

Nassau County
Office of the Comptroller



Limited Review of
the Office of Real Estate Services

GEORGE MARAGOS

Comptroller

October 30, 2014

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OFFICE OF THE COMPTROLLER

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Executive Summary

Introduction

Real Estate's major responsibility is safeguarding the County's real estate assets including the constant review and management of the County's properties and departmental space needs. Real Estate also manages all of the County's leased properties, 58¹ Landmark units for the Department of Parks, Recreation and Museums and 60 residential units in Mitchel Field. It assists with the purchase of open space and other properties, negotiates the sale of surplus property and assists the Treasurer's Office in the disposition of County tax liens. Real Estate also develops the County's building cost allocations, using the square footage occupied by each County department.

The Office of Real Estate Services ("Real Estate") and the County's Planning Department were merged with the Department of Public Works ("DPW") in 2012 as part of the Administration's goal to merge departments that have same or similar goals, realign services and simplify and streamline processes.

According to the database maintained by Real Estate, the County owned and/or leased 2,271 properties as of May 2013. An analysis of the utilization of these properties was performed and can be found in the appendix to this report. The County's Comprehensive Annual Financial Report ("CAFR") as of December 31, 2013 lists the value of County owned land and buildings at historical costs of \$239 million and \$1.1 billion, respectively.²

Purpose

The purpose of our audit was to determine that rent, permit and concession revenue is being maximized, that the Real Estate database accurately captures all County owned and leased properties and that the need to either hold or dispose of properties is being assessed.³ The audit covered the period from January, 2011 through May, 2013. Amounts in the report were updated through December 31, 2013⁴, where possible for comparative and informational purposes.

Summary of Significant Findings:

Our review found:

- Real Estate's current billing, collection and accounting practices are not adequate resulting in past due amounts of over \$6 million. As of December 31, 2013, there was an overstatement in NIFS of the amount related to one renter, Spectacor_Management Group

¹ As of 2014, two new properties were added bringing the total to 60.

² This information is taken from the Draft 2013 CAFR on August 8, 2014. County values for land and buildings are based on historical cost. The value of buildings minus depreciation as of December 31, 2013 was \$680 million.

³ The audit did not include a review of bus and transportation services.

⁴ Amounts in Finding 1 were also updated through July 31, 2014.

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(“SMG”). Real Estate claimed that all allowable offsets⁵ were recorded in NIFS, but the related journal entries were not fully recorded leaving the receivable overstated by \$3 million. There is also an unreconciled difference of \$1 million between Real Estate and NIFS. Real Estate was aware of the overstated receivable but has not prepared the journal entries to resolve it.

- The County does not have a complete, accurate and up to date inventory of all County owned and leased properties, impeding the County’s ability to effectively manage these assets. This exception was previously noted in audit reports issued by the Comptroller’s Office in 2001⁶ and 2011⁷, and remains unresolved more than 13 years later.
- The Real Estate database was not properly updated with regard to how Nassau County properties were being utilized under the Environmental Bond Act Programs⁸.
- County owned properties were not being regularly inspected and there appeared to be no consistent effort to identify and sell surplus and unneeded County owned properties. Some unused properties recommended for sale in the prior report issued by the Comptroller’s Office in 2001 still remained unsold as of May 2013. The cost to the County of these unsold properties is \$6.9 million in revenues and \$295,100 in annual County, School and Town taxes. Further, due to lack of inspections, Real Estate was not aware that SMG had entered into agreements with car dealerships to store vehicles on County property at the Nassau Coliseum, with the related revenues being paid to SMG.
- Real Estate did not have sufficient staff with the expertise needed to fully carry out its mission. In addition to past due rents not being followed up and properties not being inspected, we also noted a drop in revenue from property sales (\$11.6 million in 2012 versus only \$3 million in 2013).
- Improvement is needed in the County’s oversight of the activities performed by the property management company with respect to the County’s Mitchel Field Veterans Housing and the Landmark properties. Tenant receivables were not being monitored and receivable amounts reported by the property management company appeared to be understated and support was not provided to substantiate the lesser amounts reported. Further, documents provided by the property management company for the Mitchel Field Veteran’s Housing properties were not reviewed for compliance with the contract.

⁵ SMG is allowed to deduct the cost of certain maintenance, repair or improvement costs which it performs from the payments that it makes to the County.

⁶ The Comptroller’s Office’s Report, “Examination of Nassau County’s Function of Space Utilization Limited Review Report – 2000, May 1, 2001.

⁷ The Comptroller’s Office’s Report, “Review of County Utilities Expenses – Long Island Power Authority Costs”, June 6, 2011, page 11.

⁸ The 2004 and 2006 Environment Bond Act Programs provided \$150 million in funding for 151 projects to protect the remaining open space, natural resources, parklands, drinking water and to advance the remediation of contaminated properties around the County.

Executive Summary

- Real Estate is not adhering to the modified accrual basis of accounting for the Landmark and Mitchel Field Veteran's Housing properties. Currently, they only record the net revenue remitted from the property management company for the Landmark properties in NIFS. This practice does not reflect the underlying economics of all the revenue and expense transactions related to these County properties.
- In many instances, the Real Estate staff was unable to locate requested leases, permits and files for County owned properties and had to reach out to other departments or vendors for assistance. This is because original County records are being stored in manual files. These critical documents, many of which are voluminous with numerous amendments, are at serious risk of being misfiled or lost.
- Real Estate does not have written policies or procedures for its key functions, which include billing and collecting rents and concessions for County properties, following-up on past due payments and coordinating sales of surplus County properties.

Summary of Significant Recommendations:

We recommend that Real Estate:

- work with the County Attorney's Office to collect past due receivables and write off any amounts determined to be uncollectible;
- take immediate steps to reconcile the accounts receivable due from SMG in NIFS to Real Estate's records and make the necessary corrections in NIFS;
- work with the Department of Assessment and the Treasurers' Office to update the Real Estate database to ensure it properly captures all County owned and leased properties and the related descriptive information, including the properties related to the County's Environmental Bond Act;
- implement a plan to ensure that all County properties are inspected on a regularly scheduled basis to ensure that underutilized and surplus properties are identified for potential sale and create an action plan to sell or lease unused properties;
- recruit qualified staff to ensure timely follow-up of past-due accounts receivable, adequate oversight of the billing and revenue processes and to improve oversight of the managing agent responsible for the Landmark properties and the Mitchel Field Veteran's Housing;
- take the necessary steps to ensure that the revenue and expenses related to the Landmark and Mitchel Field Veteran's Housing properties are properly recorded in NIFS using the modified accrual basis of accounting. Further tenant receivables should be monitored by the County and the differences between the receivable amounts reported by the property management company and the audit calculations in this report should be resolved;

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- take immediate corrective action to ensure that documents provided by the property management company for the Mitchel Field Veteran's Housing properties are reviewed for compliance with the contract;
- take immediate corrective action to retrieve important documents (deeds, leases, and rental agreements). These documents should be imaged for easy access and sharing. Consideration should be given to implementing a document tracking and imaging software package;
- develop written procedures for billing and revenue collection, including the referral of past-due accounts receivables to the County Attorney's Office for collection; and
- develop a Real Estate database manual to document how the database is updated and maintained, including the records that support the database.

The matters covered in this report have been discussed with the officials of the Real Estate Department. On August 26, 2014 we submitted a draft report to Real Estate for their review. Real Estate provided their response on September 30, 2014. Their response and our follow up to their response are included as Appendix B to this report.

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Introduction

Background

The Office of Real Estate Services (“Real Estate”) is responsible for the planning of space requirements, and the management, assignment and use of Nassau County (“County”) owned buildings and grounds. It was established within the Office of the County Executive in 2002⁹ and became a division of the Department of Public Works (“DPW”) in 2012. According to the database maintained by Real Estate, the County owned and/or leased 2,271 properties as of May 2013.

The mission of Real Estate is as follows:

*“The Office of Real Estate Services provides real estate services to County government including strategic planning, property acquisition and disposition, and building project planning and development. The consolidation of these functions within a central Office of Real Estate Services ensures that the County’s real property is managed in a cost-effective and efficient manner that will benefit all employees and consumers of County services.”*¹⁰

As of May 2013, both the Superintendent of Real Estate and the Deputy Director (both attorneys) had either resigned or retired¹¹, leaving Real Estate with only four employees, overseen by a Deputy County Executive, who recently passed away.

