

Guidance on Authorizing an Exception for the Section 104(d) Requirement for Replacement Housing

August 7, 1991

MEMORANDUM FOR: Anthony M. Villane, Jr., Regional Administrator- Regional Housing Commissioner, 2S

ATTN: Joseph B. Lynch, Manager
Buffalo Office, 2.2S

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

SUBJECT: Guidance on authorizing an exception for Niagara Falls Section 104(d) requirement for replacement of housing

Your staff has forwarded to this Office material received from the City of Niagara Falls and asked for guidance on authorizing an exception to the requirement in Section 104(d) of the Housing and Community Development Act of 1974, as amended, for the replacement of low/moderate-income housing to be demolished for Urban Development Action Grant (UDAG) project number B-87-AA-36-0547.

We are in the process of developing guidance for the Field on this subject. We are working with the Office of Policy Development and Research to develop guidelines on circumstances where authorizing an exception would be warranted. That guidance is not yet complete.

In the meantime, Niagara Falls has asked for a response, and we are providing interim guidance to cover this specific case. This guidance is not intended to cover other cases.

The statistical information submitted appears to support authorizing an exception. Our understanding of the amount of housing to be removed and pertinent data on the supply of housing available is as follows:

Housing to be Removed:

Number of units 348

Bedroom size 143 1-bedroom units
137 2-bedroom units
61 3-bedroom units
7 4-bedroom units

Housing Supply:

1980 Population 71,384

1990 Population 61,552

Total units Approximately 28,800

Vacancy rate 10.1%

Vacant units 2800 (about 50% in standard condition)

Affordability A June 1, 1990, survey of 229 vacant rental units found that the majority had rents within the Fair Market Rents.

Bedroom size The June 1, 1990, survey showed the ratio of vacant 3- and 4-bedroom units to total vacant units was slightly higher than that for the units being removed.

Given the high vacancy rate and the large quantity (for this City) of vacant units, a substantial proportion of which appear to be standard and affordable, it appears an exception would be appropriate. Before making a final decision, you should consider the following questions bearing on whether there is an adequate supply of vacant, standard affordable housing available on a nondiscriminatory basis.

Nondiscriminatory basis -- Is the vacant housing available on a nondiscriminatory basis?

Waiting list for assisted housing -- Are Section 8 certificate or voucher holders having difficulty finding suitable low/moderate-income dwelling units?

Does the Housing Assistance Plan (HAP) show a need for new construction?

Is there evidence that the jurisdiction will continue to have a surplus of low/moderate-income dwelling units?

In addition to these questions, you should satisfy yourself that the data set forth above is valid. You should also take into account any other factors which in your mind bear on the adequacy of the surplus housing in Niagara Falls. It is up to the City to provide you with information demonstrating that an exception is warranted. If they are unable to do so, then they must meet the Section 104(d) requirements for replacing the housing that is removed.

If you have any questions about this guidance, please contact the Entitlement Communities Division at FTS 458-1577.

cc: Linda Marston, SC