



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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May 25, 2023

Kim Preston, President
Lyons Apartments Inc.
360 Main Street
Lyons, NE 68038

Dear Ms. Preston:

As you may know, the Nebraska Auditor of Public Accounts (APA) was contacted regarding alleged financial improprieties by the former Manager of Lyons Apartments Inc. (Lyons Apartments), Nicole Small. Individuals had started reviewing the Lyons Apartment bank accounts after the APA had released a letter to the Decatur Housing Authority on November 1, 2022, questioning thousands of dollars of possible overpayments to Ms. Small, who had served also as the Authority's Manager.

Responding to the allegations received, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. In doing so, the APA obtained financial records and other relevant documentation from Lyons Apartments. Based on the outcome of this preliminary planning work, including an analysis of the information obtained, the APA has determined that a separate financial audit or attestation is unnecessary at this time.

Nevertheless, during the preliminary planning work, the APA noted certain issues that merit corrective action.

Background Information

Lyons Apartments Inc. (Lyons Apartments) is located in Burt County, Nebraska. According to the Nebraska Secretary of State's website (<https://sos.nebraska.gov/>), Lyons Apartments is a public benefit non-profit corporation established on May 8, 1975. Lyons Apartments owns and operates two apartment complexes in Lyons, Nebraska. The apartment complexes consist of a total of 18 (one bedroom) units. Lyons Apartments' Board of Directors (Board) is the governing body that exercises financial accountability and control over activities relevant to the operations of Lyons Apartments.

Lyons Apartments receives funding primarily from the U.S. Department of Agriculture's (USDA) Rural Development Multifamily Housing Program – a Federal project aimed at providing competitive financing for affordable multi-family rental housing for low-income, elderly, or disabled individuals and families – and from rental revenue received from its tenants.

The following comments and recommendations, which have been discussed with the appropriate members of Lyons Apartments and its management, are intended to improve internal control or result in other operating efficiencies.

Comments and Recommendations

1. Alleged Fraud

Nicole Small is believed to have served as the Manager of Lyons Apartments from, at least, 2019 through March 2021, as Lyons Apartments officials were unsure when she actually started working. Her duties included, among other responsibilities, writing payroll checks for herself. The APA received allegations that Ms. Small had been writing herself payroll checks in excess of her regular wages. According to documentation provided by Lyons Apartments, Ms. Small’s monthly pay was based on the number of apartment units that were vacant or occupied.

The following table shows the different pay rates for Ms. Small from 2020 to 2021:

| Pay Rate Per Vacant Apartment | | | |
|-------------------------------|---------------------|------------------|----------|
| Year | Board-approved Rate | Actual Rate Used | Variance |
| 2020 | \$ 10.00 | \$ 14.00 | \$ 4.00 |
| 2021 | \$ 10.00 | \$ 14.00 | \$ 4.00 |

| Pay Rate Per Occupied Apartment | | | |
|---------------------------------|---------------------|------------------|----------|
| Year | Board-approved Rate | Actual Rate Used | Variance |
| 2020 | \$ 70.00 | \$ 72.00 | \$ 2.00 |
| 2021 | \$ 70.00 | \$ 74.00 | \$ 4.00 |

Lyons Apartments was unable to provide documentation to support that the Board approved any of these rates. Per discussion with Lyons Apartments representatives, Ms. Small was authorized to receive \$10 per vacant apartment and \$70 per occupied apartment. However, the APA observed from Lyons Apartments’ payroll records that she actually was paid \$14 per vacant apartment and \$72 per occupied apartment in 2020 and \$74 per occupied apartment in 2021.

In response to the allegations received, the APA analyzed the Lyons Apartments’ bank account records from First Northeast Bank of Nebraska in Lyons, NE, for the period January 2020 through March 2021. Because Ms. Small resigned from her position at Lyons Apartments effective April 2021, she should have received 15 monthly salary payments during the period examined. As stated above, her salary would vary based on the number of occupied and vacant apartment units.

Based on the documentation available, the APA determined that Ms. Small’s total salary during this period should have been \$18,000; however, she paid herself a gross salary of \$22,024. Further, Ms. Small would sometimes write checks to herself before the month in which those checks were to be issued (e.g., the paycheck for December 2020 was issued in November 2020). This practice did not agree to how she was to be paid, as Ms. Small’s salary was based on the number of occupied and vacant apartment units – which, according to Lyons Apartments representatives, is not determined until, at least, the beginning of each month.

