

**E. For ETG cases only:**

- Complete Emergency Temporary Guardian Activity Report and Inventory Report within 30 days of the ward's status being "Active." Submit original to the Director of Intake & Property.
- Complete the Notice of Relocation form for ETG wards due to move to a new location, whereabouts unknown, and death, if applicable. This form is provided by the intake assistant and can also be found in the intake drawer.
- Obtain a court order prior to placement outside Miami-Dade County.
- Meet with staff attorney to discuss cases prior to the capacity hearings
- Attend Capacity Hearings, if needed.

**F. For Active cases only:**

- Complete Initial Plan within 60 days of Guardianship. Submit original to the Director of Intake and Property.
- Complete Report of the Public Guardian within 60 days of Guardianship. Submit original to the Director of Intake and Property.
- Complete Annual Plan. Submit original to the Director of Intake and Property.
- Obtain physician reports. Submit original to the Director of Intake and Property.
- Complete the staffing check list 2 weeks prior to the staffing meeting.
- Complete Evaluation which includes: Background, past history, medical information, financial, relatives/friends to be entered by the Intake Assistant.
- Complete the Six Month Report within 6 months of Guardianship.

**G. Activity Notes:**

- Phone activities must be entered within 1 days. The field activities must be entered within 2 working days; DNR and pre-need activities must be entered ASAP.

**H. Field visits:**

- Choice of morning visits or afternoon visits; only one home-home are accepted per week. However, they need to be approved by team lead prior to doing.
- **Mondays:** report to office in the a.m. / or first day of the week when office closed on Monday. Unless approved by team lead.

**I. Photo id:**

- After taking passport photo, refer receipt and photo to administration. Admin will then make the photo id.



**J. Computer password:**

- Submit a code consisting of five or more digits or letters of your choice. Submit to supervisor / administrator.

**K. Phone:**

- Password is needed when making a long distance call.

**L. Standard logs - *see list***

- Codes used when entering activity notes. It's a short cut w/codes that allows the computer to automatically input certain information.

**M. Activity codes - *see list***

- Codes used when entering activity notes. These codes describe certain activity of which reports can be pulled when desiring specific information

**N. Bills and supervisor's initial**

1. All bills **will not require** your Supervisor's initials, such as items below:

- FPL bills
- Home telephone bills
- Most bills of less than \$100 (see exceptions below)

2. Supervisor's initials **will be required** for bills such as:

1. Cell phone bills (that can change and add up quickly)
2. Cable bills (due to same reason above)
3. Bills of \$500 or more

If you receive an invoice for a ward that is currently on auto pay for R&B and the bill has already been paid, you will no longer need to enter the check number on this invoice. However, upon your review, if you notice that this bill reflects a change in the amount listed in pending payables, submit this invoice along with a copy of the pending payable discrepancy to bookkeeping so that they can update the system. Write on this invoice "update pending payables."

**C. White Check Request Form:**

- The White Check Request Form **will not** require a supervisor's initials if it has been initialed by the CM and the amount of the requesting less than \$500. (Please note that this does not include the pink form)
- D. See additional info below regarding bills upon closure of a bank account.

## II. INSTRUCTIONS FOR PROPERTY COORDINATORS

Property Coordinators are responsible for maintaining and accounting for all Ward real, personal and intangible property reflected in schedules C, D and E. For Schedule C, besides in GMS, separate spreadsheets must be maintained reflecting proper values, visits and other items deemed necessary by GPDC management and the Board.

Property Coordinators are assigned specific letters of the alphabet designating Ward responsibilities. They need to go through all 3 schedules as required in the procedures but at least annually, and ensure that the property is located where it is indicated, valued properly, and that no changes have taken place with the property. Schedules C, D, and E should be reviewed on a monthly basis. Case Management or the Intake Coordinators should be contacted if they are involved.

If any property is found to be missing, it must be documented immediately to the Director of Intake/Property and the Executive Director.

Property Coordinators are responsible for handling all inventories to be completed. The individuals doing the inventories will be assigned by the Director of intake/Property or another employee in his/her absence. Each inventory will require at least a Property Coordinator and another employee from the Agency as a witness. A maximum of two employees will be at an inventory unless approved by the Director of Intake/Property and the Executive Director in advance.

All inventories must be completed within 30 days of the date of guardianship or ETG date. Some inventories will need to be performed sooner than 30 days, depending on the circumstances. Director of Intake/Property will advise priority cases.

All inventories and appraisals must include photographs of any items described in the inventory or appraisal. If there is an appraisal, the appraisal must include a dollar value for each item listed.

All Property Coordinators are required to keep appropriate equipment and protective clothing/masks in their cars at all times to handle inventories that may be problematic.

**THE PROPERTY COORDINATORS SHOULD CONTACT THE POLICE IF THEY SUSPECT ANY IMMINENT DANGER OR REQUIRE ANY ASSISTANCE WITH A PROBLEMATIC WARD.**

### A. Real Estate Property (Schedule C)

#### **Real Property Procedures/Categories:**

Single family home, Condominium, Duplex, Commercial/Business property, and Vacant land.

All Real Property should be entered in Schedule C and the Property Data Spreadsheet. If the property is upside down, enter the value as \$1.00. Schedule C should reflect the net value of the property including the mortgage. These values should be updated in GMS, and the property spreadsheet as needed, but especially in November prior to annuals.

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The Property Coordinator should verify the following information:

- Title/Ownership of the property.
- Property Deed (location and details).
- Status of mortgage or estimate of any reverse mortgage.
- Status of property taxes, and any applicable exemptions: Homestead, Widow, Sr., etc.
- Insurance (Homeowner, flood, rental, and windstorm, if applicable).
- Maintenance fees, if applicable.
- Home repairs (status and details). Property damage due to natural disaster, fire, etc. If applicable, check the status of insurance claims, FEMA, etc.
- Occupancy (verify if somebody is living in the ward's residence. For example, Family members, tenants, etc.).
- Contact Locksmith to secure the property if needed.
- Liens, violations, etc.

#### **B. Property Visits:**

- Vacant properties within Miami-Dade and Broward County should be visited monthly.
- Vacant properties located in Monroe County, Palm Beach County, Collier County, and Martin County should be visited every six months as long as the property coordinator has telephone contact with realtors, neighbors, family, etc. on a monthly basis. If the property coordinator is unable to establish any contact with any of the previous mentioned people, the visit should be every three months.
- Contact with other Public Guardians should be explored for the purpose of visiting properties in Florida other than Monroe, Miami-Dade, Broward, Collier, Palm Beach, and Martin Counties.
- Rental properties should be visited every three months.
- Rental properties where the ward is co-owner should be visited every six month.

#### **C. Property Hurricane Procedures:**

- The Property Coordinators should obtain **and maintain** information of homeowners insurance and hurricane shutters on all the properties.
- In the event that we are directly threatened by a hurricane, the Property Coordinators will contact the appropriate vendors to put up shutters for the wards living in the community **after being notified** by the Case Managers and the Intake Coordinators.

