

# Pomerado Road Project

July 22, 1985

Honorable Duncan Hunter  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Hunter:

This is in response to your letter of June 17, 1985, requesting HUD approval of the proposed Pomerado Road project in the City of Poway, California, a participating jurisdiction in the San Diego County urban county under the Community Development Block Grant (CDBG) program.

As indicated in your letter and the enclosure you provided from the City of Poway, my staff has already reviewed the documentation in this case and provided our Los Angeles Field Office with our opinion that the Pomerado Road Improvement Project does not meet any of the national objectives of the CDBG program, and therefore is not fundable under that program by the County of San Diego.

In particular, this project does not aid in the prevention or elimination of slums or blight under 24 CFR 570.208(b). This section of the CDBG program regulations permits grantees (San Diego County in this case) to carry out activities in slum or blighted areas when those activities are designed to address one or more of the conditions which qualify the areas as slum or blighted. Under the regulations an area may be considered slum or blighted only when it (1) "meets a definition of slum, blighted, deteriorated or deteriorating under State or local law," and (2) contains "a substantial number of deteriorating or dilapidated buildings or improvements throughout the area."

In the case of Pomerado Road, we recognize that some conditions described by the City appear to meet the definition of a slum or blighted area under California State law, however no area has been delineated which in our view meets the more stringent second requirement in the regulations. Poway city officials have sought to identify a slum or blighted area on the basis of (1) flood hazard, (2) traffic noise pollution, and (3) deteriorating asphalt berm curbs and compacted earth sidewalks along the edge of Pomerado Road. Deteriorating or dilapidated buildings or improvements do not exist to any significant degree throughout the area affected by either the flood hazard or the traffic noise pollution. Thus, to meet the second regulatory requirement the County of San Diego must identify an area in which a substantial number of the buildings or improvements are deteriorating or dilapidated. Upon conducting a site visit to the area, our Los Angeles field staff verified that the building and public improvements in the residential neighborhood east of Pomerado Road are in good repair and show no signs of blight. And with respect to the asphalt berm curbs along the east side of Pomerado Road itself, our field staff reported them to be "in generally good to excellent condition, notwithstanding the City's and County's claim that up to one third of them are deteriorated."

Even if we were to grant that the berm and sidewalk along Pomerado Road were in poor condition, the partial deterioration of the curb and sidewalk along one side of one street still fails to meet the characteristics of a "blighted area" as that term has been used for over 35 years in various Federally funded community development programs. Further, such a limited area as described in this case fails to meet descriptions of a "blighted area" in Sections 33031-33034 of the California Health and Safety Code. In particular Section 33032, cited by the City of Poway, states in part that, "a blighted area is characterized by: (a) An economic dislocation, deterioration, or disuse resulting from faulty planning, (b) the subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development, (c) the laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions, (d) the existence of inadequate streets, open spaces and utilities, (e) the existence of lots or other areas which are subject to being submerged by water." From this and other language it is clear that as the framers of the California law envisioned it, a "blighted area" must have a much broader scope of problems than the poor curb and sidewalk condition of just one street. I do not believe the City of Poway has identified an area which could meet both the State law characterization of a "blighted area" and the Federal requirement that a substantial number of deteriorating and dilapidated buildings or improvements exist throughout the area.

Your letter states that a similar activity was carried out by the City of Poway as an activity to aid the prevention or elimination of slums or blight last year. Our Los Angeles Field Office determined that the Poway Road Traffic Median Project qualified for CDBG funding under 24 CFR 570.208(b) in a letter dated August 30, 1984. Based on that determination in this earlier case, your letter of June 17, 1985, states that "if any precedent was set, it was when the Poway Traffic Median Project was approved, not because of the new [Pomerado Road] project."

We hasten to point out that the slum or blighted area identified in the case of the Poway Road Traffic Median Project included "several deteriorating businesses and storefronts, at least 42% vacancy factor among seven out of the 17 shopping centers in need of rehabilitation, public improvements, parking area, and parking access improvements." Further, the Traffic Median Project was put forward by the City as "the initial step in revitalizing this commercial area." I cannot agree that the proposed improvement of a curb and sidewalk and the construction of a noise abatement wall along one side of Pomerado Road where no adjacent property is deteriorating, is comparable to a project to begin upgrading seven shopping centers, as the Poway Road project purported to be at the time HUD reviewed the case. (Incidentally, to the knowledge of our field staff, the City has not taken further steps to address the slum or blighted conditions in the commercial areas along Poway Road. This raises questions about the City's commitment to deal with the apparent blight it has identified along Poway Road.)

In closing, I reiterate that I do not find the Pomerado Road curb, sidewalk, and noise abatement wall project to be fundable under the CDBG program. And I do not find that proposed activity comparable to the Poway Road project since the latter purports to be an integral part of a major commercial revitalization project to address blight throughout a series of shopping centers.

If you have further questions regarding this matter, please contact Mr. Jeffrey A. Finkle, my Deputy Assistant Secretary for Program Management at (202) 755-5965.

Sincerely,

(signed)

Alfred C. Moran  
Assistant Secretary