Revenue reported in Real Estate’s records from property rentals, concessions and sales for the five year period of 2009 through 2013 are shown in Exhibit I. The major revenue categories are Mitchel Field Rentals, Coliseum, Utilities, Rentals and Concessions and Sale of County Properties.

⁹ Executive Order 1-2002.

¹⁰ Nassau County Adopted Budget: Summary of Fiscal 2012.

¹¹ The Superintendent of Real Estate left the County on 03/28/12 and the Deputy Director left on 04/04/13.

Introduction

Exhibit I

Office of Real Estate Services
Revenue from Property Rentals, Concessions and Sales
2009-2013

	<u>In Thousands (000's)</u>					
	<u>2009</u>	<u>2010</u>	<u>2011 *</u>	<u>2012</u>	<u>2013</u>	<u>Total</u>
Mitchel Field Rentals **	\$ 5,612	\$ 5,913	\$ 43,761	\$ 2,447	\$ 2,570	\$ 60,303
Coliseum Utilities, Rentals & Concessions	3,825	3,591	2,741	4,588	2,887	17,632
Rental of Other County Properties	379	79	438	487	864	2,247
Concessions Sale of County Properties	111	108	109	112	106	546
	-	3	9,792	11,649	3,023	24,467
Total	<u>\$ 9,927</u>	<u>\$9,694</u>	<u>\$ 56,841</u>	<u>\$ 19,283</u>	<u>\$ 9,450</u>	<u>\$ 105,195</u>

Note (1) - Data is taken from the Nassau Integrated Financial System ("NIFS"), the County's accounting system.

Note (2) - The Exhibit excludes prior year recoveries, bus and transportation related revenues, miscellaneous receipts and interfund and interdepartmental revenues. It also excludes Landmark Property rentals which are reported under the Department of Parks, Recreation and Museums.

* In 2011, the Mitchel Field revenue of \$43.7 million includes proceeds of \$37 million from Nassau County's sale of the rental stream from certain of its Mitchel Field ground leases to RXR Mitchel Field Investor, LLC. The securitization of the leases was authorized by Ordinance No. 30-2011. Excluding this sale, the rental revenues for 2011 were \$6.7 million.

** The Mitchel Field rentals shown relate to monthly payments from Lighthouse Hotel Development, Lighthouse 1600 LLC, Rodolitz Associates and Nassau District Energy Group (TRIGEN). They do not include revenue from the rental of the Mitchel Field Veterans Housing Units.

The County also contracts with a managing agent, Smith and DeGroat, to manage other properties listed on the Real Estate database. These are the 60 Mitchel Field Veterans Housing Units and the 58 Landmark¹² properties. The Mitchel Field Veterans Housing Units were acquired in 2011 from the federal government for use as housing for active military families and veterans. The property was in disrepair and needed extensive improvement before each unit could be occupied. According to the contract the County only receives revenues to the extent that

¹² Pursuant to an October 10, 2006 contract between the Nassau County Department of Parks, Recreation and Museums and Smith & DeGroat.

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rents collected exceed the costs of capital improvements, maintenance and repairs, the management fee, the construction management fee and an allowable reserve for capital improvements. As shown in the Appendix to this report, from 2011 to 2013, there has been no excess. The Landmark properties consist of residential and commercial units located in the County's parks and preserves and the related net rental revenue is recorded in the Park's Department's budget¹³ in NIFS, the County's accounting system. An analysis of the receipts, expenses and management fees paid to Smith and DeGroat for the Mitchel Field Veterans Housing and Landmark properties can be found in the Appendix to this report.

Review Scope, Objectives, and Methodology

The purpose of the review was to conduct an operational and financial examination of Real Estate, with a focus on real estate revenue collections. The period reviewed covered January 1, 2011 through May 31, 2013. Amounts in the report were updated through December 31, 2013 where possible, for comparative and informational purposes. The specific objectives were to verify that:

- rental income is being maximized, including that all rental agreements are on file and up to date, that rent is being collected on a timely basis and that rents are periodically evaluated for reasonableness and fair market value.
- any past due rents have been referred to the Office of the County Attorney for appropriate follow-up with particular attention to determine that efforts are being made to collect the Coliseum rents due the County.
- the Real Estate database captures all County owned properties, including tax lien sale properties and that it is properly maintained.
- Real Estate has reviewed all County real estate to identify opportunities for consolidation and/or sale.
- sales of surplus County real estate have been made in accordance with County regulations.

We reviewed written policies and procedures and interviewed employees to determine their responsibilities, duties and work procedures. We reviewed Real Estate's database for completeness, examined property record files and visited selected properties. We reviewed the internal controls over revenue collection and analyzed outstanding accounts receivable. We also reviewed property sales and examined the billing and revenue collection processes of Real

¹³ Landmark Property rental revenues are reported in the County's accounting system, NIFS, under the Department of Parks, Recreation and Museums (Sub-Object R0729).

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Estate's property management company, Smith and DeGroat, with respect to the County's Mitchel Field Veterans Housing and the Landmark Properties.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

Findings and Recommendations

Review Finding (1):

Real Estate's Inadequate Billing, Collection, and Accounting Practices Resulted in Overdue Receivables of Over \$6 Million and Approximately \$3 Million in Overstated Accounts as of December 31, 2013¹⁴

Our review revealed that according to the County's accounting system, NIFS¹⁵, 18 of the County's 35 tenants/concessions owed over \$9.8 million as of December 31, 2013¹⁶. The past-due balances for four of these accounts were:

- not referred to the County Attorney's office on a regularly scheduled basis;
- not properly documented in the tenant files; and
- not always accurately accounted for in NIFS.

We also found that the follow-up of past-due balances was informal and at the discretion of the Director of Real Estate Services. When auditors consulted the Real Estate files for information regarding disputes about the amounts owed, these files were incomplete and did not document pending resolutions. There was no evidence that final decisions were made in connection with these disputes.

Our test date was as of May 31, 2013, at which time 17 of the 35 tenants/concessions owed \$6,573,011. As shown in Exhibit II, we selected and reviewed five of the 17 which owed rent for multiple months/years; the amounts owed for these five represented \$6,390,702 of the total accounts receivable as of May 31, 2013. According to NIFS, the amount owed by the five tenants/concessions included in our testing increased to \$9,107,549 as of December 31, 2013¹⁷. Further analysis revealed that one renter's receivable did not reflect the impact of \$2.4 million of allowable credits causing the receivable and the related accrued liability to be overstated in NIFS. In addition, Real Estate continued to bill another renter even after the renter notified the County that the property was being vacated, unnecessarily inflating the receivable. The amount of the overstatement for this renter was approximately \$500,000 as of December 31, 2013¹⁸.

¹⁴ As of July 31, 2014, the overdue receivables increased to \$8,205,000 and the amount estimated as overstated increased from \$2,900,000 to \$2,995,499. When added together, the total receivable increased from \$9.8 million on December 31, 2013 to \$11.2 million on July 31, 2014.

¹⁵ Nassau Integrated Financial System "NIFS".

¹⁶ As of July 31, 2014, the amount owed increased to \$11.2 million which represented 24 of the 35 tenants/concessions.

¹⁷ As of July 31, 2014, the amount owed by the five tenants/concessions in the sample increased to \$10.7 million.

¹⁸ As of July 31, 2014, the amount of the overstatement for this renter increased to \$595,499.

Findings and Recommendations

Exhibit II

Summary of Accounts Receivable Test Sample

Name of Property/Tenant	As of Test Date 5/31/2013	Aging			
		2013	2012	2011	2010
Spectacor Management Group (“SMG”)	\$ 5,789,338	\$ 258,981	\$ 3,592,224	\$ 1,938,133	\$ -
Nassau Health Care Corporation (“NHCC”)	430,024	55,158	132,380	132,380	110,106
New York Telephone/Verizon	146,304	36,576	36,576	36,576	36,576
Urology Associates P.C.	16,400	2,000	4,800	4,800	4,800
Dover Coral Inc.	8,636	2,540	6,096	-	-
	<u>\$ 6,390,702</u>	<u>\$ 355,255</u>	<u>\$ 3,772,076</u>	<u>\$ 2,111,889</u>	<u>\$ 151,482</u>

Name of Property/Tenant	As of Year End 12/31/2013	Aging			
		2013	2012	2011	2010
Spectacor Management Group (“SMG”)	\$ 8,434,799	\$ 3,204,441	\$ 3,292,225	\$ 1,938,133	\$ -
Nassau Health Care Corporation (“NHCC”)	507,246	132,380	132,380	132,380	110,106
New York Telephone/Verizon	146,304	36,576	36,576	36,576	36,576
Urology Associates P.C.	19,200	4,800	4,800	4,800	4,800
Dover Coral Inc.	-	-	-	-	-
	<u>\$ 9,107,549</u>	<u>\$ 3,378,197</u>	<u>\$ 3,465,981</u>	<u>\$ 2,111,889</u>	<u>\$ 151,482</u>

Our review of the five renters/concessions found that the case files did not contain the current status of the cases, identify when the cases were referred to the County Attorney's Office, or evidence whether the files were reviewed by an executive level staff member. According to follow-up discussions with Real Estate staff, many documents, including leases and permits, had been transferred from Real Estate to the County Attorney's Office for review, but were never returned to Real Estate's files. We also noted that Real Estate's process is manual and paper driven.

