

Clarification of National Objective Requirements

December 23, 1997

MEMORANDUM FOR: Joseph A. D'Agosta, Director, Community Planning and Development, 2AD

FROM: Kenneth C. Williams, Deputy Assistant Secretary for Grant Programs, DG

SUBJECT: Community Development Block Grant (CDBG) Program Request for Eligibility Determination Lakeview Revitalization Project

Hempstead, New York

Nassau County, New York

This is in response to your memorandum of January 15, 1997, regarding the use of CDBG funds by the Town of Hempstead, New York, a participating jurisdiction in Nassau County's CDBG program. Your memorandum requests clarification of the national objective requirements applicable to the Town's CDBG-funded Lakeview Revitalization housing project. I regret the delay in responding to your inquiry which raised some precedent-setting policy issues.

The Town used CDBG funds for site acquisition, clearance, and relocation. The property was then sold to a developer for construction of single-family homes on the site. The Town classified the project as an activity which would meet the national objective of prevention or elimination of slums or blight on an area basis (24 CFR 570.208(b)(1)).

As you memorandum states, the regulatory language at 24 CFR 570.208(d)(1) must also be considered in this case, since it involved the acquisition and clearance of property with CDBG funds. This section of the regulation reads as follows:

"(d)(1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under section 570.505."

Given this language, your memorandum specifically asks for clarification on the actual use, or "end use," of property acquired and cleared with CDBG funds to meet the slum/blight national objective. You question whether in the subject case, the clearance of the property should be determined to be the "end use," or whether the disposition of the land to a developer should be considered to be that end use.



In this case, the clearance of the property is not considered to be the "end use." Pursuant to 24 CFR 570.208(d)(1), clearance is considered the end use when that clearance is merely to "eliminate specific conditions of blight or physical decay" and no further planned use of the property is identified. According to the Town's original urban renewal plan for the subject area, the clearance of the property was, from the outset, considered as one step in a larger plan of slum/blight elimination and prevention through the redevelopment of the property for single family housing. Because of the original plan for the subject property, the clearance should not be considered the "end use," nor is the "change of use" provision applicable.

The Town of Hempstead contends that disposition of the property should be considered the "end use." However, since the redevelopment of the property for single-family housing was part of the Town's original urban renewal plan, such housing is considered the "end use." The conveyance of the cleared property to the housing developer was merely another step in the overall plan.

In order for this project to meet a national objective of prevention or elimination of slums or blight on an area basis, it must meet all criteria listed at 24 CFR 570.208(b)(1). Subparagraph (iv) of this section reads:

(b)(1)(iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area.

In this case, the town would have to show that the construction of the new housing addresses one or more of the conditions which contributed to the deterioration of the blighted area. Based on a review of the documents by your office, this requirement has not been adequately addressed.

Please instruct the Town to clearly specify how the acquisition, clearance, and particularly the construction of single-family housing addresses one or more conditions which contributed to the deterioration of the area. These conditions should be included in the Town's blight study which, according to the Town, identified the area as blighted, listed the properties and conditions causing the blight, and defined the urban renewal area. You should obtain a copy of this study as well as the Town's urban renewal plan, if you do not already have them. This information is necessary for your office to determine whether the national objective of prevention or elimination of slums or blight on an area basis has been met.

Your staff is to be complemented for the thoughtful and careful analysis undertaken in presenting the issue. If you have any questions regarding this issue, please contact the Entitlement Communities Division at (202) 708-1577.