

CDBG Applicability of Section 104(d)

June 6, 1994

MEMORANDUM FOR: Maxine Saunders, Acting State Coordinator HUD-Baltimore Office, 3.1S

ATTENTION: Harold D. Young, Director, Community Planning and Development Division, 3.1C

FROM: Andrew Cuomo, Assistant Secretary for Community Planning and Development, C

SUBJECT: Community Development Block Grant (CDBG) Program Applicability of Section 104(d) to Congregate Housing Baltimore County, Maryland

This is in response to your memorandum of January 7, 1994, which inquires about the applicability of Section 104(d) of the Housing and Community Development Act of 1974, as amended, to a project proposed by Baltimore County. The County plans to use CDBG funds to acquire a convent and convert it to transitional housing for women and children.

A letter dated December 20, 1993, from the County to your office advised of this proposed project and requested a waiver of the one-for-one replacement requirement under Section 104(d). The basis of the County's request is that this proposed project does not represent the "typical conversion" covered by Section 104(d) because the convent was not part of the housing stock available to the general population of the County and the conversion will increase the number of units available to low-income women and children.

Based on the information provided, it appears that a waiver may not be required. Paragraph 24 CFR 570.606(c)(1) only requires one-for-one replacement of low- and moderate-income dwelling units that are demolished or converted to a use other than as low- and moderate-income dwelling units in connection with a CDBG-assisted activity. Inasmuch as the units in this structure will continue to be used for a residential purpose, there may be no "conversion" and the replacement requirement under Section 104(d) may not be triggered, depending on the pre- and post-rehabilitation "market rents" of the units.

Your memorandum also asks for guidance as to the type and configuration of replacement housing that would be required if the units had to be replaced. As discussed above, the one-for-one replacement requirements of 24 CFR 570.606(c)(1) may not be triggered in this situation. However, if they are, the County could meet the requirements at 24 CFR 570.606(c)(1)(ii) by providing low/mod replacement units that contain at least as many bedrooms, i.e., 20, as the units demolished or converted. (The mix, however, could be different, e.g., 10 two-bedroom units or five four-bedroom units.) The fact that only a few of the units in the structure were occupied over the past few years would not relieve a grantee from the one-for-one replacement requirement if the vacant units meet the definition of "vacant occupiable dwelling units" provided at 24 CFR 570.606(c)(3)(v). Generally, the only relief available to a grantee would be that provided by 24 CFR 570.606(c)(1)(iv)(A), which permits the Field Office to make a

determination, based on objective evidence, that the one-for-one replacement requirement does not apply because there is an adequate supply of vacant low- and moderate-income dwelling units in standard condition available on a nondiscriminatory basis within the grantee's jurisdiction.

Please accept my apology for the delay in this response. Unfortunately, your original memorandum was not received and this office only became aware of your request as a result of an inquiry from your staff. If you have any questions, please contact the Entitlement Communities Division at (202) 708-1577.

cc: Robert P. Allen, SC