The following table provides a comparative summary of Ms. Small’s estimated regular gross wages and the actual pay that she received as a result of the apparently excess payroll amounts:

| Year | Estimated Salary Total | Actual Salary Total | Variance |
|----------------------------|------------------------|---------------------|--------------------|
| 2020 | \$ 14,400.00 | \$ 18,028.00 | \$ 3,628.00 |
| 2021 (January to March) | \$ 3,600.00 | \$ 3,996.00 | \$ 396.00 |
| Totals | \$ 18,000.00 | \$ 22,024.00 | \$ 4,024.00 |

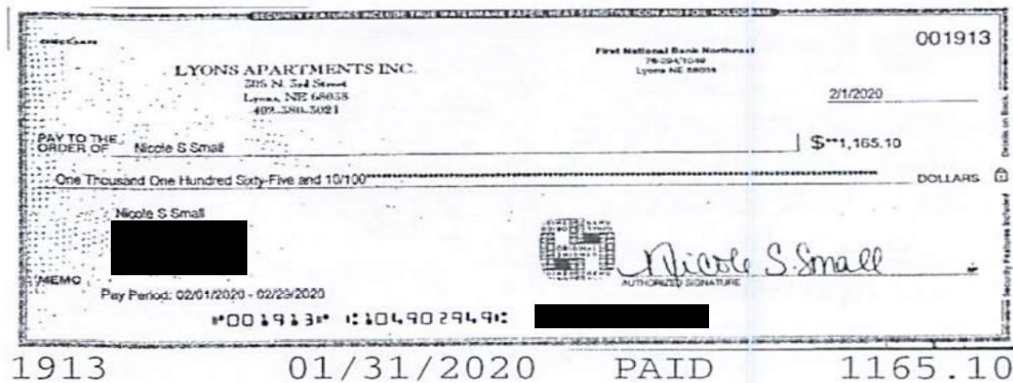
Note: The estimated salary is the gross pay, not the net check amount.

The table below contains a listing of all 17 payroll checks received by Ms. Small from January 2020 through March 2021, including both the check and her gross pay amounts:

| Check # | Check Date | Payee Per Check | Memo | Check Amount | Gross Pay Amount |
|---------------|------------|-----------------|-------------------------------------|---------------------|---------------------|
| 1908 | 1/1/2020 | Nicole Small | Pay Period: 01/01/2020 - 01/31/2020 | \$ 1,165.12 | \$ 1,296.00 |
| 1909 | 1/16/2020 | Nicole Small | Pay Period: 02/01/2020 - 02/29/2020 | \$ 1,165.12 | \$ 1,296.00 |
| 1913* | 2/1/2020 | Nicole Small | Pay Period: 02/01/2020 - 02/29/2020 | \$ 1,165.10 | \$ 1,296.00 |
| 1927 | 2/24/2020 | Nicole Small | Pay Period: 03/01/2020 - 03/31/2020 | \$ 1,165.12 | \$ 1,296.00 |
| 1960 | 4/1/2020 | Nicole Small | Pay Period: 04/01/2020 - 04/30/2020 | \$ 1,165.12 | \$ 1,296.00 |
| 2004* | 5/7/2020 | Nicole Small | Pay Period: 05/01/2020 - 05/31/2020 | \$ 1,028.67 | \$ 1,238.00 |
| 2009* | 6/1/2020 | Nicole Small | Pay Period: 06/01/2020 - 06/30/2020 | \$ 1,028.68 | \$ 1,238.00 |
| 2011 | 7/1/2020 | Nicole Small | Pay Period: 07/01/2020 - 07/31/2020 | \$ 1,113.12 | \$ 1,296.00 |
| 2021* | 8/1/2020 | Nicole Small | Pay Period: 08/01/2020 - 08/31/2020 | \$ 1,113.12 | \$ 1,296.00 |
| 2025 | 8/14/2020 | Nicole Small | Pay Period: 09/01/2020 - 09/30/2020 | \$ 1,113.10 | \$ 1,296.00 |
| 2029* | 9/1/2020 | Nicole Small | Pay Period: 09/01/2020 - 09/30/2020 | \$ 1,113.12 | \$ 1,296.00 |
| 2032* | 10/1/2020 | Nicole Small | Pay Period: 10/01/2020 - 10/31/2020 | \$ 1,296.00 | \$ 1,296.00 |
| 2046* | 11/1/2020 | Nicole Small | Pay Period: 10/01/2020 - 11/30/2020 | \$ 1,296.00 | \$ 1,296.00 |
| 2053 | 11/25/2020 | Nicole Small | Pay Period: 12/01/2020 - 12/31/2020 | \$ 1,113.12 | \$ 1,296.00 |
| 2059* | 1/1/2021 | Nicole Small | Pay Period: 01/01/2021 - 01/31/2021 | \$ 1,172.22 | \$ 1,332.00 |
| 2060* | 2/1/2021 | Nicole Small | Pay Period: 02/01/2021 - 02/28/2021 | \$ 1,142.19 | \$ 1,332.00 |
| 2071 | 2/24/2021 | Nicole Small | Pay Period: 03/01/2021 - 03/31/2021 | \$ 1,142.21 | \$ 1,332.00 |
| Totals | | | | \$ 19,497.13 | \$ 22,024.00 |