Our review also determined that Real Estate does not have written guidelines for the rental revenue billing process or the handling of the collection of past-due rents. Written policies and procedures are an effective internal control tool to provide guidance and ensure the reliability of accounting data and financial reporting.¹⁹ The lack of written policies and procedures is of particular concern due to the retirement or resignation of several of the Office's key employees in 2012 and 2013, including the Director, Assistant Director and Accounting Executive.

Below is a brief summary of the status of the balances owed by the five renters shown in Exhibit II:

¹⁹ As defined by the New York State Comptroller, written policies and procedures should include details of significant activities and unique issues, employee responsibilities, limits to authority, performance standards, control procedures and reporting relationships (per the New York State Comptroller *Local Government Management Guide, The Practice of Internal Controls*).

Findings and Recommendations

Spectacor Management Group (“SMG”)

Nassau County entered into a lease agreement with SMG in 1979 for the Nassau Veterans Memorial Coliseum. The lease period ends on July 31, 2015. The lease provides for SMG to operate and maintain the Coliseum and to make quarterly payments for rent, hot and chilled water, electricity and 12.75% of gross parking revenues. In addition, SMG is required to remit 25% of its concession commissions above a base amount to the County on an annual basis.

Since the SMG case file did not contain any up to date information, we requested that Real Estate provide any information that that they could on the SMG balances. We received an inter-departmental memo dated March 12, 2013 from the Office of Legislative Budget Review who looked into this matter. This memo indicated that SMG was not up-to-date in paying the County due to a dispute which centered on the amount of maintenance offsets that SMG²⁰ is allowed to deduct from its payments to the County. The memo indicated these offsets totaled \$3.2 million.

Although Real Estate claimed that all offsets had been recorded in NIFS and that SMG only owed the County \$4.5 million, we noted that NIFS showed a receivable balance of \$8.4 million for SMG. Further review revealed that \$2.4 million of credit offsets were only entered in NIFS in March of 2014 (as of December 31, 2013)²¹ and were not recorded properly in order to reduce the receivable.²² After considering these offsets, we computed an amount due from SMG of \$5.5 million which still does not agree with the \$4.5 million that Real Estate claims is the amount owed as of December 31, 2013.

Nassau Health Care Corporation (“NHCC”) – Freeport-Roosevelt Health Center

Our review found that an executed 30 year lease agreement exists between NHCC and the County dated September 29, 1999, which covers NHCC’s rental of the Freeport-Roosevelt Health Center. In January, 2010, NHCC sent a written notice to Real Estate of its intention to vacate the premises, effective February 28, 2010.

It is not clear why Real Estate continued to bill NHCC, thereby allowing the receivable to grow to \$430,000 as of May 31, 2013 and \$507,246 as of December 31, 2013²³. There was no

²⁰ According to Nassau County’s Office of Legislative Budget Review, SMG/the Islanders is allowed to deduct the cost of certain maintenance, repair or improvement costs which it performs from the payments that it makes to the County, once submitted and approved by the County.

²¹ As of July 31, 2014 no additional credit offsets were entered in NIFS after March 2014.

²² The credit offsets represented expenses, paid by the renter from rental receipts, to make emergency repairs. As such, according to the modified accrual basis of accounting, they should have been recorded simultaneously in NIFS as revenue and expenses of the County and the revenue would be used to reduce the receivable. Instead, these credits were recorded as an increase to expense and accrued liabilities. The related revenue side of the transaction was not recorded and a journal entry was never prepared to reduce both the renter’s receivable and accrued liability.

²³ As of July 31, 2014 the receivable increased to \$595,499.

Findings and Recommendations

documentation on file of the current status. Real Estate staff stated that the matter was being addressed by the County Attorney's Office.

New York Telephone/Verizon

The outstanding balance represents four years of accounts receivable for permit fees, which are billed on an annual basis at the beginning of each year, for right of ways along watershed properties formerly owned by New York City.²⁴ There was no lease agreement or permits on file. Real Estate staff stated that the case is old and the lease/permits cannot be located. There were no collection letters or bills on file. Hard copy e-mails dating back to 1997, indicated that former Real Estate senior staff members made repeated efforts to review the status of the receivables with the County Attorney's Office and/or to write them off if appropriate. However, we found no documentation of the current status and were told that this case is currently with the County Attorney's Office.

Urology Associates P.C.

The outstanding balance is for the rental of a condominium storage unit. According to Real Estate staff, this storage unit was not in use. A review of the files showed only a memo and three e-mails, dating from 1999 to 2006; there was no lease on file. We found no documentation on file from 2007 to the present time evidencing that any effort was under way to collect the past-due rents. We were told that bills continue to be sent because they have not been returned as undeliverable by the Post Office. For more information about this property, see Audit Finding 3.

Dover Coral Inc.

Dover Coral Inc. has a lease/permit with the County for the use of County owned land at the Coral House Restaurant in Baldwin for a walkway, sprinkler system and landscaping. This was past due in May 2013 but by December 31, 2013, Dover was up-to-date with its payments.

Review Recommendations:

We recommend that Real Estate:

- a) implement a formal process to refer past-due rent receivables for collection on a regularly scheduled basis. Any amounts deemed uncollectable (after consultation with the County Attorney's Office) should be written off with the assistance of the Comptroller's Accounting Section;

²⁴ The City of New York transferred watershed land to Nassau County in the mid 1980's, per an October 8, 1999 memorandum from a former Chief Deputy County Attorney.

Findings and Recommendations

- b) periodically review and update the renters' files, noting the current status of any disputes and the collection of past due balances;
- c) require a supervisory review of all renters' files on a regular basis and ensure that evidence of the review is placed in the file;
- d) take immediate steps to correct the SMG and NHCC (Freeport-Roosevelt Health Center) accounts receivable shown in NIFS and to record all future transactions properly. Guidance should be sought from the Comptroller's Accounting Department if necessary;
- e) take immediate corrective action to retrieve important documents (deeds, leases, and rental agreements). These documents should be imaged for easy access and sharing; and
- f) develop written policies and procedures for the rental billing and collection processes and the handling of past-due rents.

Review Finding (2):

\$1.3 Billion in Real Estate was Inadequately Managed Due to Inaccurate and Incomplete Records and a Lack of Qualified Staff

In order for the Office of Real Estate to properly oversee space utilization, monitor utility costs, and safeguard the County's properties and assets, they need a complete list or database of what falls under their purview. In the County's 2012 Budget, one of Real Estate's key objectives was to finalize an updated database that captures all County-owned properties.

Our review of the Real Estate database as of May 2013 revealed that it was not complete or up to date. We noted there are four County departments, Real Estate, the Department of Assessment, the Treasurer's Office and the Accounting Section of the Comptroller's Office that each maintain individual property inventories for differing purposes, none of which agreed to, or were easily reconciled with each other.

Weaknesses in Real Estate's database, including that it was inadequate as the primary source for locating County properties, was noted in a prior Utility audit issued by the Comptroller's Office in 2011.²⁵

²⁵ Comptroller's Office's "Review of County Utilities Expenses – Long Island Power Authority Costs, June 6, 2011, page 11.

Findings and Recommendations

Review of the Real Estate Database

As of May, 2013, the Real Estate database included 2,271 properties owned or leased by the County. The database identified properties by location, building name, address, Section, Block and Lot, and building number. Properties were classified by type: general office, court buildings, police, public works, parks, etc. The value of County owned land and buildings is not reflected on the Real Estate database.