#### **After the storm:**

- In the event of category 1-5 hurricane hitting the area, or any substantial storm that created widespread damage, the Property Coordinators will visit **all** properties to assess possible damages when travel is permitted.
- Case Manages and Intake Coordinators should notify the Property Coordinators as soon as they have knowledge of property damages for the wards living in the community.



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- Property Coordinators should take pictures and contact the homeowners insurance to report damages, if applicable.
- In the event that wards living in the community do not have homeowners insurance, the Property Coordinators will contact the appropriate vendors to obtain at least two estimates to repair damages **after being notified** by the Case Managers and Intake Coordinators.
- Case Managers and Intake Coordinators are responsible to authorize payment for the repairs.

### III. PROCESS FOR SELLING REAL ESTATE PROPERTY

Following are general guidelines concerning real property:

- Property meetings to discuss all real property issues will be held regularly and on average every 3rd week. Target date currently is every 3rd Friday.
- Attendees include but not limited to all the Property Coordinators, the Director of Intake & Property, legal support staff handling related court orders and closings, the lead attorney on property issues, and the Executive Director.
- Other attendees may include assigned caseworkers and the Director of Case Management.
- The regularly updated Real Property for possible sales spreadsheets will be reviewed in order each time. These are generally the properties in Schedule C and from the Real Property by Category Spreadsheet.
- All pending factors will be considered such as possible foreclosures, liens, pressing deadlines for these, state of maintenance of the residence, and the type of real property such as between condo and single-family house for instance.
- Specific factors will be considered related to the ward's health and physical well-being. For example, the possibilities for restoration and/or returning to the residence.
- Repairs if any needed and/or services if any needed should ward return to the residence. Factors also to include assets needed and available for the residence upkeep.
- Additional GPDC staff to be consulted as needed on the aforementioned issues. Additional client visits may be warranted involving a senior caseworker and/or supervisor to further consider the ward's personal situation.
- If moving forward with a sale, then factors to consider include how best to achieve the actual sale, and how best to leverage the sale in favor of the client. For instance, if a condo there frequently are restrictions which present obstacles. A realtor may be the best route on that occasion.
- If a realtor route is chosen, then the realtor selection process listed further in these guidelines will be followed.
- At all times the probate requirements, and all legal requirements will be followed.

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Additional guidelines and criteria:

- GPDC's goal is to have as few real properties as possible in inventory and to get rid of as many properties as possible unless the Ward is living in the property. We want to minimize GPDC's liability and our work load when it comes to all the properties, we have responsibility for;

-We should be attempting to secure insurance for all properties where the Ward has money; The Properties by Category spreadsheet needs to be updated regularly for any value changes, additions or deletions;

-For the Wards residing in Property section, we can't attempt to sell unless Ward moves out. Visits need to be made monthly by Case Management;

-For the Families Residing in Property section, Legal has indicated that because of Medicare laws, we may not be able to sell the properties with value because it could impact Medicaid payments. For any properties that are upside down, we should review those situations and perhaps pursue selling. If there are no Medicaid issues, we can pursue selling depending on the circumstances;

-For the Tenants Residing in Property section, Legal indicates we should try and sell all these properties;

-For the Vacant Property section – Legal indicated we should try and sell all these properties or work with the banks to get rid of them as soon as possible if they are in foreclosure;

-For the Expired Wards section, this process will mainly involve the Legal Department doing follow ups and Property assisting as needed. The legal process will be that when a Ward passes away, the family/interested parties should be contacted and advised to get an attorney within 30 days to open an estate. If an Attorney is appointed, and we are advised that an estate is opened up, the legal assistant should advise everyone and then the property should be removed from Schedule C and all spreadsheets (move to a "Properties removed from Schedule C" spreadsheet for tracking). If an attorney is not appointed within 30 days, Property should follow up and give them an extra 30 days to get an attorney and the estate opened. If that does not take place within 60 days of death, or if there is no family to contact, Legal will petition the Courts to have a Curator appointed. This could take 30 to 90 days. As soon as the Curator is appointed, legal should advise everyone and we can remove the property from Schedule C and the Property spreadsheet. During the 30-90 day period that we are trying to get a Curator, if the property is upside down because of a mortgage or reverse mortgage, the Property group must follow up regularly with the banks involved to attempt to have them take over the property and/or change the title to get the responsibility of the property removed from GPDC. If the Courts refuse to appoint a Curator based on our Petition, Property will work directly with the banks to get them to take over the property.

-When ready to sell, Property Coordinators will select a realtor from the list if applicable, with the concurrence of the Director of Intake/Property. (See Property Vendors Spreadsheet).

-The Property Coordinators will select a real estate appraiser from the list, with the concurrence of the Director of Intake/Property. (See Property Vendors Spreadsheet).

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- The Property Coordinator will obtain the appraisal report.
- Following the court order, obtain contract from buyer and submit to the Legal department for review.
- After sale is completed, funds should be routed to bookkeeping to be deposit into the ward's account.
- An entry in Schedule C should be completed and reversed and the real property spreadsheet updated.

#### **IV. PROPERTY INSURANCE**

- Property Coordinators should be attempting to secure insurance for all properties where the ward has money. Once obtained, the insurance should be renewed on an annual basis. In order to obtain lower rates, it is suggested that high deductibles be maintained. If the property cannot be insured because of the condition of the property, copies of the rejection by the insurance companies should be scanned and maintained in the ward file.
- In the event that the ward cannot pay for the insurance, the Property Coordinator should notify the Director of Intake/Property, The Executive Director, The Director of Financial Services and General Counsel to determine a course of action.

#### **V. VALUING PROPERTY IN SCHEDULE C**

In the absence of an actual property appraisal, the Property Coordinators should take the average value between Zillow and Miami-Dade Property Appraiser's office less any mortgage balance. A detailed description should be entered in the Schedule C. Property values must be updated at least annually at the end of the year prior to annual reports being completed.

#### **VI. UPSIDE DOWN PROPERTIES**

If the property is upside down, the Property Coordinators should enter a \$1.00 value in the Schedule C plus the property spreadsheet. A description should be entered reflecting the exact negative equity.

#### **VII. PROCEDURE TO ABANDON PROPERTIES**

In the event that a property can't be sold, the Property Coordinators should request Legal to obtain a court order to abandon the real property. The Property Coordinators should submit the following:

- Current value of the property
- Current mortgage statement
- Photos showing the condition of the property

Upon receiving the order, the Property Coordinators should clear the property from Schedule C and the property spreadsheet.



**VIII. PERSONAL PROPERTY (LOCATED IN SCHEDULE D IN GMS)**

The Property Coordinators are responsible for all Ward Property and all entries in Schedule D for their applicable letters assigned to them. They must review all entries regularly and ensure the property is where it is indicated in the schedule and that it is properly valued. All new personal property should be photographed and appraised. In addition, the description, value, and location of the items should be recorded in Schedule D. Schedule D must be updated at least annually prior to the annuals being run. In the event of selling property, a court order **MUST** be obtained.