* Check was dated after the cleared check date.

Several checks were dated after they had cleared the bank. To illustrate, the following is an image of check #1913, dated February 1, 2020, which is after the cleared date of January 31, 2020.



In addition to the payroll checks at issue, Ms. Small received reimbursement checks for a phone allowance and other expenses supposedly incurred by her on behalf of Lyons Apartments. The APA noted that Ms. Small received seven such reimbursement checks, totaling \$1,058.47, from January 2020 through March 2021, as summarized in the table below:

| Check # | Check Date | Payee Per Check | Memo | Check Amount |
|--------------|------------|-----------------|----------------|--------------------|
| 1919 | 2/7/2020 | Nicole Small | | \$ 50.00 |
| 1 | 4/10/2020 | Nicole Small | Checks & Phone | \$ 138.77 |
| 2010 | 6/26/2020 | Nicole Small | | \$ 138.25 |
| 2031 | 9/16/2020 | Nicole Small | | \$ 127.15 |
| 2049 | 10/28/2020 | Nicole Small | | \$ 81.95 |
| 2058 | 12/23/2020 | Nicole Small | 2020 expenses | \$ 447.35 |
| 2073 | 3/11/2021 | Nicole Small | | \$ 75.00 |
| Total | | | | \$ 1,058.47 |

Lyons Apartments was unable to provide adequate documentation to support any of these reimbursement checks paid to Ms. Small. The APA summarized the allegedly improper payroll and reimbursement checks dating back to January 1, 2020; however, per discussions with Lyons Apartments representatives, similar activity appears to have been occurring in prior years.

The above information gives rise to concerns regarding the possible unauthorized expenditure of Lyons Apartments funds – including Federal grant monies – by Ms. Small for her own personal benefit, which could involve violations of State law.

To start, Neb. Rev. Stat. § 28-511 (Reissue 2016) provides, in relevant part, the following:

(1) A person is guilty of theft if he or she takes, or exercises control over, movable property of another with the intent to deprive him or her thereof.

(2) A person is guilty of theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

Neb. Rev. Stat. § 28-512 (Reissue 2016) states the following, as is relevant:

A person commits theft if he obtains property of another by deception. A person deceives if he intentionally:

(1) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; or

(2) Prevents another from acquiring information which would affect his judgment of a transaction; or

(3) Fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(4) Uses a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (a) where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized, or (b) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument.

These potential statutory concerns aside, it should be noted that good internal controls and sound accounting practices require procedures to ensure that one person is not in a position both to perpetrate and to conceal financial errors or irregularities, including fraud.

Without such procedures, there is an increased risk for fraud or the misappropriation of funds.

We recommend Lyons Apartments implement procedures to prevent one person from being in a position both to perpetrate and to conceal financial errors or irregularities, including fraud. Among other things, Lyons Apartments could require a Board member or other employee not involved with the payment process to perform a documented review of all payroll disbursements. We also recommend Lyons Apartments implement procedures to ensure that all payments are submitted and approved with all relevant supporting documentation. Finally, because this comment gives rise to concerns regarding possible violations of State statute, we are forwarding the information herein to the Nebraska State Patrol, Nebraska Attorney General, and the Burt County Attorney for further review. The APA will also forward the details of this matter to the Nebraska Department of Revenue and the U.S. Internal Revenue Service.