We found that the database lacked full and complete information on the properties owned by the County. The following general exceptions were noted:

- Real Estate did not have enough descriptive information on the Real Estate database under County-Owned Land²⁶ to determine the purpose and status of 1,325 of the properties shown in this category. We also noted that 381 of these properties were shown with an address of 1 West Street, Mineola, or simply West Street, whereas when using their Section, Block and Lot information, we determined that they were located elsewhere in the County. The Comptroller's Office's Space Utilization Limited Review, issued in 2001, previously reported this exception and recommended its correction.²⁷
- Nine properties on the database were listed only by location and building number, i.e., Hall's Pond and Massapequa Preserve. No street address or Section, Block and Lot, or descriptions, such as area/square footage were provided on the database.
- There were no written guidelines or procedures covering how to maintain the Real Estate database and the manual records that support it.

Review of Documentation on Selected Properties Listed on the Real Estate Database

We selected a sample of 48 properties from the database printout and requested that Real Estate provide us with its files and records for each property for review. We noted that:

- the property documentation (deeds, leases and rental agreements) supporting the Database was contained in manual files that were subject to loss and misplacement.
- 37 of the 48 properties selected (77%) did not have a file at Real Estate. The Real Estate Accountant had to obtain information from the Department of Assessment's property inquiry system and obtained copies of deeds and other ownership information from the County Clerk's Office.

²⁶ County-Owned land includes vacant parcels, parks, preserves, etc.

²⁷ Comptroller's Office's Report, "Examination of Nassau County's Function of Space Utilization Limited Review Report - 2000", May 1, 2001 (page 9).

Findings and Recommendations

- In one instance, Real Estate did not have any information on a County owned property in Riverhead (4-H Camp). The auditors obtained a copy of this lease for Real Estate from Cornell University Cooperative Extension who runs the 4-H camp.

Comparison of the Real Estate Database to Other Departments (the Department of Assessment, the Accounting Section of the Comptroller's Office and the Treasurer's Office)

Department of Assessment

The Department of Assessment maintains property information primarily to be used for the assessment of taxes. Their report lists all properties located in the County, including the land and buildings owned by the County. It contains useful information not on Real Estate's database, such as the size, assessed valuation and market value of each property. We also noted that this report had fewer properties than the Real Estate database, because it consolidates individual listings at the same address and/or Section, Block and Lot into one property listing. Due to the lack of adequate property information on the Real Estate database, reconciliation to the Department of Assessment's report could not be completed.

Accounting Section of the Comptroller's Office

The Comptroller's Accounting Section maintains a record of the County's land and buildings in the County's Fixed Asset System ("FAACS") for purposes of reporting this information in the County's Comprehensive Annual Financial Report ("CAFR"), to properly comply with General Accepted Accounting Principles for Governments.

The FAACS records will not fully correlate with Real Estate's database because FAACS does not include a complete list of land and buildings acquired by the County before 1980. The values recorded in FAACS were established by a consultant in 1980, based on sample selections of County owned land and buildings. Factors were developed using assessed valuations and applied to the sampled properties in order to establish opening balances for County owned land and buildings by function. Since then, the Accounting Section reaches out to Real Estate, the County Attorney's Office and the Treasurer's Office (for tax sale properties) each year in order to identify any material acquisitions and disposals, and enters them in FAACS.

As of December 31, 2013 the value of County owned land and buildings reported in the County's CAFR totaled \$239,976,000 and \$1,105,598,000 respectively²⁸.

²⁸ The values for Nassau County's land and buildings are based on historical cost. The value of buildings minus depreciation as of December 31, 2012 was \$680,412,000.

Findings and Recommendations

County Treasurer's Office

The Treasurer's Office maintains a Nassau County Lien Summary by Status Report ("Treasurer's Listing") that identifies all properties acquired by the County through tax enforcement proceedings. As of December 31, 2012, the tax lien balance in the County's Tax Real Estate account²⁹ was \$4.5 million. A comparison of the Treasurer's Listing as of May, 2013 to the Real Estate database was performed. The review disclosed that 104 (15.24%) of the 682 properties listed on the Treasurer's Listing were not listed on the Real Estate database. The amount of the delinquent tax liens for the 104 properties not included on the Real Estate database totaled \$3.2 million.

Lack of Qualified Staff at Real Estate Office

In 2010 and 2011, Real Estate had seven to nine full-time employees, including several attorneys; a Director (Superintendent of Real Estate³⁰) and a Deputy Director, an Accounting Executive, a Building Space Analyst, an Architectural Drafter, a Chief Real Estate Negotiator, and two to three clerical employees.³¹ Property sales take time and effort to finalize and a certain skill set is required to adequately perform the job. As of May 2013, Real Estate had no attorneys, no employees dedicated to the sale of properties and no one performing full time property management.

Our review disclosed that as of May 2013, only four employees were dedicated to real estate functions, none of them an attorney, or real estate professional³². The four employees were the:

- Acting Director (replacing the Deputy County Executive who unfortunately recently passed away);
- Clerk III (works full-time for Real Estate);
- Accountant II (works 50% for Real Estate and 50% for DPW); and
- Clerk Typist II (works 80% for Real Estate and 20% for DPW).

²⁹ NIFS General Fund, Balance Sheet Account 330.

³⁰ According to the Nassau County Civil Service job description, the typical duties of the Superintendent of Real Estate are to plan, assign, direct and review subordinate technical and clerical staff; review and determine real estate values through field inspection and consultation; assist in the processing of leasing involving vacant land or office space and claims for rent due; negotiate, determine and collect rents due the County or properties under condemnation; confer with engineers, space planners, real estate brokers, landlords, and attorneys with respect to the sale or lease by the County, of County owned lands and the leasing of privately owned office buildings for County use; and supervise and direct the department activities in providing information and assistance to persons under emergency housing and relocation conditions.

³¹ Per Supporting Schedules to the Nassau County Fiscal Year 2010 and 2011 Adopted Budgets.

³² The Superintendent of Real Estate left the County on March 28, 2012 and the Deputy Director left on April 4, 2013.

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Exhibit III below details the drop in revenue of real estate sales since the departure of the Director and Deputy from the County. In addition, the County revenue attributed to the efforts of these two professionals more than covered their salaries.

Exhibit III

Summary of Real Estate Sales Transactions January 1, 2011 - December 31, 2013

<u>Year</u>	<u>Number of Properties Sold</u>	<u>Sales Price</u>
Jan. 1- Dec. 31, 2011	39	\$ 9,792,079
Jan. 1- Dec. 31, 2012	44	11,648,530
Jan. 1- Dec. 31, 2013	10	3,022,972
<u>Total</u>	<u>93</u>	<u>\$ 24,463,581</u>

Source of Data: Nassau Integrated Financial System
("NIFS"), the County's accounting system.

Insufficient staffing levels in comparison to prior years and the lack of an attorney and real estate professional severely inhibited the County's oversight and effective management of its owned and leased real estate. The functions of monitoring past-due receivables for collection (Finding 1), regularly inspecting County owned properties (Finding 3), maintaining the Real Estate database (Finding 2) and overseeing the services performed by Smith and DeGroat (Finding 5) were not being adequately performed. Per the County's Real Estate Mission Statement (listed in the background of this report) Real Estate should perform "*strategic planning, property acquisition and disposition, and building project planning and development.*"

We also compared Nassau County staffing levels (of three and a half employees) to two neighboring counties. Suffolk County had fourteen employees dedicated to managing their properties and Orange County had four full-time employees, even though the number of properties they managed was significantly less than Nassau County.

Review Recommendation(s):

We recommend that Real Estate:

Findings and Recommendations

- a) update the database to include the correct address and/or location of all County owned and leased properties;
- b) take corrective action to protect the records that support the database from loss and misfiling. Consideration should be given to obtaining an electronic record scanning and storage system;
- c) periodically request a report from the Department of Assessment for comparison to the Real Estate database. The Real Estate database should be updated to help ensure it is in sync with the County owned land and buildings according to the Department of Assessment;
- d) periodically request the Lien Summary by Status Report from the County Treasurer's Office for comparison to the Real Estate database. The Real Estate database should be updated to help ensure it is in sync with the Treasurer's Office's records, particularly with respect to properties where the County has taken full title;
- e) develop written guidelines or procedures covering how to maintain the database and supporting records; and
- f) recruit adequate qualified staff in order to address the findings in this report and improve the County's ability to effectively manage and control its real estate holdings and maximize the related revenue.

Review Finding (3):

Underutilized, Vacant and Unauthorized Use of County Properties Is Costing the County \$6.9 Million in Revenues and at Least \$295,100 in Annual County, School and Town Taxes

Our review revealed that regular inspections of County owned properties were not being done. There was no evidence that underperforming and vacant properties were being identified or that unauthorized use of County property was being referred to the appropriate parties. The lack of such information makes it difficult for the County to take corrective action or identify and maximize revenue opportunities from property sales.