**IX. PERSONAL PROPERTY INVENTORIES AND CATEGORIES**

- Household Furnishing, Knick Knacks, etc: A value of \$1.00 should be entered in the schedule D when initially inputted into the schedule. If said items are found to be in good shape, then these items must be appraised by a personal property appraiser. If the personal property is valued in excess of \$1,500, then a second appraisal is required. (Some Judges require a second appraisal if the value is and/or over \$1,500). If items unable to be sold due to deplorable condition a order to donate or dispose of said items will be requested.
- Jewelry: These items must be appraised. The appraisal must include photos, description, and location of each item and the appraised value.
- Rare coins and bills: These items should be appraised. The same requirements exist for the appraisal as that of jewelry.
- Automobiles, Trailers, and Mobile Home, and Boats: An accurate value should be entered in the schedule D. The Kelly blue book or any other reliable website such as: nada.com, edmunds.com, cars.com or even eBay should be utilized as a reference to determine the value of the automobiles. If the automobile is older than 1991, the Property Coordinator will enter an estimate value in the schedule D. In the event that the automobile does not work, then, a junk value of a minimum of \$100.00 should be entered in the schedule D. The Property Coordinator will obtain the necessary legal documents in order to liquidate the trailer, automobile, etc. Property Coordinator should locate or apply for a duplicate title. Status on loans and balance should be verified. In the case where the ward expires and the personal property has not been sold, the Property Coordinator must meet with the Legal department to determine the disposition of said property.

**X. TEMPORARY STORAGE**

- Personal Property located in rental units: Appraisal and/or inventories of the ward's personal property must include a copy of the lease agreement and attempt to obtain a copy of the keys to the apartment. Inventories and liquidation of said property must be expedited if the ward continues to be charged a rental fee.



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- All utilities must be disconnected immediately if the ward is no longer residing in the apartment and cannot return to the apartment. This should be done on a case by case basis. Prior of disconnecting electricity, the refrigerator should be emptied and cleaned out.
- The Property Coordinator must obtain a statement from the landlord/manager as to the amount of rent due, if any. A copy of the lease must be routed to the Legal department to review the termination of the said lease. Owed rent should be paid only if the ward has funds.
- Any safe deposit boxes must be inventoried and filed within ten days of the inventory of said box.

**Vendors:**

- The Property Coordinator will maintain a “**Spreadsheet of Vendors**” to be used on a rotating basis. This list should be updated regularly.
- The Property Coordinator will maintain a “**Spreadsheet**” of personal property appraisers who will be used on a rotating basis. If any of the above mentioned items are not sellable, then a court order must be obtained requesting items to be disposed.
- The Property Coordinator will maintain a list of **Investors** for use in emailing out problems properties for sale.

**XI. WEAPONS**

- If a firearm is found during an inventory, the Property Coordinators should notify their immediate Supervisor and the Executive Director. Property Coordinator will then contact designated firearms expert in order to pick up the firearm, in order to appraise said firearm and store the firearm, the Property Coordinator will then submit a request to have the firearm sold by firearms expert, unless a family member is interested in keeping said firearms. Which then the order will be to sell the firearms to that family member. Anything other than a firearm that may be considered a weapon such as knives, BB guns, swords, etc., should be stored at the outside storage unit. The designated firearms expert should not be contacted in those cases. The Property Coordinators should notify their immediate Supervisor and the Executive Director any time any weapon is brought into the office or transferred from the office to another location.

**XII. CASH AND OTHER VALUABLES**

Count and list on inventory sheet. Cash is directly given to the Bookkeeping Department for deposit in the ward's operating account upon return to the agency. A cash receipt should be obtained from the Bookkeeping Department.

- **Jewelry:** All jewelry items must be photographed and listed on inventory sheet. Items must be stored in the file cabinet located inside the property room upon returning to the agency. This cabinet should be locked at all times. The key will be kept by the Director of Intake and Property. Two people are required in order to open this file cabinet. Jewelry must be appraised by a gemologist, once the Jewelry is appraised and is found to be real and valued more than \$500 then said Jewelry is to be placed in the agency safe, along with a copy of the inventory sheet. Jewelry should be itemized in the log that is located next to the agency safe. \* Due to the limited space in the agency safe log, jewelry could be itemized in the log that is located in the Public Drive/Storage.

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Also, in the Property room there is a log that is kept on the filing cabinet. If the ward does not have any family, the property coordinator should sell the jewelry as soon as possible. If the ward has family, they need to be notified and in agreement with the sale of the jewelry. If unable able to get in contact with the family, the property coordinator will send certified letters with a required response date. Family should always be given the option to buy the ward's jewelry.

- Rare coins and bills: Photograph taken and listed on inventory sheet. Items to be placed on agency safe, along with a copy of the inventory sheet upon return to the agency. Rare coins and bills must be itemized in the log that is located next to the agency safe. Items must be appraised by a numismatist.
- Stock Certificate: Must be entered in the schedule E. Any stocks found that have a value over \$50,000 need to be turned over to a Brokerage house. If the value of the stocks is under \$50,000., they should be liquidated. All stocks certificates should be placed in the safe deposit box at Mellon National Bank until distribution.
- Pre-Need: Contract information must be given to Intake Coordinator/Assistant which will then contact Funeral home/Cemetery in order to verify if anything is pending. Intake Assistant will then enter information into Burial Info section of GMS, and Property Coordinator will then enter Pre-need information into Schedule E.
- Utility bills: Property Coordinator to verify status of bill and change billing address.
- Original Last Will and Testament: Must be given to the Legal Department for recording of said will and a copy placed for scanning.
- Driver Licenses/ ID Cards: Property Coordinator must check with the Intake Coordinator in order to verify if I.D. is needed for Entitlement purposes before scanning.
- Telephone books, telephone bill, calling cards must be given to Intake Coordinator to try to locate possible relative and/or friends.
- Personal documents: Health Insurance Cards, Medicare Cards, Social Security Cards, Medicaid Cards, Birth Certificate, etc. must be submitted for scanning.
- Living Will: Notes must be entered by Intake Assistant in the computer systems to reflect the ward's wishes and document must be filed in the ward's burial file.
- Clothing, photos, religious artifacts should be retrieved and given to the ward or family members for sentimental purposes. Items must be log in/out of the property room.
- Insurance papers: Homeowner, automobile insurance, life insurance, and mortgage information, must be verified by Property Coordinator.
- All documents received should be scanned and kept in the ward's file.
- Applies to ALL above.

**XIII. INTANGIBLE ASSETS (SCHEDULE E)**

Entry of Life Insurance Policies, Stocks, Bonds, Annuities, Brokerage Account (s), Pool Trusts, and Pre-Need Burial Arrangements. Accurate values and detailed descriptions should be entered in the schedule E. Property Coordinators should get either monthly or quarterly statements for all annuities, bonds, investments, mutual funds, IRA's, life insurances, pool trusts, etc. Some exceptions may apply. All the values must be updated at least annually, by the end of the year.

