

Pre-award and Program Administration Costs

June 12, 1998

MEMORANDUM FOR: Alan Joles, Acting Community Planning and Development Director, Minnesota State Office 5KD

FROM: Kenneth C. Williams, Deputy Assistant Secretary for Grant Programs, DG

**SUBJECT: Community Development Block Grant (CDBG) Program
Request for Waiver of Pre-Award Cost and Program Administrative Cost Provisions - 24 CFR 570.200(h) and 570.206(g)
City of Plymouth, Minnesota**

This is in response to your memorandum of April 3, 1998, recommending approval of the subject request from the City of Plymouth for a waiver of certain pre-award cost and program administrative cost regulatory requirements. The City proposes to use \$100,000 in CDBG assistance for reimbursement of commitment, loan and processing fees associated with applications for a mortgage and insured loan commitment from FHA for the Shenandoah Woods Apartments. The project will result in the construction of 64 one, two, and three bedroom units of housing for low- and moderate-income households.

The referenced housing development is also being assisted with HOME financing provided by the Hennepin County Consortium and Public Housing funding made available through the 1995 consent decree in the case of Hollman v. Cisneros. As part of the consent decree, the Minneapolis Public Housing Authority specifically agreed to expand affordable housing opportunities for lower-income residents in areas where there had traditionally not been a supply of public housing, including suburban locations such as the City of Plymouth. It is this office's understanding that the subject development does not meet the requirements for CDBG assistance under 24 CFR 570.204, Special Activities by Community-Based Development Organizations.

The payment of fees associated with the processing of applications for FHA mortgage and insured loan commitments may be eligible for CDBG assistance under the provisions of 24 CFR 570.206(g). However, that regulatory provision limits such assistance to housing units which are identified in the grantee's HUD-approved Housing Assistance Plan (HAP). Since the HAP no longer exists, a waiver is needed to permit a grantee to make use of the 24 CFR 570.206(g) provision. Also, any costs charged under this provision are subject to the 20 percent cap on the amount of CDBG funds a grantee can use each year for planning and administration. With a Fiscal Year 1998 CDBG grant amount of \$309,000, the City of Plymouth could not accommodate the \$100,000 in CDBG assistance for the subject housing development under its planning and administrative cap for a single year. Thus, the City has also requested a waiver of the CDBG pre-award cost provision at 24 CFR 570.200(h) in an effort to spread the CDBG reimbursement of the referenced fees over a period of four years. Pursuant to telephone discussions with your staff and a review of all the information provided, this Office has determined that there is another option for the provision of the referenced CDBG assistance to the Shenandoah Woods Apartments. Since the housing development is also being assisted under the HOME program, CDBG funds may be used for the payment of the described FHA commitment, loan, and processing fees under

the provision at 24 CFR 570.201(k), Housing Services. This eligibility provision authorizes the use of CDBG funds for a wide variety of soft costs necessary for housing activities that have received or are seeking assistance under the HOME program. As long as the CDBG funding is limited to such "housing services" costs, the community can use CDBG funds to assist a housing activity of any type that meets HOME requirements. Also, because such assistance is authorized under a separate statutory eligibility category, CDBG expenditures qualifying under 24 CFR 570.201(k) are not subject to either the planning and administration cap or the public service cap.

Thus the City of Plymouth may use CDBG funds for reimbursement of the referenced fees under the provision at 24 CFR 570.201(k) with no waiver of CDBG eligibility regulations being necessary. Also, since the planning and administrative cap is no longer an issue, it is this Office's understanding that the City of Plymouth now intends to spread the CDBG reimbursement of the fees over a period of just two years. Such a proposal complies with the CDBG pre-award cost requirements delineated at 24 CFR 570.200(h)(1). Therefore, no waiver of those regulatory requirements is now necessary either.

I commend your staff on its efforts to assist the City of Plymouth in making the referenced new affordable housing opportunities a reality. If you have any questions or need further information regarding this matter, please contact the Entitlement Communities Division at (202) 708-1577.