

AUDIT REPORT

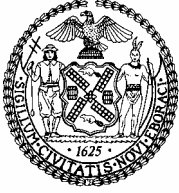


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Department of City Planning's Administration of the 72nd Street Subway Fiduciary Account

FM05-119A

June 20, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office has conducted an audit to determine whether the Department of City Planning (Department) accurately accounted for the revenues and expenses of the 72nd Street Subway fiduciary account, and ensured that all funds were used in accordance with the fiduciary agreement.

The results of our audit, which are presented in this report, have been discussed with officials of the Department, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that City agencies have adequate controls over fiduciary accounts and that moneys in these accounts are used in accordance with applicable rules and regulations.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/gr

Report: FM05-119A
Filed: June 20, 2005

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*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on the Department of
City Planning's Administration of the
72nd Street Subway Fiduciary Account**

FM05-119A

AUDIT REPORT IN BRIEF

The audit determined whether the Department of City Planning (Department) accurately accounted for the revenues and expenses of the 72nd Street Subway fiduciary account and ensured that all funds were used in accordance with the fiduciary agreement.

Fiduciary accounts are used to record financial resources held and administered in trust by the City of New York. The principal and income of these accounts is intended to benefit individuals, private organizations, or other non-City government entities. In accordance with §3.01 (a) of the Penn Yards Associates Restrictive Declaration (Declaration), the Department is responsible for administering a fiduciary account established to receive deposits from an applicant (i.e., developer) who is erecting apartment buildings at the Riverside South development situated on the Upper West Side of Manhattan. A fiduciary agreement and account were established in July 1998 in accordance with the Declaration. According to the Declaration and fiduciary agreement, account funds are to be used by the Metropolitan Transit Authority (MTA) for construction of a new subway station entrance on the north side of 72nd Street.

Audit Findings and Conclusions

The Department properly accounted for and deposited the \$10 million it received from the developer of Riverside South into the fiduciary account and disbursed \$8.4 million to the MTA in accordance with the fiduciary agreement. However, the remaining \$1,633,570 million on account is still owed to the MTA.

Audit Recommendations

To address this issue, we recommend that the Department:

- Remit the remaining \$1,633,570 in the fiduciary account to the MTA.

- Close the fiduciary account after the payment is made to the MTA.

INTRODUCTION

Background

Fiduciary accounts are used to record financial resources held and administered in trust by the City of New York. The principal and income of these accounts are intended to benefit individuals, private organizations, or other non-City government entities. The New York City Comptroller's Office, in conjunction with the City's Office of Management and Budget (OMB) establishes fiduciary accounts at the request of various organizations, including City agencies and public corporations.

The Department of City Planning (Department) is responsible for administering a fiduciary agreement and account to receive deposits from an applicant (i.e., developer) who is erecting apartment buildings at the Riverside South development situated on the Upper West Side of Manhattan. The account was established in July 1998 in accordance with §3.01(a) of the Penn Yards Associates Restrictive Declaration (Declaration). Under the Declaration, an applicant is required to make four separate payments totaling \$10 million to obtain temporary or permanent certificates-of-occupancy for buildings on four land parcels on Riverside Boulevard.¹ The Declaration requires the Department to deposit these payments into the fiduciary account. The Declaration also states that the funds in the fiduciary account are to be used by the Metropolitan Transit Authority (MTA) for construction of a new subway station entrance on the north side of 72nd Street.

Objectives

Our audit objectives were to determine whether the Department:

- accurately accounted for revenues and expenses of the fiduciary account; and
- ensured that all funds were used in accordance with the fiduciary agreement.

Scope and Methodology

The audit period covered July 1, 1998 to March 31, 2005.

We interviewed Department officials to gain an understanding of the internal controls over receipts and disbursements of account funds. We evaluated internal controls to determine the timing and extent of audit tests necessary to determine whether deposits and disbursements were properly recorded and whether funds were used in accordance with the fiduciary

¹ The four parcels, identified as A through D, are at 180, 200, 220, and 240 Riverside Blvd.

agreement. To gain an understanding of the regulations for the reporting and accounting of funds deposited in fiduciary accounts, we reviewed Comptroller's Directive 27, "Fiduciary Accounts Procedures for Requesting, Controlling and Monitoring." We also reviewed §3.01 of the Restrictive Declaration and the fiduciary agreement, which describe the requirements for depositing and disbursing account funds.

To determine whether the Department accurately accounted for revenues, we reviewed copies of checks deposited into the fiduciary account and correspondence related to the development project. We then traced the amounts reported on the checks to the balance in the City's Financial Management System (FMS). To determine whether the amounts disbursed from the fiduciary account were in accordance with the Declaration, we traced the disbursed amounts from the account to FMS records and supporting documentation. We also conducted an observation of the intersection of 72nd Street in Manhattan to verify construction of the new subway station entrance.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Department officials during and at the conclusion of this audit. A preliminary draft report was sent to Department officials on May 9, 2005. On May 12, 2005, we received written notice from Department officials waiving their right to an exit conference. On May 16, 2005, we submitted a draft report to those officials with a request for comments. A written response was received on June 1, 2005. In their response, Department officials agreed with the audit findings and described the steps that will be taken to address the recommendations.

The full text of the response from the Department is included as an addendum to this report.

FINDINGS

The Department properly accounted for and deposited all the funds it received into the fiduciary account. However, the Department disbursed to the MTA just \$8.4 million of the \$10 million it received from the developer of Riverside South. As a result, the MTA is owed the remaining \$1,633,570 million on account.

RECOMMENDATIONS

The Department should:

1. Remit the remaining \$1,633,570 in the fiduciary account to the MTA.
2. Close the fiduciary account after the payment is made to the MTA.

Department's Response: “The Department fully intends to transfer these funds to the MTA as you recommend. As we have advised your staff, in accordance with past practice, we have notified the MTA of the payment received. Upon receipt of appropriate back up documentation from the MTA regarding its expenditures, we will immediately transfer these funds to them. As soon as this has taken place the account will be closed.”



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

Amanda M. Burden, A.I.C.P., *Director*
Department of City Planning

OPERATIONS

June 1, 2005

Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
1 Centre Street
New York, N.Y. 10007-2341

Dear Mr. Brooks:

On behalf of Amanda Burden, Director of the Department of City Planning, I would like to thank you for the opportunity to respond to the Draft Audit Report issued by your office regarding the 72nd Street Subway Station Trust and Agency Account (the Account). The report has been reviewed by Departmental staff and the following is our response to the audit findings and recommendations.

I am pleased to note that the findings show that the Department properly accounted for and deposited all funds it received into the Account. Regarding the remaining funds that were recently received, the Department fully intends to transfer these funds to the MTA as you recommend. As we have advised your staff, in accordance with past practice, we have notified the MTA of the payment received. Upon receipt of appropriate back up documentation from the MTA regarding its expenditures, we will immediately transfer these funds to them. As soon as this has taken place, the account will be closed.

Very truly yours,



David J. Zagor

c: Amanda M. Burden
David Karnovsky
Richard Barth
Susan Kupferman, Office of Operations
Michael M. Morgese, Comptroller's Office

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