

# What Construction Costs Are Covered by the CDBG Program?

September 21, 1995

Honorable Robert E. Andrews  
Member, U.S. House of Representatives  
16 Somerdale Square  
Somerdale, NJ 08083-1345

Dear Mr. Andrews:

Thank you for your letter of July 18, 1995, on behalf of Mrs. Charles A. Gilman, Sr., Borough of Somerdale, New Jersey. Mrs. Gilman is being assessed \$900 for a concrete curb in the front of her home which is located on Magnolia Avenue. She questions why she must pay this cost when a sign posted on the property indicated that Community Development Block Grant (CDBG) funds were used to pay for the construction.

The CDBG program, authorized under Title I of the Housing and Community Development Act of 1974, as amended, provides annual grants on a formula basis to entitled cities and urban counties to carry out a wide variety of community development activities directed toward neighborhood revitalization, economic development, and the provision of improved community facilities and services. Each activity must meet certain requirements, including that it be eligible and meet one of the three broad national objectives: benefit to persons of low- and moderate-income, aid in the elimination or prevention of slums and blight, or meet other community development needs of a particular urgency. The Borough of Somerdale participates in the CDBG program through Camden County, which is an entitlement grantee under the CDBG program. Camden County's Fiscal Year 1995 allocation was \$3,030,000.

HUD staff contacted Mr. Gary Spewak, administrator of Camden County's CDBG program, regarding Mrs. Glimmer's concern with paying an assessment fee for curbs when CDBG funds were used to cover the construction costs of the public improvements in question. Mr. Spewak indicated that the Borough of Somerdale, under one bid process, undertook the road resurfacing on Magnolia Avenue with CDBG funds and the construction of curbs with local funding. The construction was funded in 1992 and 1993. Mr. Spewak indicated also that CDBG regulations issued in September 1983 were inadvertently used by the Borough of Somerdale instead of the current CDBG regulations. The CDBG regulation at 24 CFR 570.200(c)(1) defines "special assessments" as permitting the "recovery of capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement."

Under the 1983 regulations, a CDBG grantee could "levy assessments to recover the portion of a capital expenditure funded from other sources." Also, under those regulations, grantees were provided the option of using CDBG funds to pay the special assessments to recover the non-CDBG portion of the public improvement against properties owned and occupied by low- and moderate income persons.

Since the Borough of Somerdale used local funds for the construction of the curbs, it exercised its option and assessed all homeowners based on its understanding of those regulations.

However, the statute was amended and it was necessary to amend this regulation. Under the CDBG regulation at 24 CFR 570.200(c)(1) that is in effect now (and was at the time the project was carried out), where CDBG funds are used to pay all or part of a public improvement, special assessments are not permitted for recovery of CDBG funds against properties owned and occupied by persons who are low and moderate income. Also, if special assessments are imposed for recovery of the non-CDBG funded portion of the public improvement, the CDBG grantee is required to pay the assessments for lower-income homeowners. CDBG funds must also be used to pay assessments for properties owned and occupied by moderate-income persons, unless the grantee certifies that it lacks sufficient CDBG funds to pay assessments for all properties owned and occupied by such persons. Therefore, the Borough of Somerdale may not charge assessments for this improvement to any of the affected low-income homeowners. Furthermore, unless Camden County, which is the recipient of CDBG funds, is able to certify to the Department of Housing and Urban Development (HUD) that it lacks CDBG funds to cover the special assessments imposed on all affected moderate-income persons who own and occupy properties on Magnolia Avenue in the Borough of Somerdale, the County would be required to ensure that assessments are paid with CDBG funds for those persons as well. The HUD New Jersey State Office will follow up with the administrator of the CDBG program in Camden County in regard to the availability of funds for special assessments and to ensure that CDBG program requirements are met in this case.

It is hoped this information is helpful to your constituent. Thank you for your interest in HUD's programs.

Sincerely,

(signed JCB)

John C. Biecham  
Acting Assistant Secretary