**XIV. PROCEDURE FOR PETS**

The following procedure should be followed during the move of a ward:

- In the event that no person including family, friends, neighbors, etc can provide care for the ward's pet or pets on a temporary or permanent basis, an alternative placement should be arranged by the property coordinators.
- Alternative placement: Animal boarding facilities
- The animal boarding facility should provide transportation for the animal. The property coordinators are not obligated to transport the animal to the boarding facility or any other place without a proper cage, based on the size of the animal.
- Emergency funds will be available to cover the cost of the temporary boarding for up to four days. After this, a decision needs to be made to determine where the animal will be permanently housed. In addition, the cost of transportation may be covered by the agency, if necessary. Each case will be individually assessed.
- In some circumstances, the animal may remain at the home and plenty of food and water will be provided. In these cases, the property coordinators will have 72 hours to arrange a proper placement with family, friends, neighbors, or others, or temporary boarding facilities. The property coordinators will be required to monitor the care of the pet daily until placement is arranged.
- In the event that the property coordinators feel that they are unable to handle the animal or would place themselves in danger by doing so, or that the animal is found in a deteriorated medical condition Animal Control should be contacted to handle the animal. Animal Control phone number in Miami-Dade is (305) 884-1101 and in Broward it is (954) 359-1313.



Revised: 09/17/2021

**XV. EVICITION OF TENANT / FAMILY PROCEDURES**

- Rent not been paid - The Property Coordinators will post a “3 Day Notice” – This notice serves as a warning to the tenant(s).
- Meeting with the Attorneys – Once the time allowed passes and payment was not received, the Property Coordinators will meet with the GPDC attorneys to determine if evicting the tenant(s) is beneficial to the ward:
  - \*Does the ward have enough funds for an eviction? From \$1200.00 and up
  - \*Is the property upside down in value? - Unable to sell.
- The Legal Department will refer an Attorney – After reviewing the case, the legal department will refer an attorney to do the eviction.  
Contact the Attorney – The Property Coordinators will contact the attorney to obtain an agreement and fees.
- Obtain a Court Order – The Legal Department will obtain a court order to retain the attorney filing the eviction.
- A writ of Possession Order – The attorney who is filing the eviction will obtain the writ of Possession Order. Upon receiving the order, the Sheriff will contact the Property Coordinators in order to meet them at the ward’s property. At this time, the Sheriff will post the writ of possession order, and the Property Coordinators will take possession of the ward’s property:
  - \*Ensure that the tenants leave the ward’s property with their belongings.
  - \*Contact Locksmith to secure the property.

**XVI. DESEASED WARDS****A. Open an Estate**

- Immediately after the ward expires, the property coordinator will notify the Legal Department to contact the ward’s family and encourage them to open an Estate.
- The legal department is responsible to contact the attorney who will be handling the Estate.

**B. Appointment of a Curator**

The property coordinator will notify Legal Department of possible appointment of a curator immediately after the ward’s expiration.

- If the ward does not have family.
- The ward should have assets (real and personal property in excess of \$5,000.).
- Legal should file for an appointment of a curator within 1-3 months of the ward’s expiration.
- Property is responsible to visit the property and monitor for break-in, City violations, trash, etc., until a curator has been appointed. Upon the appointment of a curator, the property should be transferred to the removed list on the property spreadsheet and removed from schedule C.

**XVII. DRUG PROCEDURE**

If illegal drugs are suspected and found while conducting a visit, inventory, or other related ward activity, the Property, Intake Coordinators, or Case Managers should contact their immediate Supervisor, Executive Director, Director of Legal, or Director of Finance.

**XVIII. PROPERTY/HOME REPAIRS AND PERSONAL ITEMS**

When the ward is residing in a home of which they have complete or shared ownership, upon being made aware of the home needing repairs, the workers are to notify the property department, who will then contact 2 to 3 companies to obtain an estimate of 2-3 bids, entailing the worker that is needed and an estimated cost for completing the work. The property worker will then submit a request to obtain the courts authorization for the work to be completed by the appropriate company. The property coordinator and the case manager will meet the company at the wards home to begin the work. If the ward is comfortable and is manageable, the worker may leave the ward home as the repairs may take some time to complete. Once the work is completed, both parties will inspect the repaired area. Once the area is approved the invoice will be submitted to bookkeeping for payment. A follow up report to court will be submitted advising that the work is complete.

When the ward is residing with a relative (mother, father, sister, brother, etc) and major repairs and replacements are needed, the ward may need to be relocated to a suitable facility. If for some reason the ward is difficult and is refusing new placement, thereby making the current resident the most agreeable placement, and the ward has the means to fund the repairs, the following must be considered and addressed prior to seeking the courts approval:

- What is the status of the home
- Is there a mortgage or has it been paid off,
- Who is holding the mortgage, if anyone,
- How would the owner repay the ward,
- Would the owner sign 10% ownership to the ward,
- What prevision are made to repay the ward in case the owner shall precede the ward in sickness or death,
- Is the owner willing to sign a promissory note
- Consult with the Legal Dept for review

If the ward agrees with the repairs and the replacement of household appliances, and once it has been established that the ward will be fully repaid, all documents, along with pictures, will be submitted to court for approval. No work is to precede the courts approval.

# **MIAMI-DADE COUNTY**

## **OFFICE OF THE INSPECTOR GENERAL**



## **FINAL AUDIT REPORT**

### **EXHIBIT 4**

**GPDC's Notification Letter to OPPG – July 26, 2023**

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***Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties***

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**IG23-0002-A  
July 31, 2024**



**MEMORANDUM**

TO: Clark Gates, OPPG  
FROM: Carlos McDonald, GPDC  
RE: Reporting new information & pending OIG review  
DATE: July 26, 2023

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This is to formally report on recent information that has surfaced and concerning to us irrespective of the pending Miami OIG audit. The issues of concern have more to do with GPDC policies and did not involve the “allegations” that prompted the on-going OIG review. Inasmuch, due to the OIG review is when the information became known for the first time. Most importantly, the issues did not impact adversely any of our wards.

The OIG as part of their on-going review has interviewed a couple dozen of GPDC employees (we employ 63 full-time staff). In recent days, the OIG interviewed separately the 3 employees with titles of Property Coordinators and comprise part of our Intake and Property Department. Certain information was presented during those interviews by the OIG regarding two of the Coordinators. In short as a result one Coordinator resigned last week, and the second resigned just this morning.

The first Coordinator essentially disregarded GPDC policies by at a minimum not disclosing important information regarding potential conflicts of interest on two occasions. The first instance dates back to 2014. Basically, GPDC sold real property in 2014 to an investment firm MAIA Investments (not the central character in the allegations or news stories). (GPDC records show only one property ever sold to MAIA Investments since 2012.)

For the overall record, since 2012, GPDC has been honored to serve well over 4,000 individuals of which after careful considerations less than 3% of these cases involved real property transactions. In essence, a little over 125 real properties all told.

The property in 2014, a 1,382 sq.ft. home was appraised at \$120,000 and sold to MAIA for \$125,000. Three months later the property was sold again by MAIA Investments to a person that was our employee’s girlfriend at the time for \$149,000. They married in 2019 and since then our employee resides there.

The same Coordinator had a close friend that GPDC utilized as the listing realtor on two real property sales in 2022. That friendship was never previously disclosed. One property was appraised at \$912,000 and sold for the highest offer of 3 received at \$911,000. Though an expensive home there is actually an Instagram video still on the internet that in essence is ridiculing the listing price due to the terrible state of the property.

