

# Multi-unit Rental Housing Requirements for the Section 108 Intown Housing Program

September 6, 1995

MEMORANDUM FOR: Gary Holtberg, Acting Director of Community Planning and Development, 6AD

FROM: Andrew Cuomo, Assistant Secretary for Community Planning Development, D

**SUBJECT: Request for Waiver of 24 CFR 570.208(a)(3) Multi-Unit Rental Housing Requirements for the Section 108 Intown Housing Program (Kirby Building) Dallas, Texas**

This is in response to your memorandum dated June 7, 1995, requesting approval to waive the provisions of 24 CFR 570.208(a)(3) for the Kirby project which is part of the Intown Housing Program located in Dallas, Texas. The regulations at §570.208(a)(3) require that at least 51 percent of the units in structures with two or more dwelling units be occupied by low- and moderate-income (LMI) households, except for the construction of new multi-unit, non-elderly rental housing where between 20 and 50 percent of the units will be occupied by LMI households at affordable rents and where the proportion of CDBG funds expended for total development costs will be no greater than the proportion of units in the project that will be occupied by the LMI households. In a memorandum dated November 18, 1994, Headquarters granted a waiver of this requirement for the Bridge, 1901 Main, and Santa Fe projects, which are also part of the Intown Housing Program.

The Dallas Intown Housing Program is designed to revitalize the downtown and near downtown areas of the city by converting abandoned office, retail, warehouse, and industrial space into mixed income housing. The Kirby project is expected to provide 200 multi-family units by renovating an existing office building that is on the National Historic Register and is in a high-cost area. The City intends to use approximately \$5 million in Section 108 funds for gap financing, which is 32.3 percent of the total project cost of \$15,466,000. Thirty-five percent (70 units) of the Kirby's 200 units will be set aside for LMI households.

The project contains a mixture of efficiencies, one-, and two-bedroom units. The breakdown of unit sizes for the project is listed in the table below with the information on the LMI units included in parentheses.

Project # Efficiencies # 1 Bdrm. # 2 Bdrm.  
Kirby 31(11) 130(46) 39(13)

Section 570.5 authorizes waivers of the CDBG regulations when it is determined that undue hardship will result from applying the requirement and where application of the requirement would

adversely affect the purposes of the Housing and Community Development Act of 1974, as amended. The City has stated that failure to grant this waiver may result in the inability to provide needed affordable housing because the 108 funding is an essential component due to the unavailability of other sources of funding for these projects. The affordable units will allow LMI persons opportunities to reside in housing close to the City's primary employment center, thus reducing commuting costs. Also, if the waiver is not granted, the City's ability to increase diversity through spatial deconcentration by providing LMI housing in the Central Business District will be adversely affected. Denial of the request would further affect the City's ability to comply with the court-ordered Walker Consent Decree which obligates the City to provide a wider range of low-income housing opportunities throughout the City.

Given the facts of this case as presented by the City, the Department has determined that the City has demonstrated that application of the requirements of 24 CFR 570.208(a)(3) will cause undue hardship and will adversely affect the purposes of the Act. Failure to grant the waiver will impede the provision of affordable housing in the central business district and will not assist in reducing the isolation of income groups within the community. Therefore, under the authority of 24 CFR 570.5, I hereby waive the limitations at 24 CFR 570.208(a)(3) to permit the City to use CDBG funds to assist in the conversion of the Kirby project and allow low- and moderate-income occupancy by the unit sizes requested by the City. However, the waiver is granted with the understanding that the percentage of Section 108 funds to be applied to this project will not constitute a percentage of the total cost of the project that would exceed the percentage of occupancy by LMI households in that project.

If you have any further questions, please contact the Entitlement Communities at (202) 708-1577.