

Funding a Downpayment Assistance Program

July 1, 1992

MEMORANDUM FOR: A. Cynthia Leon, Manager San Antonio Office. 6.8S

ATTENTION: Robert W. Hicks, CPD Division Director San Antonio Office, 6.8C

FROM: Randall H. Erben, Acting Assistant Secretary for Community Planning and Development, C

**SUBJECT: Request for Determination of Eligibility
Brownsville, Texas**

This is in response to your memorandum of February 27, 1992, to James Broughman in which you requested assistance in determining whether a proposed activity by the City of Brownsville is eligible under the Community Development Block Grant (CDBG) program regulations.

Specifically, the City proposes to fund a down payment assistance program to be administered by an eligible special subrecipient. The activity would assist homebuyers, at least 51 percent of whom would be low- and moderate-income, with up to 50 percent down payment assistance for financing the purchase of a lot and the construction of a new home or up to 100 percent down payment assistance for the purchase of an existing structure. Although the specific locations are pending, the program would be operated in the El Lago subdivision, an area which is only 14 percent developed. No other CDBG-funded activities are contemplated for the area. You have asked two questions related to Brownsville's proposal and requested that both be clarified under 24 CFR 570.204 and under the National Affordable Housing Act (NAHA) Direct Homeownership assistance:

1. "Would the introduction of this program into an area 14 percent developed and no other CDBG activities proposed qualify as neighborhood revitalization?"
2. "Is down payment assistance to purchase a lot and build a new home considered as financing of new construction, or is down payment assistance a category by itself?"

To respond to your first question, under the regulations at 24 CFR 570.204(a), the special subrecipient must carry out a neighborhood revitalization, community economic development, or energy conservation project.

Based solely upon the information provided, the project would clearly not qualify as community economic development or energy conservation. Furthermore, HUD has previously determined that homeownership activities alone do not constitute neighborhood revitalization. In this regard, a neighborhood revitalization project must be of sufficient size and scope to have an impact on neighborhood decline. In this case, where the subdivision only has 72 of the 521 lots built upon, it would be hard to construe the area as one that was previously vital and now in need of revitalization activities. We therefore do not consider the described activity to qualify under 24 CFR 570.204, since it does not fit under one of the required project

categories. Aside from this determination, your understanding of down payment assistance carried out under the requirements of 24 CFR 570.204 as outlined in your memorandum is essentially correct.

To address your second question, we consider the use of CDBG funds to purchase a house to be constructed to be the same as using CDBG funds for financing such construction. As such, it would be ineligible. Similarly, we would find CDBG down payment assistance to purchase a lot for purposes of building a new home to constitute the financing of new construction. Even though NAHA created a newly eligible category for direct homeownership assistance, if the CDBG funds are used to assist in the purchase of a house to be newly constructed, or in the purchase of a lot upon which a house will be newly constructed, it would still be prohibited as constituting assistance for new construction. The City should, however, be able to provide assistance to homebuyers for the purchase of existing houses. The direct homeownership assistance authorized under NAHA provides several forms under which this objective can be met. Please provide any assistance the City may need in restructuring their program accordingly.

Please contact the Entitlement Communities Division at (202) 708-1577 if you have further questions about this matter.

cc:Linda Marston, SC