The second home handled by the same friend realtor was appraised at \$105,000 and sold to the highest offer of 4 received at \$145,000. The lack of required disclosure per GPDC policies is additionally unfortunate because this realtor actually performed exceedingly well with completeness of paperwork, obtaining multiple offers, listing the property on the MLS etc. Frankly, the profile of realtor that should be used.

The second Coordinator had a close friend, and who was also a business associate, that purchased a home, as an individual, directly from GPDC in 2019. The friendship and business entity listed on SunBiz were never disclosed as required by GPDC policies. The property, a 1,767 sq.ft. home was appraised at \$93,000 and sold to the highest of 3 offers received for \$95,000. The friend continues residing at the property.

The second Coordinator disregarded the conflict of interest policy, and the outside employment provision policy. GPDC's "Employee Handbook" is over 50-pages and has clear policies on these. All GPDC employees sign attestations at different points in time acknowledging receipt of the handbook and to adhering to its policies including separate attestations on not having a conflict of interest. Both employees signed their most recent attestations in 2021 and the aforementioned issues were unfortunately never raised.

Once more, these issues though surfacing during the OIG review did not involve the actual allegations of the review. Moreover, after GPDC's internal review the best interests of our wards were not interfered with. In any event, GPDC considers these particular issues hopefully closed. GPDC will continue as it has been fully cooperating with the Miami OIG with their continued review that they have stated is nearing a close insofar the actual audit phase.

Thank you.

# MIAMI-DADE COUNTY

## OFFICE OF THE INSPECTOR GENERAL



## FINAL AUDIT REPORT

### APPENDIX A

**GPDC'S Response to the OIG Draft Report  
(13 Pages)**

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***Audit of the Guardianship Program of Dade County's  
Custodianship and Sale of Wards' Real Properties***

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**IG23-0002-A  
July 31, 2024**

# GUARDIANSHIP PROGRAM OF DADE COUNTY, INC.

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## PUBLIC GUARDIAN FOR THE 11th JUDICIAL CIRCUIT

July 11, 2024

Felix Jimenez, Inspector General  
Miami-Dade County Office of the Inspector General  
601 N.W. 1st Court, South Tower, 22nd Floor  
Miami, FL 33136

RE:   OIG Draft Audit Report 5/30/2024 – Audit of the Guardianship Program of Dade County’s Custodianship and Sale of Wards’ Real Property, Ref. IG23-0002-A

Dear Inspector General Jimenez:

The Guardianship Program of Dade County, Inc. (“GPDC”), is in receipt of the OIG’s Draft Audit Report dated May 30, 2024. In March 2023, OIG was requested by Miami-Dade County Officials to review GPDC practices and procedures relating to the sale of its Wards’ real property. Pursuant to the respective section of the Code of Miami-Dade County, please accept this GPDC Response to the OIG Audit Report.

First and foremost, we want to emphasize that the Audit Report **does not conclude** that GPDC violated any administrative rule or law; only that documentation of GPDC’s process was sparse at times. GPDC **always** acted in the best interest of the Wards and any lapses in documentation or deviation from internal procedures were in service of obtaining the best result for the Wards.

The Audit Report makes only passing reference to the complex and challenging nature of the sale of a Ward’s real property. Notably, the Audit Report does not acknowledge the difficult issues such as government fines and potential liens, unsafe structures, hazardous conditions, overdue HOA fees, unauthorized persons in possession, a lack of insurance, and pending foreclosures. Each of these challenges force GPDC to act with expediency and under exigent circumstances. How each of these factors permeate GPDC’s decision making and contributed to the Audit Report’s findings are detailed herein.

Be assured: GPDC is fully committed to providing experienced guardianship services to the large volume of indigent and incapacitated Wards of Miami-Dade County and will work to improve its procedures based on the Audit Report’s findings.<sup>1</sup>

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<sup>1</sup> In fact, GPDC is routinely audited by various oversight entities. So far this calendar year, GPDC has been audited three times by independent financial auditors (CPAs), the Florida Office of Public & Professional Guardians (OPPG), and Miami-Dade County Office of Management & Budget’s (OMB) Grant Coordination, besides regularly by the Miami-Dade Clerk of Court. Last year, the Social Security Administration conducted its regular audit. None of these entities have found any impropriety.

With financial assistance from Miami-Dade County, The Florida Bar Foundation, and the State of Florida, Department of Elder Affairs

As background, GPDC is the Public Guardian for Miami-Dade County. GPDC is a “guardian of last resort” for our most vulnerable residents. For fiscal years 2022 and 2023, GPDC actively cared for 1,619 and 1,493 wards. The Wards are indigent and incapacitated with only GPDC to care for them. As the OIG noted after “observ[ing] the day-to-day operations” of the entire program for six months, GPDC has a “a dedicated staff who work hard to ensure the wards are well taken care of, are visited by case managers, and receive benefits they are entitled to.”

OIG further acknowledged that “GPDC performs an essential function, and the residents of Miami-Dade County are fortunate to have an organization with a dedicated staff to care for some of the most vulnerable in our community.” OIG also recognized that “functioning as a guardian for so many individuals is challenging...”

However, the Audit Report lacks context in key areas and makes some significant factual errors. GPDC has reviewed the Audit Report observations extensively and now responds to provide additional detail and explanation. In fact, GPDC had reviewed many of these issues well in advance of the Audit Report while improving our protocols and procedures, as we always aim to stay apprised of best practices, community matters, housing issues and real estate market trends.

## **I. FINDING AREA 1: Appraiser & Realtor Lists; Methodology to engage and rotate appraisers and real estate agents.**

When GPDC lists and sells a Ward’s real property, it usually engages a third-party appraiser and a third-party realtor. During the Audit Period, GPDC maintained a list of 10 approved appraisers and 15 approved realtors. It is GPDC’s goal to distribute listings evenly among these third-party vendors. To that end, GPDC’s Guidelines require that assignments be made on a rotating basis and vendors not be repeated until the entire list has been exhausted.

The Audit Report found that there was insufficient documentation to demonstrate that this procedure had been followed. Although the Audit Report found that a smaller subset of appraisers and realtors handled a majority of listings, it **did not find that any particular appraiser or realtor was improperly selected; that GPDC or the third-party received any improper benefit; nor that the selection resulted in a less than satisfactory result for the Ward.**<sup>2</sup>

The Audit Report does not explain why a full rotation through the approved vendor list is sometimes infeasible and actually detrimental to the Ward, and so it is important to cover again now. As noted above, GPDC often must act quickly to sell a Ward’s real property due to unsafe conditions, the Ward’s need for cash, or the definite accruing expenses to the Ward.

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<sup>2</sup> To the extent any realtors who were not on the GPDC list were selected, they were engaged by: the Ward prior to Guardianship, by Property Co-owners, by the Personal Representative of the Estate, or the Ward’s family. *See* Table G1.



Above are photos of vermin and insect infestation that are just one example of the conditions in which some Wards were living before GPDC sold the property. When situations like these arise, GPDC must act quickly. GPDC's Property Coordinators often reach out to appraisers and realtors but get no response and must move on to the next vendor. Similarly, several of the vendors on GPDC's list are simply not interested in this kind of difficult work. Indeed, one must put on a full hazmat suit to even safely enter some of the subject properties.

