

Waiver of Spot Slum/Blight National Objective

August 13, 1997

MEMORANDUM FOR: Guadalupe M. Herrera, Director, Office of Community Planning and Development, 8AD

FROM: Jacquie M. Lawing, General Deputy Assistant Secretary for Community Planning and Development, D

SUBJECT: Community Development Block Grant (CDBG) Program Request for Waiver of Spot Slum/Blight National Objective Salt Lake City, Utah

This is in response to your memorandum of March 27, 1997, forwarding a request from Salt Lake City, Utah, for a waiver of 24 CFR 570.208(b)(2), Spot Slum/Blight national objective requirements. The City seeks this waiver to allow certain subrecipients to reconstruct additions to historic residential structures, which your office believes is inconsistent with the spot slum/blight national objective.

The City regularly performs rehabilitation on homes within its historic districts through a CDBG Revolving Loan Fund program. Through this program, the City has encouraged historic preservation by adopting design standards that preserve the historic character of residential structures that allow contemporary use patterns. An essential component of the standards is to provide for the demolition of standard non-character defining additions and reconstruction of more compatible additions. The City intends to facilitate the reconstruction of such additions that meet Secretary of Interior's Standards for Rehabilitation, have support of the State Historic Preservation Office and be subject to review by Salt Lake City's Historic Landmark Commission.

The City believes that allowing CDBG funds to be used in the reconstruction of non-character defining additions to residential structures that are in one of the City's Historic Overlay Districts or meet the State preservation tax credit program qualifications would foster increased preservation activities and energize historic districts. The City also feels that such a use of CDBG funds, which has support of the State Historic Preservation Office, would ensure compliance with historic preservation criteria in some of the City's most needy areas. Conversely, the City believes that not being able to use CDBG funds in that effort would hamper its efforts to encourage historic preservation.

Based on a review of the City's proposed activities, your office concurs with most of the work to be performed. Further, your office agrees that the addition would help the subject home better meet contemporary use and that making it historically compatible is very important in the historic district. However, for purposes of funding the proposed project with CDBG funds, your office believes that the national objective requirement for spot slum/blight, historic preservation, does not allow the use of CDBG funds for the construction. As such, your office recommends that other funds be used for rebuilding the addition.

In a letter dated November 22, 1996, the Utah State Historic Preservation Office offered support for the City's position, stating that construction of new additions on historic buildings, when designed in a compatible manner that meets the Secretary of Interior's Standards for Rehabilitation is legitimate

and often a necessary preservation/rehabilitation activity. The (SHPO) also states that, given existing conditions and sizes, historic buildings can be neglected or abandoned if new compatible additions are not provided. According to the Utah SHPO, over 200 homes have been rehabilitated with state historic preservation tax credits. Such tax credits were enacted through state legislation passed in 1993 and provide a 20 percent historic preservation tax credit for rehabilitation of historic residential buildings. The site which initiated Salt Lake City's waiver request (540 East Lowell Street) has received an historic preservation tax credit.

Pursuant to 24 CFR 570.208(b)(2), CDBG funds may be used for acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area. While rehabilitation done under this criterion is limited to the extent necessary to eliminate specific conditions detrimental to the public health and safety, this restriction does not extend to historic preservation carried out under the spot blight national objective. Historic preservation activities are limited instead to activities that are determined to contribute to the conservation, and preservation of historic buildings, places, and areas. The SHPO has a significant role in determining the scope of allowable historic preservation activities. With regard to the subject request, this office has determined that a waiver of the national objective requirement is not necessary for the reconstruction of an addition on a historic property if the property is blighted and the work to be done meets the Secretary of Interior's Standards for Rehabilitation and receives historic preservation tax credits. Such activities fall within the scope of allowable historic preservation under 24 CFR 570.208(b)(2).

While the memorandum clarifies the eligibility of using CDBG funds for certain historic preservation activities, the City of Salt Lake is still responsible for complying with Section 106 of the Historic Preservation Act which requires formal consultation with the State Historic Preservation officer and an opportunity for the Advisory Council of Historic Preservation to comment upon Federally-assisted activities which might impact historic properties and areas.

If you have any questions concerning this matter, please contact the Entitlement Communities Division at (202) 708-1577.