

New Housing Construction

May 2, 1985

MEMORANDUM FROM: Harry I. Sharrott, Manager, Jacksonville Office

ATTENTION: Cleveland B. Talmadge, CPD Division Director
Jacksonville Office

FROM: Alfred C. Moran, Assistant Secretary for Community Planning and Development, C

**SUBJECT: Request for Waiver
New Housing Construction
County of Palm Beach, Florida**

This is in response to your memorandum of April 3, 1985, in which you requested a waiver of 24 CFR 570.201(m) so that the County of Palm Beach could use block grant funds to construct housing following HoDAG guidelines in HoDAG eligible areas.

Although the proposal submitted by the County seems to be a beneficial use of block grant funds, we regret to advise you that based on the legislative history of the program, we cannot grant your waiver request. As you know, the Housing and Community Development Act of 1974, as amended, does not specifically prohibit the construction of new housing. However, at the outset of the program, it was clearly understood that block grant funds were not to be used for new housing construction. At the time of enactment, eligibility was limited to those activities which were previously eligible under the predecessor programs and those additional activities specifically enumerated in the 1974 legislation. There was a basic assumption from the start that new construction was not eligible because it met neither of those two criteria. In fact, the Conference Report accompanying the Act, in the section on Labor Standards, specifically states that "... construction of residential structures is not a permissible use of community development funds."

Over the years, while there have been many amendments to the Act broadening the listing of eligible activities in Section 105, HUD proposals to include new housing construction have been rejected by Congress. This clearly evidences both the Department's and Congress' understanding that such construction is generally not an eligible activity under the present law.

Therefore, because HUD considers the prohibition against new housing construction to be statutory in nature, we are unable to waive Section 570.201(m) of the block grant regulations for the County of Palm Beach.

While there are three provisions in the law which permit new construction under certain circumstances, it is our understanding that the proposed housing does not fall under any of those provisions. The three provisions are: housing of last resort provided to displacees under Section 105(a)(11) of the Act, housing construction carried out by eligible entities under the circumstances described in Section 105(a)(15), and

the development of housing assisted under Section 17 of the United States Housing Act of 1937 under Section 105(a)(18)

Postscript Note: limited new construction has been added as a fourth means of providing for new construction.