Nonetheless, GPDC understands the importance of thoroughly documenting when vendors turn down work, do not respond to inquiries, or are no longer actively practicing. To that end, GPDC has created a new Vendor Registry System with an extensive screening and application process, to include a managerial-level vetting committee, a service agreement, renewal requirements, conflict of interest clearances, and communication expectations. The GPDC Vendor Registry system is designed with influence from the 11<sup>th</sup> Judicial Circuit Probate Division court-appointed counsel rotation and selection wheel process.

GPDC has created a Property Checklist that tracks the status of property from the pre-hearing criteria analysis stage, through the intake system and possible sale process. The Checklist will contain a traceable bidding system. It is intended to be automated to save activity log entries and accessible to various departments simultaneously to interface between the Property and Legal Departments seamlessly as an upgraded interdepartmental collaborative measure of progress and oversight.



Finally, GPDC has updated its realtor rotation list and has removed realtors/vendors whose license(s) expired, or who were out of contact, etc. Those Realtors who were not engaged by GPDC, those who no longer meet GPDC standards or who are unable to serve will be removed. And any Realtor who fails to meet GPDC's requirements or fulfill their contractual obligations will be removed from the rotation.

Ultimately, GPDC shall stringently and continually assess its involvement with vendors based on their performance and contractual obligations. GPDC shall take extra steps to avoid engagement with vendors who may cause any negative reflection upon the work and reputation of GPDC in its efforts to serve its Wards.

## II. FINDING AREA 2: DIRECT SALES TO INVESTORS<sup>3</sup>

GPDC can sell Ward's properties directly to investors via a Request for Proposal process without engaging a realtor to list the property when extenuating circumstances warrant it. Such circumstances **can typically include** missing walls, exposed beams, fallen ceiling, dangerous floor boards and look like this:



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<sup>3</sup> See Table G2 and G3.

There were eight such direct sales to “investors” on the GPDC list during the 5 ½ year audit period. Each of these eight direct sales were necessary due to extenuating circumstances. For example, in the case of Ward 7595, the property was in foreclosure. In the case of Ward 8599, there were code enforcement violations for unsafe structures. The extenuating circumstances in each of these eight cases can easily be shown. In each and every instance, the Ward’s best interests were served and GPDC fulfilled its fiduciary duties. Seven of the eight sales were **above the appraised value**. As in all GPDC sales, **all eight sales were approved by the Miami-Dade County Guardianship Court. A Court Order approving the sales was entered after compliance with the Court’s checklist requirements.**

The Audit Report concluded that GPDC did not have a clear process in its Guidelines for how these direct sales were to be communicated to the investors on GPDC’s list, although GPDC has a process for Requests for Proposals. Even though GPDC does not have a detailed process for presenting direct sales to investors in its Guidelines, the Audit Report is mistaken to conclude that GPDC did not communicate these sales to multiple investors. As reflected in emails, GPDC emailed each of these eight opportunities to a substantial group of interested parties and investors with added language inviting each to in turn include others ensuring that there would be a wide audience and a competitive bidding process.<sup>4</sup> In fact, the OIG’s own interviews with investors reveal that these investors received various emails from GPDC with invitations to bid on properties. The Audit Report only notes one such email. Upon review of these emails and the details contained herein, the Audit Report should conclude that there is **no basis** for questioning or doubting “how GPDC fulfills its fiduciary duties.”

Admittedly, GPDC has had incomplete documentation in the Ward’s electronic files of each communication with investors. However, the ward’s files have since been updated with copies of the emails evidencing the communications. As the OIG noted, the GPDC cares for thousands of Wards in difficult circumstances. Its three property coordinators were often on the road visiting hazardous properties with police assistance or coordinating open houses — in fact, on several occasions, they were threatened, attacked or shot at while making site visits. GPDC offers this context not by way of excuse, but explanation. Moving forward, GPDC will train its staff to keep more detailed notes of who is being contacted for direct sales, the reasons underlying why a direct sale is necessary, why a particular bid was accepted, and when a vendor declines to participate.

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<sup>4</sup> The GPDC RFP email communications with the investors contain opening bid numbers that are based on appraisals and GPDC’s internal research. No appraised values are communicated to potential investors during the RFP process, as seemingly suggested by the Audit Report. GPDC is not required by the Circuit Court to conduct appraisals for properties that are valued under \$600,000, however, as an extra measure of responsibility, GPDC conducts appraisals in nearly every feasible instance.

Finally, GPDC wishes to take this opportunity to correct some specific instances where the Audit Report did not fully explain the context surrounding its conclusions. GPDC Tables G2 & G3 evidence GPDC's email communications with the RFP investor pool, responses in certain cases, and initial bids with process instruction letters attached. GPDC used its best efforts to ensure that these eight properties sold at appraised value (1), or sold above appraised value (5), or sold at minimum bid/appraised value (2).

On page 33, the Audit Report discusses Ward 8097 and notes this transaction that "may have been better suited to be sold via the investor pool." The Ward's sale paid off his past-due mortgage of over \$151,000 and he received a final cash profit of \$5,141. This property was appraised at \$142,000. It listed for \$180,000 and sold for \$170,000, **which is +\$28,000 over appraisal**. It was crucial for GPDC to act quickly here to avoid a potential foreclosure in addition to the risk of various liens and fines. The Ward's interests were well protected: The listing agreement and sale contract each contained non-negotiable GPDC language to ensure that the Ward will clear at least \$100 at closing in the event the property was deemed "upside down" during an unanticipated prolonged sale process. Due to COVID-19, there was insufficient time to effectuate an RFP process. While the case notes should have indicated the urgency regarding the mortgage concern and should have highlighted GPDC's agency-wide emergency procedures in light of COVID—19, it is clear that the Ward's best interests were served.

And on page 34, the Audit Report questions why Ward 7992's property was listed with a realtor. Ward 7992 was only a *co-owner*. The other owner, the Ward's nephew, hired the realtor.

### **III. FINDING AREA 3: LISTING AGREEMENTS WITH REALTORS – MULTIPLE LISTING SERVICE (MLS) REQUIREMENTS**

The Audit Report notes that 18 properties were sold without an MLS listing. This is incorrect — only 16 properties (out of 60) were not listed on the MLS.<sup>5</sup> GPDC agrees that MLS listings are important; indeed, GPDC **requires** in **all** listing contracts, that any realtor listing a Ward's property list it on the MLS. As the Audit Report says, "it is the realtors' responsibility to place these properties on the MLS." GPDC never strayed from this requirement. Again, we stress that the Audit Report did not find — nor was there — any breach of fiduciary duty. Each sale garnered fair market value and was approved by the Court. There is no evidence of unfair dealing or improper benefits to any GPDC employee, realtor, or buyer. Moving forward, GPDC has implemented a Property Checklist to ensure that Realtors expressly confirm their listings on the MLS, including any amended price changes.