We also found that Real Estate was not aware that SMG had entered into agreements with car dealerships to store vehicles on County property at the Nassau Coliseum. This was not authorized by the County nor covered in the County's contract with SMG.

Regular County inspections of County-owned land and buildings helps mitigate the risks of:

- unauthorized users of County properties;

Findings and Recommendations

- illegal activities occurring in or on the properties such as the dumping of toxic liquids; and
- underutilized properties not being identified and evaluated for other uses or potential sale.

We selected fourteen County owned properties for field visits and determined that six of the fourteen should be sold or leased (see Exhibit IV). Specific emphasis was given to selecting properties with past-due rents or outstanding accounts receivable. Our visits disclosed that many of the properties visited were vacant. According to the former Superintendent of Real Estate, vacant properties leave the County more vulnerable to dumping and other unauthorized uses and in order to protect the County's assets, attempts were always made to rent such properties, even at minimal amounts.

We found that there was no list being maintained to track properties available for sale and there was no building use plan. This information is necessary to adequately distinguish performing properties from those which are under performing or not performing.

We also found no evidence of an effort to utilize, rent or sell the six properties shown in Exhibit IV, four of which were previously included in prior audit reports. According to the assessed values available from the Department of Assessment for four of the six properties, if sold at these assessed values, the four properties would have generated \$6.9 million in revenues. Based on 2013/2014 tax information provided to us by the Department of Assessment, for three of the properties, the general and school tax revenue would have been \$295,100.

Findings and Recommendations

Exhibit IV

Auditor Identified Properties/Vacant Space in Properties That Should be Sold/Leased

<u>Property Reference</u>	<u>Property Description</u>	<u>FMV per Dept. of Assessment</u>
A	Unoccupied Commercial & Industrial Warehouses & Land	\$ 3,986,200
B	Unoccupied Building	\$ 2,428,700
C	Lot with Parking Meters	\$ 374,600
D	Vacant Land	\$ 80,390
E	Vacant Office Space in Basement of Building Used by County Departments	Not Available*
F	Vacant Storage Units in Condominium Office Building	Not Available

Note: Properties are only identified with a letter code because Real Estate requested that the auditors remove each property's Section, Block and Lot, as well as the addresses, because it could jeopardize current efforts in the works to resolve contract disputes, litigation etc.

* The amount of rent the County paid for 2012/2013 for the 1,892 square foot basement premises is \$46,955.

Findings and Recommendations

The following are brief summaries of the six properties shown in Exhibit IV:

Property A - Unoccupied Commercial and industrial Warehouse and Land (Listed by the County Assessor at a value of \$3.9 million)

The property consists of commercial and industrial warehouses and land with paving, blacktop, fencing and railroad sidings. This property was noted as an audit exception in our 1998 Limited Review of County Owned Properties³³, where we noted that one or more businesses appeared to be operating from this address. The previous Superintendent of Real Estate had located a buyer for this property, however the deal fell through. It has been more than 20 years since the County took possession of this property. A final determination on how the County will proceed remains unresolved.

Property B – Unoccupied Building (Listed by the County Assessor at a value of \$2,428,700)

The tenant notified Nassau County of its intent to vacate this property, but the County continued to bill for rent resulting in a past due balance of \$430,024 as of May 31, 2013³⁴. We attempted to visit the building in August 2013, but were unable to enter the premises because it was padlocked. We noted that the exterior of the building, particularly the roof, was in poor condition. At an August 8, 2014 meeting with the recently appointed Chief Real Estate Negotiator and a Deputy County Attorney we were told that there is currently a Request for Proposal for its sale.

Property C – Lot with Parking Meters - (County Assessed Value of \$374,600)

This property was not listed on the Real Estate database as County owned but was on the Treasurer's Listing. The auditors visited this location and observed parking meters on it, however we do not know if the parking meters belong to Nassau County or the Village of Hempstead.

Property D - Vacant Land (Listed by the County Assessor at a value of \$80,390)

The auditor's visit in 2013 revealed that the property is now a vacant piece of land. The photo on the Office of Assessment's Land Record dated August 2011 also showed an empty piece of land. Real Estate was uncertain whether there have been any County attempts to sell this property as a vacant lot. At an August 8, 2014 meeting with the recently appointed Chief Real Estate Negotiator and a Deputy County Attorney, we were told that there may be a community development agreement with the Village of Hempstead regarding this property. A final determination on how the County will proceed remains unresolved.

³³ The Comptroller's Office's Report, "Bureau of Real Estate - Limited Review of County Owned Properties, 1998, page 2.

³⁴ The amount due increased to \$507,246 as of December 31, 2013 and \$595,499 as of July 31, 2014.

Findings and Recommendations

Property E – Vacant Office Space in Basement of Building Used by County Departments

The Comptroller's 2012 Limited Review of the Office of Housing and Community Development³⁵ reported that an office in the basement of this building was furnished with brand new office furniture totaling \$121,389 which was purchased and installed but never used. Our visit to the property in August, 2013 found it was still vacant. The auditors determined that for the lease year 2012/2013, this unused space (1,892 square feet) cost the County \$46,955.

Subsequent to the completion of field work, the auditors were notified that this space is now being utilized. A second site visit was conducted by the auditors on October 1, 2014, who verified that this space is being used by a County Agency.

Property F – Vacant Storage Units in Condominium Office Building

In 1995, title passed to Nassau County for two condominium storage units. This property was noted as an audit exception in our 1998 Limited Review of County Owned Properties³⁶. Real Estate did not have keys for this property, but the auditors gained access from the building manager and noted that there were some documents being stored in one of the condominium units; however, it was not clear who owned the documents. At an August 8, 2014 meeting with the recently appointed Chief Real Estate Negotiator and a Deputy County Attorney, we were told that Real Estate would look into resolving this issue.

Use of County Land Not Specifically Covered in the County's Contract with SMG

The auditors recently noted that approximately 100 to 200 vehicles were parked at the Nassau County Coliseum. When we inquired about this, SMG advised us of agreements between SMG and three car dealerships for the use of the Coliseum for parking. In return, SMG receives fees. Real Estate was not aware of these arrangements and stated that "the County is not receiving any revenues for the storage of these vehicles at the Coliseum".³⁷ Exhibit V below summarizes the terms of the three agreements.

³⁵ Per the Comptroller's Office's Report, "Limited Review of the Office of Housing and Community Development Grants Administration", November 15, 2012.

³⁶ The Comptroller's Office's Report, Bureau of Real Estate - Limited Review of County Owned Properties, 1998, page 2.

³⁷ Confirmed by Office of Real Estate's Accountant II, per e-mail dated May 14, 2014.

Findings and Recommendations

Exhibit V

Use of Nassau Coliseum Parking Lot SMG Agreements With Car Dealerships

<u>Name of Dealer</u>	<u>Term</u>	<u>Rent</u>	
Infinity Dealer	05/28/14 - 06/11/14	\$ 20,000	In total
Jeep Dealer	04/15/14 - 07/31/15	\$ 9,000	Monthly
Chrysler Dealer	04/15/14 - 7/31/15	\$ 10,000	Monthly

Review Recommendations:

We recommend that Real Estate:

- a) develop a plan to regularly inspect all County owned properties;
- b) create a list and plan of action to sell or lease unused properties;
- c) develop a space utilization plan which identifies underperforming and non performing properties, including vacant space, so that follow up actions can be taken to increase County real estate revenues and reduce the County's maintenance costs;
- d) refer SMG's subleasing of the Nassau Coliseum parking lot to the County Attorney's Office to ensure that SMG is in compliance with its contract with the County. Also, consideration should be given to include such uses of County property in future contracts to ensure that the County receives a share of the revenues; and
- e) consider establishing a website identifying Nassau County surplus real estate properties, in order to identify business and development opportunities for Nassau County businesses. New York State maintains such a website at: <http://properties.esd.ny.gov/gefault.htm>. Also, consider partnering with established agencies, such as the Nassau County Industrial Development Agency or the Long Island Board of Realtors, in providing information on available land for housing and commercial opportunities in Nassau County.