2. Additional Payroll Issues

The APA noted several other issues with Lyons Apartments' payroll procedures, including:

- Lyons Apartments' USDA Multi-Family Information System (MFIS) project worksheets for multiple months show that some apartment units were vacant, but Ms. Small was still paid as if all units were occupied.
- The pay rates Ms. Small used to pay herself did not agree to the rates set by the Board.
- Federal and State income taxes were not calculated correctly for Ms. Small's pay.

To illustrate each of these issues, the following is an image of the MFIS project worksheet submitted by Lyons Apartments to the USDA for September 2020:

| Report: PRJ2000 | | Multi-Family Information System (MFIS) | | | | | | | | | | Date: 12/21/2022 | | | | | | | |
|---------------------------------|-------------|----------------------------------------|-------------------------|-----------|------------|--------------|----------|------------|------------------|----------------------|--------|----------------------------------|-----|------------|-------------|------------|-----------|------------|--|
| | | PROJECT WORKSHEET | | | | | | | | | | Page: 1 of 2 | | | | | | | |
| | | FOR: 09/01/2020 | | | | | | | | | | | | | | | | | |
| Project Name: LYONS APTS | | | | | | | | | | | | Management Agent: NICOLE S SMALL | | | | | | | |
| Case Number: [REDACTED] | | | | | | | | | | | | | | | | | | | |
| Project Sbsy: 05 - Plan II (RA) | | | | | | | | | | | | | | | | | | | |
| Project Note: 10 - PASS Monthly | | Effective Dt: 09/01/2020 | | | | | | | | | | | | | | | | | |
| Apt Nbr | Nbr In Unit | Initial Date | Exprtn Date | Leased To | Basic Rent | Note Rent | HUD Rent | Tnt Sub Cd | PCT Of Incm Type | Adj or Annual Income | GTC | Utl Alw | NTC | RA Due Tnt | RA Due Borr | Ovrg/ SuCh | Actn Code | Track Acct | |
| 01E | N/2 | 1 | 03/10/16 | 08/31/21 | 445 | 475 | 0 | 0 | 25 | L | 26,596 | 557 | 82 | 475 | 0 | 0 | 30 | R | |
| 01W | N/1 | 1 | 08/01/14 | 08/31/21 | 370 | 400 | 0 | 1 | 30 | V | 11,120 | 278 | 87 | 191 | 0 | 179 | 0 | R | |
| 02E | N/2 | 0 | 08/04/20 | | 445 | 475 | 0 | 0 | | | | | | | | | | V | |
| 02W | N/1 | 1 | 01/01/18 | 12/31/20 | 370 | 400 | 0 | 1 | 30 | V | 4,940 | 124 | 87 | 37 | 0 | 333 | 0 | I | |
| 03E | N/2 | 1 | 09/01/20 | 08/31/21 | 445 | 475 | 0 | 1 | 30 | V | 9,409 | 235 | 82 | 153 | 0 | 292 | 0 | I | |
| 03W | N/1 | 1 | 08/01/15 | 06/30/20 | 370 | 400 | 0 | 1 | 30 | V | 7,088 | 487 | 87 | 400 | 0 | 0 | 30 | | |
| 04E | N/2 | 1 | 03/01/14 | 06/30/20 | 445 | 475 | 0 | 1 | 30 | V | 9,696 | 557 | 82 | 475 | 0 | 0 | 30 | | |
| 04W | N/1 | 1 | 10/01/16 | 09/30/20 | 370 | 400 | 0 | 1 | 30 | V | 10,056 | 251 | 87 | 164 | 0 | 206 | 0 | | |
| 05E | N/2 | 1 | 09/01/18 | 08/31/20 | 445 | 475 | 0 | 1 | 30 | V | 11,912 | 557 | 82 | 475 | 0 | 0 | 30 | | |
| 05W | N/1 | 0 | 08/12/20 | | 370 | 400 | 0 | 0 | | | | | | | | | | V | |
| 06E | N/2 | 2 | 06/01/19 | 06/30/20 | 445 | 475 | 0 | 0 | 28 | V | 23,708 | 557 | 82 | 475 | 0 | 0 | 30 | | |
| 06W | N/1 | 1 | 12/01/14 | 11/30/20 | 370 | 400 | 0 | 1 | 30 | V | 11,804 | 295 | 87 | 208 | 0 | 162 | 0 | | |
| 07E | N/2 | 2 | 10/01/19 | 02/28/21 | 445 | 475 | 0 | 1 | 30 | V | 10,895 | 272 | 82 | 190 | 0 | 255 | 0 | | |
| 08E | N/2 | 1 | 11/01/16 | 10/31/20 | 445 | 475 | 0 | 1 | 30 | V | 9,992 | 250 | 82 | 168 | 0 | 277 | 0 | | |
| 09E | N/2 | 1 | 12/11/18 | 02/28/21 | 445 | 475 | 0 | 1 | 30 | V | 8,996 | 225 | 82 | 143 | 0 | 302 | 0 | | |
| 10E | N/2 | 1 | 08/01/19 | 07/31/20 | 445 | 475 | 0 | 1 | 30 | V | 6,488 | 557 | 82 | 475 | 0 | 0 | 30 | | |
| 11E | N/2 | 1 | 01/25/07 | 06/30/20 | 445 | 475 | 0 | 1 | 30 | V | 7,401 | 557 | 82 | 475 | 0 | 0 | 30 | | |
| 12E | N/2 | 0 | 08/01/20 | | 445 | 475 | 0 | 0 | | | | | | | | | | V | |
| | | | | | | | | | | | 5,759 | 4,504 | 0 | 2,006 | 210 | | | | |
| PAYMENT SUMMARY: | | | | | | | | | | | | | | | | | | | |
| Project Payment: | | 1,210.41 | Total Number of Units: | | 18 | Income Type: | | A = 0 | Action code: | | A = 0 | Subsidy code: | | 0 = 2 | | | | | |
| Overage/Surcharge: | | 210.00 | Number Non-Rev Units: | | 0 | | | L = 1 | | | L = 1 | | | 1 = 13 | | | | | |
| RA Request: | | 2,006.00 | Unused RA Units: | | 3 | | | M = 0 | | | R = 2 | | | 2 = 0 | | | | | |
| Tot RA Request Adj: | | 0.00 | Used RA Units: | | 13 | | | V = 14 | | | C = 0 | | | 3 = 0 | | | | | |
| Tot Ovr/Surch Adj: | | 0.00 | Number of Vacant Units: | | 3 | | | X = 0 | | | V = 2 | | | 4 = 0 | | | | | |
| Late Fees: | | 0.00 | Percent of Vacancy: | | 16.7 | | | | | | T = 0 | | | 5 = 0 | | | | | |
| Payment Due: | | 0.00 | Expired Certification: | | 6 | | | | | | S = 0 | | | 6 = 0 | | | | | |
| RA Check Due: | | 585.59 | Tenants over 30%: | | 0 | | | | | | O = 0 | | | 7 = 0 | | | | | |
| Excess HUD Rent: | | 0.00 | Uninhabitable Units: | | 0 | | | | | | H = 0 | | | 8 = 0 | | | | | |
| | | | | | | | | | | | L = 0 | | | | | | | | |
| | | | | | | | | | | | E = 0 | | | | | | | | |