Once a realtor is engaged, GPDC has little to no visibility in the sales process until an offer is presented because of the exclusive listing contract. Thus, GPDC can only speculate as to why some of the non-MLS properties were sold to GPDC investors. We know from experience and from

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<sup>5</sup> See GPDC Table G4.

speaking with realtors and investors that it is crucial to move with expediency and often do not have time to wait for multiple offers on the MLS. For example, most Wards' properties are uninsured. If a hurricane or fire were to happen while waiting for additional offers on the MLS, the Ward would bear the entirety of that loss. Additionally, some buyers who go through the MLS require inspection of the property, which further delays the sale. Those buyers try to use this as a bargaining chip to drive the price down, and by the time the property falls out of escrow, the other potential buyers have moved on.

Again, GPDC wishes to correct some of the Audit Report's miscalculations in its Table 8. First, two properties on the non-MLS list in Table 8 should be removed from the list because they were in fact listed on the MLS. Accordingly, the commissions should be subtracted from the "non-MLS commission" list.

Next, the Audit Report alleges the Ward paid a \$21,438 commission on 6501 SW 4th St., Miami, FL 33144. This is not true: The HUD/closing statement located in the Ward's GMS file clearly reflects that the Realtor commission of \$21,438 along with the other closing costs **were charged to the buyer, not the Ward.**

#### IV. FINDING AREA 4: CONFLICTS

The Audit Report notes conflicts of interest between GPDC and the Wards. Although *some* (but not all) of the noted conflicts *appear* to be conflicts, it is clear that Wards were not harmed. First, unfortunately, two of GPDC's property coordinators failed to disclose their personal involvement in the disposition of Wards' properties from GPDC management. As soon as GPDC learned of the property coordinators' involvement in these sales, both were placed on immediate unpaid leave. GPDC engaged outside independent counsel to investigate, but before that investigation was meaningfully underway, both property coordinators resigned.

The Audit Report says one property coordinator, PC2, advised his girlfriend about a property listing and supposedly told her to contact the realtor after the home was sold by GPDC. The Audit Report correctly notes that GPDC was wholly unaware of this alleged conversation which took place 10 years ago (2014). It is crucial to also note that the property received three offers and was sold for **over its appraised value.** The Audit Report notes there was no documentation of this fact, but GPDC attorney's email discussion with PC2 and the realtor confirmed that the attorney had reviewed and scrutinized the offers, explained the strategy to obtain the best price, and that the attorney directed the Property Coordinator to return to the Realtor with a counter-offer for the most viable one. Unfortunately, the documentation evidencing this deliberation was not in Ward's file, which is why the OIG could not review it. The Ward's file has now been updated with the documentation.

Another property coordinator, PC3, failed to disclose that his business partner acquired an interest in a home previously owned by a GPDC ward. The two were partners in an unrelated business and

PC3 had no interest in the property. Again, the Audit Report correctly notes that GPDC was unaware of PC3's connection to his business partner. We emphasize that this **property received three offers**, and GPDC accepted the highest one. The Audit Report incorrectly notes that this was "supposed to be an all-cash sale" and the buyer obtained a \$50,000 mortgage. **Section 8(a) of the Contract for Sale and Purchase for this property allowed for a buyer's loan as long as it did not impede the closing.** In other words, the buyer was at liberty to obtain a loan that would generate the requisite amount of "all cash" at closing, which is exactly what had occurred.<sup>6</sup> Both of these sales were approved by the Court.

The Audit Report fails to note that GPDC actively monitors for conflicts of interest. We have a non-conflict policy and have our staff sign multiple forms attesting to no conflicts during their tenure. Moreover, GPDC is already externally audited several times per year. There is no suggestion that there is any additional process or procedure that could have prevented failures to disclose by PC2 and PC3 if they were in fact deliberately hidden from GPDC. Nonetheless, the Wards' best interests were served as their properties were sold after multiple offers and the sales were approved by the Court. GPDC already has annual conflict training, and will continue to educate staff and has implemented additional measures to ensure that potential conflict matters are documented more efficiently and resolved in a manner that can be readily verified. Specifically, GPDC will now run conflict of interest attestations on its staff annually instead of every two years and will search staff on SunBiz annually to stay apprised of any outside business interests.

The Audit Report contends that it is a conflict of interest for a GPDC Board Member to act as a title and escrow agent. A Board Member acted as the **settlement agent** in four property sales. A Settlement Agent, sometimes referred to as a closing agent or escrow agent, is a **neutral** third-party professional responsible for facilitating the closing process in a real estate transaction. The Settlement Agent ensures that all necessary legal documents are prepared and executed appropriately, funds are collected and disbursed to all the proper parties, and the title to the property is correctly conveyed to the buyer. The Settlement Agent is a fiduciary who is a **neutral third party** and does not represent either of the parties to the transaction. The Settlement Agent represents the total transaction itself to guarantee a successful closing.

The Board Member **did not receive any financial compensation from GPDC.**<sup>7</sup> Indeed, the Board Member's involvement ensured that transaction timely closed, which inures to the benefit of all parties. The Board member serving as Settlement Agent merely ensured that the Ward received all sales proceeds pursuant to the terms of the contract and Court's Order. The Audit Report incorrectly labels the GPDC Board member's involvement in the four transactions as a title/escrow agent representing both sides of the transactions and thereby erroneously concludes that there was an Organizational Conflict of Interest. The Audit Report is factually and legally incorrect on this point.

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<sup>6</sup> See GMS scanned documents (Table G5), Contract for Sale and Purchase, Section 8(a), Line 81.

<sup>7</sup> See Table G6.



GPDC notes no Board Member has served as a Settlement Agent since 2020. Still, to avoid even the Audit Report's suggestion of a conflict, GPDC will prohibit all Board Members from serving as Settlement Agents going forward.

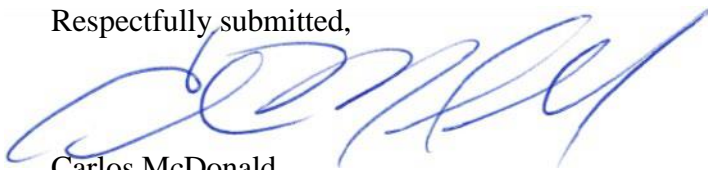
Finally, on pages 44–46, the Audit Report describes a complicated scheme where a realtor sold a property to an LLC and months later that LLC quitclaimed the deed to the realtor's family. As the Report says, the buyer's identity was never disclosed to GPDC. Even though the property was in a "deplorable" condition, GPDC received three offers and accepted one for \$34,000 over appraisal. Again, the Audit Report failed to include that the **commission was paid by the Buyer**. And again, the Ward's best interests were served. Moving forward, GPDC will require that all vendors certify they will not take an interest in the property they are listing.

Lastly, the Audit Report finds that GPDC paid a vendor, Dart Repair Services, to make emergency septic and plumbing repairs on a Ward's home. The vendor is owned by the spouse of a GPDC employee, but that employee has no duties related to vendor hiring. GPDC is under extreme pressure to manage the Wards' properties, many of which are in very poor condition. Locating vendors who are willing to await court orders and check runs for payment is an obstacle and can result in harm to the Ward. GPDC acted swiftly for the health and safety of the Ward in this dire scenario.