Findings and Recommendations

Review Finding (4):

Controls Over Sales Records Were Inadequate

We reviewed five of the 93 sales of County owned property shown in Exhibit III on page 13; two commercial property sales totaling \$10 million in 2011 and three commercial and residential sales totaling \$3.3 million in 2012. Our review disclosed the following:

- The manual records kept by Real Estate for property sales were voluminous and subject to loss and/or misfiling. In addition, there was no document imaging and management software to maintain these records. Our comparison of this function to two neighboring counties (Orange & Suffolk) noted that Orange County currently uses an Electronic Records Management System to manage their property records and Suffolk County was in the process of implementing one.
- Direct Sale Approval Procedures checklists were missing from one file and were incomplete in three instances. The Direct Sale Approval Procedures checklist helps ensure that the multiple steps and documents required in the sales process were completed. With the exception of this checklist, there were no other written guidelines.

Review Recommendations:

We recommend that Real Estate:

- a) consider implementing an Electronic Records Management System to manage property records; and
- b) develop a comprehensive written procedure for the sales process and ensure that the Direct Sale Approval Procedures checklist is fully completed and retained on file for each sale.

Review Finding (5):

Real Estate Was Not Properly Monitoring Tenant Receivables; the Landmark and Veteran's Housing Receivables Appeared to be Understated and the Related Revenues and Expenses Were Not Being Properly Accounted for in NIFS

The County contracts with a private real estate management company, Smith and DeGroat, to act as an Agent of the County to provide all aspects of real estate management for the 60 Mitchel

Findings and Recommendations

Field Veteran's Housing³⁸ properties acquired by the County in 2011 and the 58 Landmark³⁹ properties that were designated architectural and historical Landmark structures for the use and enjoyment of Nassau's citizens. Real Estate was responsible for the oversight of the contracts. With respect to the Landmark properties, this function was reassigned to the Parks Department beginning in 2013. Our review found the following:

- There was no County oversight of tenant receivables. When asked about tenant receivables for both the Mitchel Field Veteran's Housing and Landmark properties, the Real Estate Accountant II stated that Real Estate did not review them and that this function was handled solely by Smith and DeGroat. We were informed by the Parks Department that when they assumed review of the rental revenue, construction and management of the Landmark properties in 2013, they too did not believe tenant receivables were under their purview.

We attempted to validate the tenant receivables reported by Smith and DeGroat using the rent rolls, cash receipts records and any other information that was provided, and as shown in Exhibits VI and VII, we computed large differences. The detail worksheets that support these differences were provided to Smith and DeGroat. While Smith and DeGroat did provide explanations (as noted below), documentation to substantiate them would need to be provided by Smith and DeGroat to Real Estate for review and further follow-up. The explanations we received from Smith and DeGroat revealed that:

- tenant receivables reported to the County were being understated because the reports only reflected amounts due from current tenants. The outstanding balances owed by former tenants were no longer reported as tenant receivables on the reports given to the County;
- the effective date and amount of rent increases were not being shown on the rent roll;
- move-in dates shown on the rent rolls did not always reflect when tenants physically moved in if there were construction delays;
- move out dates were not being shown on the rent roll;

³⁸ Under the terms of the Mitchel Field Veteran's Housing contract, Smith & DeGroat deducts from the rents collected, a management fee equal to 9% of rents collected and a construction management fee equal to 12.5% of capital improvements done to the properties. The contract also allows a 10% reserve for Capital Improvements to be maintained. The remainder of the receipts are to be used for capital improvements approved by the County and maintenance of the properties with any excess to be remitted to the County.

³⁹ Under the terms of the Landmark contract, the County receives a percentage of the rents collected and Smith & DeGroat deducts a management fee (varied between 15-25%) from rents collected and a construction management fee equal to 12% of renovations made to the properties.

Findings and Recommendations

- in some cases, security deposits were applied towards rent, however we could not ascertain that the security deposits satisfied the entire amount outstanding without doing a lot of analysis of the general ledger;
- tenants never paid any rent; sometimes repairs made by the tenant were allowed to be used toward rent. There was no evidence that such agreements were approved by the County; and
- there was no meaningful evidence of follow-up done by Smith and DeGroat to collect outstanding rents. Smith and DeGroat advised us that they had discussions with County officials about past-due receivables, but could only provide meeting agendas that contained no specifics as to what was discussed, actions taken, or the outcomes.

Exhibit VI

**Mitchel Field Veterans Housing
Managed by Smith & DeGroat
Analysis of Accumulated Tenant Receivables by Year
As of December 31, 2011 - December 31, 2013**

Accumulated Tenant Receivables			
Date	Per Auditor Analysis	Per Smith & DeGroat	Difference
12/31/2011	\$ 95,724	\$ 30,619	\$ 65,105
12/31/2012	\$ 287,385	\$ 60,138	\$ 227,247
12/31/2013	\$ 517,852	\$ 145,300	\$ 372,552

Findings and Recommendations

Exhibit VII

**Landmark Properties
Managed by Smith & DeGroat
Analysis of Accumulated Tenant Receivables by Year
As of December 31, 2011 - December 31, 2013**

<u>Accumulated Tenant Receivables</u>			
<u>Date</u>	<u>Per Auditor Analysis</u>	<u>Per Smith & DeGroat</u>	<u>Difference</u>
12/31/2011	\$ 47,558	\$ 20,843	\$ 26,715
12/31/2012	\$ 84,018	\$ (8,764)	\$ 92,782
12/31/2013	\$ 107,230	\$ 15,510	\$ 91,719

- We were unable to locate anyone in Real Estate or DPW who was reviewing documents provided by Smith and DeGroat on a quarterly basis for the Mitchel Field Veteran's Housing properties. Such a review is necessary to ensure compliance with the contract and to verify that the management and construction management fees billed to the County by Smith and DeGroat were properly calculated based on actual cash collections from tenants and qualified paid construction expenses.
- Only the amount that is remitted to the County by Smith and DeGroat from the Landmark properties is being recorded as revenue in NIFS, the County's accounting system. This practice does not reflect the underlying economics of all the revenue and expense transactions and does not adhere to the modified accrual basis of accounting. Smith and DeGroat, as Agent for the County, acts in a fiduciary capacity to manage the properties leased by the County to tenants. Thus, all the revenue generated from the properties and the related expenses, including the management fees billed by Smith and DeGroat, are transactions of the County.
- The County has not received any revenue from the Mitchel Field Veteran's Housing properties since they were acquired in 2011 because tenant receipts and other revenue do not yet exceed the expenses, which include Smith and DeGroat's management fee, construction management fee and the costs to renovate and maintain the properties. The modified accrual basis of accounting is not being followed and no entries are being made in NIFS to reflect the underlying economics of the revenue and expense transactions.

Findings and Recommendations

Review Recommendations:

We recommend that:

- a) the County begin to exercise oversight of the tenant receivable functions performed by Smith and DeGroat, including requiring Smith and DeGroat to provide sufficient information to allow the County to verify the computation of tenant receivables. This would include a comprehensive report of past due tenant receivables, encompassing former tenants, the effective dates and amount of rent increases, accurate move-in and move-out dates, and any “in lieu of rent” agreements. Formal collection efforts should be implemented and evidence of actions taken to collect past-due rents should be retained by both the County and Smith and DeGroat;
- b) oversight of the Mitchel Field Veteran’s Housing contract be assigned to a County employee to ensure that all fees billed by Smith and DeGroat are properly calculated and capital improvements are reviewed and approved prior to the commencement of work;
- c) the revenues and expenses related to properties managed by Smith and DeGroat be accounted for in NIFS using the modified accrual basis of accounting to ensure that the underlying economics of the activities are properly reported in the County’s financial records; and
- d) the differences in tenant receivable shown in Exhibits VI and VII be reviewed with Smith and DeGroat by the appropriate County Departments to ensure they are satisfactorily resolved and documented in the reports provided to the County.

Review Finding (6):

The Properties Included in the \$150 Million Environmental Bond Act Programs are not Properly Identified on the Real Estate Database

In 2004 and 2006, Nassau County voters approved referendums providing for the issuance of a total of \$150 million in bonds for 151 individual Environmental Bond Act Programs.⁴⁰ The programs were subdivided into four categories: 23 open space acquisitions, 74 park improvements, 47 storm water quality improvements and 7 brownfield remediations. Many of the programs are ongoing. Of the 151, 53 are the subject of inter-municipal partnerships in which the County, pursuant to Inter-Municipal Agreements (“IMAs”), is working with other

⁴⁰ Local Law 14-2004 provided for a referendum on \$50 million for 48 Environmental Bond Act Programs, while Local Law 10-2006 provided for a second referendum on \$100 million for 103 Environmental Bond Act Programs.

Findings and Recommendations

municipalities to carry out projects on their property. Of the original \$150 million, \$130.4 million had been spent as of June 30, 2014⁴¹.

