

Improvements to a City-owned Chapel and Construction of Homes to Be Sold to Low and Moderate Income Persons

August 31, 1991

MEMORANDUM FOR: Gertrude W. Jordan, Regional Administrator/
Regional Housing Commissioner, 5S

ATTENTION: Richard Paul, Director, Community Planning
and Development Division, 5.4C

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

SUBJECT: Eligibility Issues
City of Pontiac, Michigan

This is in response to a memorandum of August 22, 1991, from the Community Planning and Development Division in the Detroit Field Office requesting a determination as to the eligibility of two activities proposed by the City of Pontiac, Michigan.

The first activity is the City's proposal to use Community Development Block Grant (CDBG) funds to undertake public improvements to a chapel that is owned by the City and used only for funeral services. Detroit Field Office staff have taken the position that this activity is not eligible because it would violate the constitutional prohibition against providing CDBG assistance for an activity that promotes religious interests, as defined at §570.200(j)(1). This determination is primarily based on the definition of the word "chapel" and the history of use of this chapel for funeral services.

We do not believe that this activity would violate the constitutional prohibition against state support of religion. While funeral services often involve a religious component, it is our understanding that the facility would be available for services of all sorts, including memorial services that would not have any religious overtones at all. Moreover, because the facility is owned by the City and would be available for use without regard to religious affiliation or other such restrictions, its improvement using CDBG funds would not promote religion or religious interests in violation of §570.200(j).

The second question presented addresses the use of CDBG funds to construct four homes through a non-profit housing corporation which would be used as models for a housing development and subsequently sold to low- and moderate-income buyers. The regulations at §570.208(a)(3) state that for a housing activity to meet the national objective of benefit to low- and moderate-income persons, the assisted property must be occupied by low- and moderate-income households. Since there are four separate properties involved in this case, each of them would need to be sold to low- and moderate-income households. In this case, however, there would be an interim use of the property prior to such

occupancy. That interim use must be considered as part of "the full range of direct effects" of the activity, as that term is used in §570.208(a). Since the interim use contemplated for the properties is for them to serve as models from which other homes would be sold, we believe that if at least 51 percent of the homes to be sold through the use of these models are to be sold to low-and moderate-income persons, the interim use would not be a basis for challenging the activity's compliance with the national objective.

If you have additional questions, please contact the Entitlement Communities Division at FTS: 458-1577.

cc: Linda Marston, SC