

Using CDBG Funds to Pay Special Assessments for Low and Moderate Income Homeowners

May 20, 1988

Honorable George J. Mitchell
Unites States Senate
Washington, DC 20510

Dear Senator Mitchell:

This is in response to your letter of April 18, 1988, to Secretary Pierce regarding a problem the City of Auburn is encountering in administering the Community Development Block Grant (CDBG) program. The problem, which was raised in an April 6, 1988, letter to you from Mr. Roland G. Miller, Director of the City's Department of Community Development and Planning, concerns one of the rules which applies to when CDBG funds are used to pay special assessments for low and moderate income homeowners in order for their properties to be connected to a public sewer line.

The Department's position is that using CDBG funds to pay for such assessments converts a public improvement activity (e.g., construction of a sewer line) into one assisted in part with CDBG funds, thereby triggering all applicable Federal requirements, including special assessment requirements found at Section 104(b)(5) of the Housing and Community Development Act of 1974. A copy of that section is enclosed. As a general rule, it prohibits a grantee from assessing any amount against properties owned and occupied by low and moderate income persons in order to recover capital costs of such public improvement unless CDBG funds are used "to pay" the assessments for the low and moderate income persons. The one exception provided by the statute is that a grantee is not required to pay assessments for moderate income persons if the grantee certifies that it lacks sufficient CDBG funds to pay assessments for such persons.

In the context of Section 104(b)(5), we believe the words "to pay" must be interpreted to mean that outright grants must be used to pay 100 percent of the special assessments levied on properties owned and occupied by low income persons, and that grants must also be used to pay 100 percent of the special assessments levied on moderate income persons unless the special certification described above is made by the grantee. The statute does not appear to allow the use of deferred loans, interest-free loans, or low-interest loans.

Thank you for your interest in the Community Development Block Grant program.

Sincerely,

(signed)
Jack R. Stokvis
General Deputy Assistant Secretary
Enclosure