In reviewing the Real Estate database, we noted it was not properly updated with regard to how Nassau County properties were being utilized under this program. We reviewed the status of a property in Lynbrook, where the County and the Village of Lynbrook entered into an IMA in 2008 for a park improvement project covered under the Bond Act Programs. The IMA included the installation of a fitness trail in Lynbrook's Greis Park. County owned land was used for this project; however, we noted that the Real Estate database had not been updated to properly reflect the use of this land. In addition, the Department of Assessment has this property listed as "Commercial."

The purpose of the Bond Act, which was approved by the voters, was to protect the remaining open space, natural resources, parklands, drinking water and to advance the remediation of contaminated properties around the County. As such, it is important that the properties involved in the Bond Act programs be properly designated on all County property listings.

Review Recommendations:

We recommend that Real Estate initiate an effort to properly identify and code the properties related to the County's Environmental Bond Act on the Real Estate database and provide this list of open space properties to the other County departments that maintain property records.

⁴¹ According to the 2nd Quarter 2014 Reports published by DPW for the 2004 and 2006 Environmental Bond Act programs.

Appendix A

Office of Real Estate Services
Status of Use of Properties Included in the Nassau County Real Estate Database
May 2013

<u>Location</u>	<u>Property Category</u>		<u>Property Counts</u>			
			<u>Total</u>	<u>Generate Rental Revenue</u>	<u>Space Occupied by County or Generate User Fees (1)</u>	<u>Non Productive</u>
Various	Parks Buildings & Space	(2)	303	8	295	-
Various	Public Work Buildings & Space		193	-	193	-
Various	Police Department Buildings & Space		110	-	110	-
East Meadow	Correctional Center Buildings & Space		36	-	36	-
Various	General Office & Storage Space		23	1	22	-
Various	Court Buildings		4	-	4	-
Old Bethpage	Fire Service Academy		17	-	17	-
Garden City	Nassau Community College		53	-	53	-
Various	Landmark Properties Leased to Tenants	(3)	58	55	3	-
Mitchel Field	Veterans Housing Leased to Tenants	(4)	60	-	60	-
Riverhead	Dorothy P. Flint 4-H Camp		31	-	31	-
Mitchel Field	Other Mitchel Field Properties	(5)	21	6	15	-
Various	Other Properties - County as Tenants	(6)	19	-	19	-
Various	Other Properties - County as Landlord	(7)	11	11	-	-
Various	MTA/NICE Bus Properties		4	-	4	-
Various	Community & Senior Centers		3	3	-	-
Various	County Owned Land	(8)	1,325	-	9	1,316
Total			2,271	84	871	1,316

See Notes on next page.

Appendix A

Notes:

(1) These properties provide office and storage space for the County, serve judicial or public safety needs, provide open space and offer educational and recreational opportunities to the public.

(2) The fees generated from the Parks (golfing, summer recreation programs, swimming pools, etc.) are not managed by the Real Estate Department.

(3) These are the Landmark properties managed Smith and Detroit. Three of them are being used by the County and do not generate revenue.

(4) Due to the extensive renovations needed, the Mitchel Field Veterans Housing has not yet resulted in any net revenue to Nassau County.

(5) These are rent producing properties (separate from the Veteran's Housing) that remain after the County sold the rental stream from certain of its ground leases to RXR Mitchel Field Investor, LLC. Examples include The Marriott and Trigen.

(6) The 19 "County as Tenant" properties occupied by the County include the DSS Building at 60 Charles Lindberg, Dept. of Civil Service at 40 Main Street in Hempstead and the Employee Assistance Center on Old Country Road.

(7) The 11 "County as Landlord" properties include the Nassau Coliseum and 40 County Seat Drive (portion of basement to CSEA).

(8) Includes vacant parcels, preserves, etc. 381 of these properties are identified as located at 1 West Street, Mineola, although their Section, Block and Lot information indicated they were located elsewhere. Nine of the properties were identified as parks or preserves, while the remainder were in need of identification and sorting.

Appendix A

Mitchel Field Veterans Housing
Managed by Smith & DeGroat
Analysis of Revenues and Expenses
2011 - 2013

	2011	2012	2013
Rent Receipts	\$ 527,932	\$ 879,991	\$1,185,155
Other Income	8	19	38
Veterans Contribution (1)	100,000	232,500	
Total Receipts	<u>527,940</u>	<u>980,011</u>	<u>1,417,693</u>
Less: Management Fee (2)	47,514	79,199	106,664
Net Receipts	<u>\$ 480,426</u>	<u>\$ 900,812</u>	<u>\$1,311,029</u>
Less:			
Capital Improvements	\$ 345,420	\$ 601,992	\$ 953,345
Repairs & Maintenance	107,052	222,465	302,045
Construction Management Fee (3)	43,177	75,249	119,168
Reserve for Capital Improvements (4)	52,793	87,999	118,515
Expenses Subtotal	<u>\$ 548,442</u>	<u>\$ 987,705</u>	<u>\$1,493,073</u>
Excess to County (5)	<u>\$ (68,016)</u>	<u>\$ (86,893)</u>	<u>\$ (182,044)</u>

(1) Veterans Contributions were used to offset construction costs not covered by rental receipts. Smith & DeGroat do not receive a management fee on these contributions.

(2) Smith & DeGroat is entitled to deduct a management fee in the amount of 9% of the rents collected from the occupants. The amounts shown are on an accrual basis.

(3) Smith & DeGroat is entitled to deduct a construction management fee equal to 12.5% of the total amount expended for capital improvements approved by the County. The amounts shown are on an accrual basis.

(4) Smith & DeGroat is entitled to deduct 10% of the rental receipts as a reserve for capital improvements. The amounts shown are on an accrual basis.

(5) Had there been an excess, this amount would be due to the County.

Appendix A

Landmark Properties
Managed by Smith & DeGroat
Analysis of Management Fee and the County's Share of Revenue
2011-2013

	<u>2011</u>	<u>2012</u>	<u>2013</u>
Gross Rent Collected by Smith & DeGroat	<u>\$1,073,941</u>	<u>\$ 1,059,039</u>	<u>\$ 1,154,063</u>
Smith & DeGroat Management Fee (1)	<u>\$ 221,750</u>	<u>\$ 211,808</u>	<u>\$ 230,813</u>
<u>Distribution to County per Smith & DeGroat</u>			
Percentage of Rent Collected	(2) \$ 613,082	\$ 434,207	\$ 680,896
Adjustment	(3) -	-	(61,111)
Add Electric Fees Paid by Tenants	20,290	34,180	41,835
Total Distribution Due to County Per S&D	<u>\$ 633,372</u>	<u>\$ 468,387</u>	<u>\$ 661,620</u>
<u>Reconciliation to County Records</u>			
Distribution to County Per Smith & DeGroat	\$ 633,372	\$ 468,387	\$ 661,620
Distribution Paid to County Per NIFS	\$ 527,000	\$ 577,000	\$ 661,620
Differences	(4) \$ 106,372	\$ (108,613)	\$ -

(1): The management fee paid to Smith & DeGroat varies in accordance with the contract and subsequent amendments. In 2011 this fee varied from 15-25% of rent collected. Beginning in November 2011 and through 2013, the management fee remained constant at 20% of rent collected.

(2): The distribution due to Nassau County is also set by the contract as a percentage of rent collected and varied each year. The percentages in 2011 were 57% from January -October and then 59% for November and December. The percentages in 2012 and 2013 were 41% and 59%, respectively.

(3): The 2013 adjustment represents a credit allowed to Smith & DeGroat for expenses paid by Smith & DeGroat for several emergency repairs and costs attributed to Hurricane Irene. The adjustment was approved by the Commissioner of Parks.

(4): The differences were primarily due to the timing of NIFS postings. The payment to the County that was received in December 2011 did not post in NIFS until 2012.

Review Recommendations to Finding (1):

We recommend that Real Estate:

- a) implement a formal process to refer past-due rent receivables for collection on a regularly scheduled basis. Any amounts deemed uncollectable (after consultation with the County Attorney's Office) should be written off with the assistance of the Comptroller's Accounting Section;

Real Estate Response:

Past-due rent receivables are referred to the County Attorney's Office for legal support and appropriate action. The DPW Accounting Section has implemented the action of writing off receivables deemed uncollectible.

- b) periodically review and update the renters' files, noting the current status of any disputes and the collection of past due balances;

Real Estate Response:

Real Estate works closely with the County Attorney's Office to address outstanding issues.