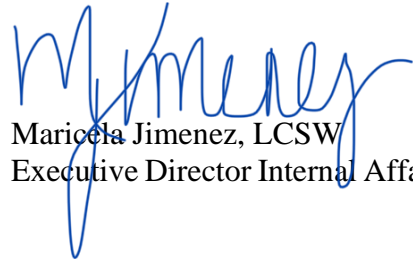
## V. CONCLUSION

GPDC appreciates the opportunity to respond to the OIG's Report. As described above, there were some factual inaccuracies in the Report that we hope are promptly corrected. Most importantly, GPDC emphasizes that it always acted in the Wards' best interests, obtained Court approval for each and every sale, and never breached its fiduciary duties to its Wards. No GPDC staff member or board member ever improperly benefitted at the expense of a Ward. GPDC respectfully requests that the Office of the Inspector General accept this GPDC Response and that the Audit Report Draft be modified accordingly.

Respectfully submitted,



Carlos McDonald  
Executive Director External Affairs



Maricela Jimenez, LCSW  
Executive Director Internal Affairs

With financial assistance from Miami-Dade County, The Florida Bar Foundation, and  
the State of Florida, Department of Elder Affairs



## **APPENDIX INDEX**

<b>TABLE G1:</b>	Limited Engagement Realtors (Outside Hire or Outside Jurisdiction) <i>Also see: Table Legend G1-L</i>
<b>TABLE G2:</b>	Eight RFP/Investor Direct Sales Within Audit Period
<b>TABLE G3:</b>	Eight RFP/Investor Communications and Sales Results
<b>TABLE G4:</b>	Two MLS Listings; Vero Beach, Florida
<b>TABLE G5:</b>	“All Cash” Listing Contract Language
<b>TABLE G6:</b>	GPDC Board Member Role <i>Also see: Table Legend G6-L</i>

*GPDC Appendix Tables are designated with the letter (G) & numeral combination to distinguish the GPDC Tables and the Legend from the OIG’s draft report references.*

*The GPDC Legends are intended to be kept confidential and used for internal purposes only.*

**GPDC TABLE G1: (GR=Realtor)**

LIMITED ENGAGEMENT REALTORS (External Hire or Outside Jurisdiction)

<b>WARD:</b>	<b>#SALES:</b>	<b>REALTOR:</b>	<b>SELECTED BY:</b>
8092 (GL)	2	GR1(JJ)	GPDC; Vero Beach Realtor; limited
7669 (STP)	1	GR2(ZLG)	Co-owner/Daughter-in-law
7992 (MF)	1	GR3(BF)	Co-owner/Nephew
5812 (NG)	1	GR4(BR)	Estate/Personal Rep.
7527 (MU)	1	GR4(CR)	Co-owner/Husband
8066 (JH)	1	GR5(EK)	Ward, prior to Guardianship
8234 (CW)	1	GR6(NDR)	Ward's Family

**GPDC TABLE G2:**

EIGHT RFP/INVESTOR DIRECT SALES WITHIN AUDIT PERIOD

<b>WARD IDENTIFICATION</b>	<b>SALE PROCEEDS OVER APPRAISAL</b>	<b>SALE STATUS</b>
NS/7863	+\$52,000	Over Appraisal
ZPR/7595	+6,200	Over Appraisal
MR/7619	+1,000	Over Appraisal
LM/7538	+300	Over Asking Bid
BM/7635	+12,500	Over Appraisal
SM&MM/7761&7762	+24,000	Over Appraisal
JM/7492	+25,000	Over Appraisal
SK/8599	Even Price	Minimum bid at appraised value

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**GPDC TABLE G3:****EIGHT RFP/INVESTOR COMMUNICATIONS & SALES RESULTS**

<b>WARD INITIALS/I.D.NUMBER GPDC RFP EMAIL CONTACT DATE</b>	<b>RFP SALE INFORMATION <i>Minimum GPDC-Published Bid, Confidential Appraisal, Offers, Proceeds</i></b>
NS/7863: <b>RFP Email dated: 2/7/2019</b>	RFP Minimum Bid: \$100K Appraisal: \$66K; Sale: \$118K; Offers: \$75,500, \$118,000 <b>Sold over appraised value: +\$52K</b>
ZPR/7595: RFP <b>RFP Email dated: 12/7/2017</b>	RFP Minimum Bid: \$170K Appraisal: \$170K; Sale: \$176,200 Offers: \$176,200 <b>Sold over appraised value: +\$6,200</b>
MR/7619: RFP <b>RFP Email dated: 7/19/2018</b>	RFP Minimum Bid: \$280K Appraisal: \$270K; Sale \$271K Offers: \$271K <b>Sold over appraised value: +1,000</b>
LM/7538: <b>RFP Emails dated: 12/7/2017 &amp; 4/9/2018</b>	RFP Minimum Bids: \$220K, increased to: \$230K Appraisal: \$235K; Sale: \$230,300 Offers: \$130K; \$230,300 <b>Sold over minimum (increased) bid +\$300</b>
BM/7635: <b>RFP Email dated: 4/19/2018</b>	RFP Minimum Bid: \$90K Appraisal: \$90K; Sale \$102,500 <b>Sold over appraised value: +\$12,500</b>
SM&MM/7761/7762: <b>RFP Email dated: 7/9/2018</b>	RFP Minimum Bid: \$155K Appraisal: \$147K; Sale: \$171K Offers: \$163,800, \$171,000 <b>Sold over appraised value: +\$24,000</b>
JM/7492: <b>RFP Email dated: 6/19/2017</b> (noted in OIG report)	RFP Minimum Bid Unavailable Appraisal: \$238K; Sale: \$263K <b>Sold over appraised value: +\$25,000</b>
SK/8599: RFP information unavailable	Appraisals: \$225K & 245K; Sale: \$245K <b>Sold at appraised value of \$245K</b>

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**GPDC TABLE G4:**  
**MLS LISTINGS FOR VERO BEACH PROPERTIES**

**MLS#: 244550:** 2695 48<sup>th</sup> Street, Vero Beach, FL 32957  
 Realtor Commission (-\$1,500) to be deducted from OIG total of \$216,078 on Pg.38.  
**Property sold at appraised value.**

**MLS#: 244538:** 2525 45<sup>TH</sup> Street, Vero Beach, FL 32957  
 Realtor Commission (-\$3,000) to be deducted from OIG total of \$216,078 on Pg.38.  
**Property sold (+\$45,000) over appraised value.**

**GPDC TABLE G5:**  
**“ALL CASH” LISTING AGREEMENT LANGUAGE**

**8. FINANCING:**

*(a) Buyer will pay cash for the purchase of the Property at Closing. There is no financing contingency to Buyer's obligation to close. If Buyer obtains a loan for a part of the Purchase Price of the Property, Buyer acknowledges that any terms and conditions imposed by Buyer's lender(s) or by CFPB Requirements shall not affect or extend the Buyer's obligation to close or otherwise affect any terms or conditions of this Contract.*

**GPDC TABLE G6:**  
**ROLE OF GPDC BOARD MEMBER**

WARD	ROLE OF GPDC BOARD MEMBER	FEES FROM WARD OR GPDC
7517	Settlement Agent	None
7761/7762	Settlement Agent	None
7672	Settlement Agent	None
8212	Settlement Agent	None

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