

Transfer of CDBG Acquired Land to the PHA

November 4, 1992

MEMORANDUM FOR: Raymond A. Harris, Regional Administrator-
Regional Housing Commissioner, 4S

ATTENTION: Robert E. Lunsford, Manager, Birmingham Office, 4.1S

FROM: Randall H. Erben, Acting Assistant Secretary for Community Planning and Development, C

SUBJECT: Eligibility Determination on Jefferson County, Alabama's, Proposed Transfer of CDBG-Acquired Land to the Public Housing Authority (PHA)

This responds to your memorandum dated June 14, 1992, concerning the proposed re-use of a vacant parcel of land acquired with CDBG funds by Jefferson County, Alabama. Because the original use of the property for economic development activities did not materialize, the Jefferson County Public Housing Authority (PHA) would like to purchase the property to construct a building that would contain PHA office space, centralized maintenance facilities, and vacant space within the facility for meetings and community activities for the residents. The County is asking if this proposed use would meet a national objective and whether transferring the land to the PHA for a minimal fee is acceptable.

The incoming memorandum from the Regional Office indicates that the County will provide CDBG funds to the PHA for acquisition of the land. However, the County's letter states the land was acquired by the County with CDBG funds and that the PHA has offered to pay \$1,000 to the County to purchase it. The information in the County's letter was confirmed by the Field Office.

The Birmingham Office is of the opinion that the proposed activity would be ineligible because 1) the PHA is a public agency and its facilities would be considered buildings used for the general conduct of government and therefore ineligible for CDBG assistance; and 2) the proposed activity would not meet a national objective.

The CDBG regulation at 24 CFR 570.3 defines buildings for the general conduct of government as follows:

"city halls, county administrative buildings, State capitol or office buildings or other facilities in which the legislative, judicial or general administrative affairs of the government are conducted. Such term does not include such facilities as neighborhood service centers or special purpose buildings located in low and moderate income areas that house various nonlegislative functions or services provided by government at decentralized locations."

It is clear from this reading that the definition applies only to buildings and facilities of the general government. Because public housing is a special function not normally considered part of the local general purpose government, in almost all cases the PHA is an agency independent from the general

local government. In such cases, buildings and facilities used by the PHA, including those used for its administrative staff, would not be considered as buildings for the general conduct of government under the CDBG program.

In consultation with the Office of General Counsel, we have determined that the proposed disposition of the property to the PHA would be eligible under 24 CFR 570.201(b) and would meet a national objective. The benefit to low- and moderate-income persons would be presumed met because the nature of services carried out by a PHA are limited to a low- and moderate-income clientele. However, the disposition of the property to the PHA would constitute a "change of use," and would be subject to the provisions of 24 CFR 570.505 of the CDBG regulations which requires that grantees provide affected citizens with reasonable notice of, and the opportunity to comment, on the proposed change.

After having expended approximately \$187,000 in CDBG funds for initial acquisition and for on-going management of the property, the County has asked whether disposition to the PHA for a nominal fee of \$1,000 is permitted by the CDBG regulations. Since a determination has been made that the proposed activity is eligible and a national objective will be met, the County has the authority to determine whether it would be to the public benefit to convey the property to the PHA for less than fair market value. In this instance, it would appear that conveying the property for use by low- and moderate-income persons outweighs letting the property remain vacant as it has for the past several years while continuing to use CDBG funds for on-going management. The ultimate determination, however, rests with the County.

If you have any questions, please contact the Entitlement Communities Division at FTS 202-708-1577.

cc: Linda Marston, SC