- c) require a supervisory review of all renters' files on a regular basis and ensure that evidence of the review is placed in the file;
- d) take immediate steps to correct the SMG and NHCC (Freeport-Roosevelt Health Center) accounts receivable shown in NIFS and to record all future transactions properly. Guidance should be sought from the Comptroller's Accounting Department if necessary;

Real Estate Response:

The DPW Accounting Section has implemented the action of correcting the above referenced receivables in NIFS.

- e) take immediate corrective action to retrieve important documents (deeds, leases, and rental agreements). These documents should be imaged for easy access and sharing; and

Real Estate Response:

Deeds are recorded in the County Clerk's Office and easily accessible. Leases and rental agreements are scanned and maintained in the Real Estate database.

- f) develop written policies and procedures for the rental billing and collection processes and the handling of past-due rents.

Real Estate Response:

In addition to the above, Real Estate has issued an RFP to procure real estate asset portfolio management services to include, among other things, assistance in the evaluation and implementation of these recommendations.

Appendix B - Real Estate Department's Response and Auditor's Follow-up

Auditor's Follow-Up:

The Auditors concur with Real Estate's actions of writing off uncollectable items, and working with the County Attorney to collect past due accounts. We reiterate our recommendations that Real Estate periodically update the renters' files for new developments and require a supervisory review be documented in the files. We also commend Real Estate for taking steps to secure an asset portfolio management system.

Review Recommendations to Finding (2):

We recommend that Real Estate:

- a) update the database to include the correct address and/or location of all County owned and leased properties;
- b) take corrective action to protect the records that support the database from loss and misfiling. Consideration should be given to obtaining an electronic record scanning and storage system;
- c) periodically request a report from the Department of Assessment for comparison to the Real Estate database. The Real Estate database should be updated to help ensure it is in sync with the County owned land and buildings according to the Department of Assessment;
- d) periodically request the Lien Summary by Status Report from the County Treasurer's Office for comparison to the Real Estate database. The Real Estate database should be updated to help ensure it is in sync with the Treasurer's Office's records, particularly with respect to properties where the County has taken full title;
- e) develop written guidelines or procedures covering how to maintain the database and supporting records; and
- f) recruit adequate qualified staff in order to address the findings in this report and improve the County's ability to effectively manage and control its real estate holdings and maximize the related revenue.

Real Estate Response:

Real Estate has issued an RFP to procure real estate asset portfolio management services to include, among other services, assistance in the evaluation and Implementation of these recommendations.

Appendix B - Real Estate Department's Response and Auditor's Follow-up

Auditor's Follow-Up:

The Auditors have reviewed the RFP for real property asset portfolio management services and are satisfied that it generally addresses the recommendations stated above. However, since the RFP did not specifically cover implementing an electronic record scanning and storage system, we reiterate the recommendation that such a system be considered. In addition, we stress the need for adequate qualified professional staff

Review Recommendations to Finding (3):

We recommend that Real Estate:

- a) develop a plan to regularly inspect all County owned properties;
- b) create a list and plan of action to sell or lease unused properties;
- c) develop a space utilization plan which identifies underperforming and non performing properties, including vacant space, so that follow up actions can be taken to increase County real estate revenues and reduce the County's maintenance costs;
- d) refer SMG's subleasing of the Nassau Coliseum parking lot to the County Attorney's Office to ensure that SMG is in compliance with its contract with the County. Also, consideration should be given to include such uses of County property in future contracts to ensure that the County receives a share of the revenues; and

Real Estate Response:

SMG's lease permits a variety of uses of the Coliseum space by SMG and does not specifically preclude the type of use referenced above. The County is insured and indemnified for such uses by SMG and its sublessees/sublicensees.

- e) consider establishing a website identifying Nassau County surplus real estate properties, in order to identify business and development opportunities for Nassau County businesses. New York State maintains such a website at: <http://properties.esd.ny.gov/gefault.htm>. Also, consider partnering with established agencies, such as the Nassau County Industrial Development Agency or the Long Island Board of Realtors, in providing information on available land for housing and commercial opportunities in Nassau County.

Real Estate Response:

Real Estate has issued an RFP to procure real estate asset portfolio management services to include, among other services, assistance in the evaluation and implementation of these recommendations.

Appendix B - Real Estate Department's Response and Auditor's Follow-up

Auditor's Follow-Up:

The Auditors are satisfied that review recommendations (b), (c), and (e) are sufficiently addressed in the RFP.

With respect to recommendation (a), we strongly recommend that Real Estate also develop a plan to regularly inspect all County owned properties.

While we understand that SMG's lease permits a variety of uses of the Coliseum space by SMG and it does not specifically preclude the type of use referenced in the report, we do not believe this explanation sufficiently addresses recommendation (d). Thus, we reiterate that SMG's subleasing of the Nassau Coliseum parking lot be referred to the County Attorney's Office to explore a more aggressive revenue strategy that provides for revenue sharing with the County when subletting occurs.

Review Recommendations to Finding (4):

We recommend that Real Estate:

- a) consider implementing an Electronic Records Management System to manage property records; and
- b) develop a comprehensive written procedure for the sales process and ensure that the Direct Sale Approval Procedures checklist is fully completed and retained on file for each sale.

Real Estate Response:

Real Estate has issued an RFP to procure real estate asset portfolio management services to include, among other services, assistance in the evaluation and Implementation of these recommendations.

Auditor's Follow-Up:

The Auditors are satisfied that the recommendations are sufficiently addressed in the RFP.

Review Recommendations to Finding (5):

We recommend that:

Appendix B - Real Estate Department's Response and Auditor's Follow-up

- a) the County begin to exercise oversight of the tenant receivable functions performed by Smith and DeGroat, including requiring Smith and DeGroat to provide sufficient information to allow the County to verify the computation of tenant receivables. This would include a comprehensive report of past due tenant receivables, encompassing former tenants, the effective dates and amount of rent increases, accurate move-in and move-out dates, and any "in lieu of rent" agreements. Formal collection efforts should be implemented and evidence of actions taken to collect past-due rents should be retained by both the County and Smith and DeGroat;

Real Estate Response:

Smith and DeGroat sends regular reports to Real Estate summarizing rent receivables. Real Estate coordinates with the County Attorney's Office regarding past due rent balances for legal review and appropriate action. In the future, the County will require a full cost presentation by Smith and DeGroat outlining all revenues and expenditures.

- b) oversight of the Mitchel Field Veteran's Housing contract be assigned to a County employee to ensure that all fees billed by Smith and DeGroat are properly calculated and capital improvements are reviewed and approved prior to the commencement of work;

Real Estate Response:

The Real Estate department will assign a County employee to implement this recommendation.

- c) the revenues and expenses related to properties managed by Smith and DeGroat be accounted for in NIFS using the modified accrual basis of accounting to ensure that the underlying economics of the activities are properly reported in the County's financial records; and

Real Estate Response:

The DPW Accounting Section has implemented this action and will require a full cost presentation from Smith & DeGroat outlining all revenues and expenditures.

- d) the differences in tenant receivable shown in Exhibits VI and VII be reviewed with Smith and DeGroat by the appropriate County Departments to ensure they are satisfactorily resolved and documented in the reports provided to the County.

Real Estate Response:

The DPW Accounting Section has implemented this action.

Real Estate Response:

In addition to the above, Real Estate has issued an RFP to procure real estate asset portfolio management services to include, among other services, assistance in the evaluation and implementation of these recommendations.

Auditor's Follow-Up:

While the auditors acknowledge that Smith and DeGroat provides regular reports to Real Estate; we determined that these reports were not sufficient because they did not include rent receivables from former tenants, accurate move-in and move-out dates, the amount and effective dates of rent increases or "in lieu of rent" agreements. We reiterate the recommendation that Smith and DeGroat be required to include this information in the reports; without this level of detail, the County cannot provide meaningful oversight.

We commend Real Estate for implementing a procedure where an employee will review documentation provided by Smith and DeGroat for Mitchel Field Veteran's Housing properties.

Review Recommendations to Finding (6):

We recommend that Real Estate initiate an effort to properly identify and code the properties related to the County's Environmental Bond Act on the Real Estate database and provide this list of open space properties to the other County departments that maintain property records.

Real Estate Response:

The Real Estate department will implement this recommendation.

Auditor's Follow-Up:

The Auditors concur with Real Estate's response.

Auditor's Summary Conclusion:

It is critical that the department follow through on its numerous corrective actions including hiring qualified professional staff. These corrective actions are essential to success in fulfilling the department's mission for strategic planning, property acquisition and disposition, and building usage for the County's real estate holdings.