

Interpretation of Regulations Concerning Rehabilitation

July 14, 1983

MEMORANDUM FOR: Edmund R. Davis, Area Manager, New York Area Office, 2.1S

ATTENTION: Joseph Schiffman, CPD Division Director
Community Planning and Development Director, C

SUBJECT: Interpretation of Regulations Concerning Rehabilitation

We apologize for the delay in responding to your request for an interpretation of §570.208(b)(2) of the Community Development Block Grant (CDBG) regulations. We have had several discussions with your staff and numerous discussions in Headquarters in an attempt to establish a clear policy in response to your request. We hope that these guidelines will be helpful.

Your questions relate to rehabilitation assistance which may be provided outside of a Neighborhood Strategy Area (NSA) and for dwellings not occupied by a low or moderate income household. As you pointed out, in such cases it is possible to carry out rehabilitation under § 570.208(b)(2), but only to the extent necessary to eliminate conditions detrimental to public health and safety. Your specific questions and our responses are as follows:

1. **Question:** Definition of public health and safety. Does this include conditions detrimental only to the health or safety of the building's occupants, or is it limited to conditions that affect the general public, for example, a deteriorated building cornice that may fall on passers by?

Answer: The definition of conditions detrimental to public health and safety is not limited only to the health and safety of passers by, but extends to the health and safety of occupants where the condition poses a threat not only to current occupants but also to future occupants as well. For example, this section would permit elimination of faulty wiring, falling plaster, or other similar conditions that are detrimental generally to all potential occupants. Rehabilitation to address a condition which is detrimental only because one or more of the occupants are handicapped would not be considered to qualify under this provision.

2. **Question:** Conditions eligible to be repaired. Must the items to be repaired constitute violations of local codes? May any condition covered be included, or are distinctions made based on the nature and severity of the violation? If the latter, what criteria shall be used to determine whether conditions are detrimental to public health and safety?

Answer: Items to be repaired or corrected under this provision would not necessarily have to be in violation of local codes. It is not the violation of local codes that is the determining factor in this matter, but whether the condition constitutes a threat to health or safety. I realize that this is a matter of judgment as building codes are generally based on a concern for the public health and safety. Since some local codes, however, are clearly not, (such as those aimed at energy conservation) we cannot rely solely on them for purposes of administering this provision. The grantees must document their files indicating the specific conditions that were considered detrimental to public health and safety.

3. **Question:** Eligibility of improvements to provide accessibility for the handicapped. May wheelchair ramps, grab bars, and other items to make a building accessible to a handicapped occupant be installed under this provision regardless of the income of the family?

Answer: As noted in the answer to question 1) above, § 570.208(b)(2) does not permit rehabilitation to eliminate conditions detrimental to specific occupants. Thus, this type of improvement would not be permitted under this section. Of course, as you know, §570.208(a)(3) does permit a wide range of improvements, including rehabilitation to make a building or unit accessible to the handicapped if the persons to be served are of low or moderate income.

We appreciate this opportunity to provide you with policy guidance, and the assistance of Harriet Frank of your staff. If you have any questions, please contact Lorraine Drolet of my staff at FTS 755-9267.