Lyons Apartments has a total of 18 apartment units. As shown clearly in the above worksheet, three of those apartment units were vacant at the beginning of September 2020; however, Ms. Small was paid as if all 18 of the units were occupied during that month, as show below:

| Lyons Apartments Inc | | | | | 002029 | |
|----------------------------|--|------------|----------|----------|------------|-------------------------------------|
| Employee | | SSN | | | | |
| Nicole S Small, [REDACTED] | | [REDACTED] | | | | |
| Earnings and Hours | | Qty | Rate | Current | YTD Amount | Pay Date: 09/01/2020 |
| Management Fee | | 1.00 | 1,044.00 | 1,044.00 | 11,368.00 | Pay Period: 09/01/2020 - 09/30/2020 |
| Site Fee | | 1.00 | 252.00 | 252.00 | 2,772.00 | |
| | | 2.00 | | 1,296.00 | 14,140.00 | |
| Taxes | | | | Current | YTD Amount | |
| Medicare Employee Addl Tax | | | | 0.00 | | |
| Federal Withholding | | | | -52.00 | -354.00 | |
| Social Security Employee | | | | -80.35 | -876.88 | |
| Medicare Employee | | | | -18.79 | -205.03 | |
| NE - Withholding | | | | -31.74 | -388.90 | |
| | | | | -182.88 | -1,804.61 | |
| Net Pay | | | | 1,113.12 | 12,335.39 | |

