

CDBG Removal of Architectural Barriers

February 12, 1990

MEMORANDUM FOR: Thomas Feeney, Manager
Minneapolis-St. Paul Office, 5.9S

ATTENTION: Shawn Huckleby, Director
Community Planning and Development, 5.9C

FROM: Anna Kondratas, Assistant Secretary for
Community Planning and Development, C

**SUBJECT: Community Development Block Grant (CDBG)
Waiver of 570.201(k) - Removal of Architectural Barriers,
Rochester, Minnesota/p>**

This is in response to your November 17, 1989, memorandum inquiring about the feasibility of a waiver of the CDBG regulation at 24 CFR 570.201(k) on behalf of the City of Rochester, Minnesota. The City wants to finance additional handicapped accessibility improvements during construction of a HUD Section 202 facility for handicapped persons. Some, but not all, of these additions fit within the necessary and reasonable cost limits of HUD's Section 202 program, but cannot be financed through Section 202 in this case because debt service cannot be increased given current fair market rents.

The regulatory provision at 570.201(k) permits removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons. The statute at 105(a)(5) has the same language, as do the conference reports. The provision plainly permits removal of barriers from existing structures, and does not contemplate expenditure to defray costs of assuring that barriers are not created in new structures. Further, because the statutory and regulatory language are the same, and because a statutory provision cannot be waived, it is not possible to grant the requested waiver.

Your memorandum indicated your interest in any other ways CDBG could support this project. As you know, new housing construction generally is not authorized by the CDBG statute. However, as you also know, there are many other ways CDBG can support housing other than funding construction. Please refer to Notice CPD 89-14, issued February 17, 1989, for description of a range of these other options. If you have further questions in this area, please contact the Entitlement Cities Division at FTS 755-5977.

cc: Ed Gardner