

Required Information for the CDBG Program

November 8, 1993

Ms. Dolly Kyle
Executive Director
Lawyers for Affordable Housing
2922 Swiss Avenue
Dallas, TX 75204-5988

Dear Ms. Kyle:

Thank you for your letter dated September 21, 1993, to Secretary Cisneros in which you expressed your concern that your organization, Lawyers for Affordable Housing (LAH), may be required to divulge confidential client information to the City of Dallas if LAH receives funds from the Community Development Block Grant (CDBG) program. As the Director of the Office of Block Grant Assistance which is responsible for the administration of the CDBG program, I have been asked to respond to your concerns.

You explain in your letter that LAH assists low-income homebuyers and homeowners with various issues which require legal counsel, most of whom are referrals from programs administered by the City of Dallas. The City is presently offering to provide CDBG funds to LAH to cover administrative costs. You are concerned that, by accepting CDBG funds, you may be required to report information about your clients which would compromise the attorney/client privilege.

The CDBG program regulations at 24 CFR 570.506 require that records be kept which demonstrate that program requirements have been met, in this case, the provision of eligible public services to low- and moderate-income persons. The City has a responsibility to monitor the activities of its CDBG subrecipients, including LAH, but does not necessarily need to look at specific case files. For example, while the Department of Housing and Urban Development (HUD) would have expected Dallas to review a sample of records for verification of income, the subrecipient could maintain its records such that the income information of its clients is kept separately from either the names and addresses of those clients or the particular work product for each. If most of your cases are referrals from City programs, it is likely that the income determinations would have been made before you begin your assistance.

You may also be interested to know that, in providing information to the public, the CDBG regulation at 570.508 specifically states that records shall only be provided in a manner which is "consistent with applicable State and local laws regarding privacy and obligations of confidentiality." In either of the regulations cited herein, there is no requirement whereby HUD or the grantee can cause the attorney/client privilege to be breached, nor is there any intent to violate the work product rules of either Dallas or the State of Texas.

It may be helpful for you to work with the City in order to develop a system whereby its monitoring responsibilities can be accomplished without violating the confidentiality of your clients.

Thank you for your interest in HUD's programs.

Very sincerely yours,

(signed)

Don I. Patch
Director
Office of Block Grant Assistance