The APA found 9 other instances, between January 2020 and March 2021, of Ms. Small being paid for the incorrect number of occupancies.

Ms. Small not only paid herself for the incorrect number of occupied apartments but also used the wrong pay rate, resulting in an overpayment of \$216 in gross pay. Ms. Small received \$1,296 in gross pay for the September 2020 paycheck reference above. As mentioned previously, the 2020 Board-approved pay rate for occupied apartments was \$70/unit and \$10/unit for vacant apartments. However, Ms. Small was paid \$72/unit for occupied apartments and \$14/unit for vacant apartments. Since there were 15 occupied and 3 vacant apartments, Ms. Small should have only been paid \$1,080 in September 2020.

To compound these issues further, the Federal and State income tax withholdings for Ms. Small’s pay was calculated incorrectly. As shown by the above paystub image, Ms. Small had \$52 in Federal and \$31.74 in State income tax withholdings. With a gross pay of \$1,296, the withholdings should have been instead \$26.27 for Federal income tax and \$21.23 for State income tax. However, because Ms. Small should have been paid \$1,080 rather than \$1,296, the APA calculated her correct withholdings, as shown in the following table.

| Nicole Small Pay September 2020 | | | | | | | |
|---------------------------------|------------------|---------------------|----------------|--------------------|------------------|------------------|------------------|
| | Gross Pay | Social Security Tax | Medicare Tax | Federal Income Tax | State Income Tax | Total Deductions | Net Pay |
| Lyons Apartments Calculation | \$ 1,296.00 | \$ 80.35 | \$ 18.79 | \$ 52.00 | \$ 31.74 | \$ 182.88 | \$ 1,113.12 |
| APA Calculation | \$ 1,080.00 | \$ 66.96 | \$ 15.66 | \$ 4.67 | \$ 14.27 | \$ 101.56 | \$ 978.44 |
| Variance | \$ 216.00 | \$ 13.39 | \$ 3.13 | \$ 47.33 | \$ 17.47 | \$ 81.32 | \$ 134.68 |

Good internal controls and sound accounting practices require procedures to ensure that the Lyons Apartments’ Manager is paid correctly according to both the actual number of occupied and vacant apartment units and the appropriate pay rate. Those same procedures should also ensure the accuracy of Federal and State income tax withholdings from the Manager’s paychecks.

Without such procedures, there is an increased risk for the loss or misuse of funds. Additionally, if income taxes are not withheld in the proper amount, penalties could be imposed on Lyons Apartments.

We recommend Lyons Apartments implement procedures to ensure: 1) the Manager is paid correctly according to both the actual number of occupied and vacant apartment units and the correct pay rate; and 2) the correct amount of Federal and State taxes are withheld from the Manager’s paychecks.

3. Other Issues

The APA identified several issues regarding Lyons Apartments’ bank accounts, tax-exempt status, and supporting documentation for expenses incurred. These issues are explained in further detail below.

Negative Bank Balance

In examining Lyons Apartments’ bank statements, the APA observed that the “operating account” was overdrawn multiple times in January, February, September, and October 2020. The following table summarizes all deposit and withdrawal activity for this account from January 2020 through March 2021:

| Month | Deposits/Other Credits | Checks/Other Debits | Balance |
|----------------------------|------------------------|----------------------|--------------|
| Beginning Balance | | | \$ 955.10 |
| January 2020 | \$ 6,013.59 | \$ 7,139.12 | \$ (170.43) |
| February 2020 | \$ 15,378.47 | \$ 13,924.01 | \$ 1,284.03 |
| March 2020 | \$ 6,856.59 | \$ 6,508.18 | \$ 1,632.44 |
| April 2020 | \$ 14,725.28 | \$ 8,149.97 | \$ 8,207.75 |
| May 2020 | \$ 3,088.50 | \$ 5,166.66 | \$ 6,129.59 |
| June 2020 | \$ 6,858.59 | \$ 1,755.67 | \$ 11,232.51 |
| July 2020 | \$ 7,312.18 | \$ 15,491.53 | \$ 3,053.16 |
| August 2020 | \$ 3,885.59 | \$ 3,548.93 | \$ 3,389.82 |
| September 2020 | \$ 4,203.09 | \$ 6,427.00 | \$ 1,165.91 |
| October 2020 | \$ 20,852.59 | \$ 15,528.96 | \$ 6,489.54 |
| November 2020 | \$ 5,863.59 | \$ 2,811.95 | \$ 9,541.18 |
| December 2020 | \$ 3,957.50 | \$ 4,915.99 | \$ 8,582.69 |
| January 2021 | \$ 7,732.52 | \$ 2,066.54 | \$ 14,248.67 |
| February 2021 | \$ 2,889.00 | \$ 10,974.70 | \$ 6,162.97 |
| March 2021 | \$ 6,566.04 | \$ 2,728.13 | \$ 10,000.88 |
| Total Bank Activity | \$ 116,183.12 | \$ 107,137.34 | |

In total, this account was overdrawn for 21 days and incurred \$225 in overdraft fees, as shown in the table below:

| Range of Amount Overdrawn | # of Days Overdrawn | Overdraft Fees |
|---------------------------|---------------------|----------------|
| \$170.43 - \$10,640.30 | 21 | \$225.00 |

According to Lyons Apartments representatives, the Board did not conduct any meetings during this period, primarily due to the COVID-19 pandemic. As a result, this bank account's activity was never presented to the Board to review.

Revocation of Tax-exempt Status

In addition, the APA observed from the documentation obtained from Lyons Apartments that the U.S. Internal Revenue Service (IRS) issued the organization a notice on December 14, 2020, that it had failed to file a required annual return or notice for two consecutive years. The IRS notice explained further that, per Federal law, failure to file the required return or notice for three consecutive years would result in automatic revocation of Lyons Apartments' tax-exempt status.

Despite the IRS notice, Lyons Apartments appears to have continued to neglect filing the required return or notice. The APA reached this conclusion after reviewing the IRS Tax Exempt Organization Search webpage (<https://apps.irs.gov/app/eos/>) and noting that Lyons Apartments had been added to the Auto-Revocation List and had its tax-exempt status revoked on May 15, 2021. No exemption reinstatement date was provided.

Lack of Adequate Supporting Documentation

The APA noted also that Lyons Apartments paid the following expenses without any supporting documentation:

- Two payments, totaling \$1,991.36, to Menards in March and October 2020.
- Four payments, totaling \$210, to one Bob Richards in February, March, August, and September 2020.

Good internal controls require procedures to ensure the following: (1) sufficient funds are available in Lyons Apartments' bank accounts to pay expenses; (2) a required annual return or notice is filed timely to maintain Lyons Apartments' tax-exempt status; and (3) any expenditure of Lyons Apartments funds is not only supported by adequate documentation but also made in strict compliance with formal policies that delineate the proper use of those monies.

Without such procedures, there is an increased risk for not only the loss or misuse of Lyons Apartments funds but also the accumulation of overdraft fees.

We recommend the Board implement policies to ensure the following: (1) sufficient funds are available in Lyons Apartments' bank accounts to pay expenses; (2) a required annual return or notice is filed timely to maintain Lyons Apartments' tax-exempt status; and (3) any expenditure of Lyons Apartments funds is not only supported by adequate documentation but also made in strict compliance with formal policies that delineate the proper use of those monies.

* * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use the knowledge gained during our work to make comments and recommendations that we hope will be useful to Lyons Apartments.

Draft copies of this letter were furnished to Lyons Apartments to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. The Board declined to respond.

This communication is intended solely for the information and use of Lyons Apartments and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this communication is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Audit Staff Working on this Examination:

Craig Kubicek, CPA, CFE – Deputy Auditor
Mason Culver – Auditor-In-Charge

Sincerely,



Craig Kubicek, CPA, CFE
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Nebraska State Patrol
Burt County Attorney
Nebraska Department of Revenue
Internal Revenue Service