Dear Mrs. Maccagnan:

This is in response to your October 8, 1991, letter requesting clarification of the 1990 Public Housing Drug Elimination Program (PHDEP) Final Rule (24 CFR Part 961). Specifically, you request an opinion as to whether the administrative cost of screening and evicting tenants is an allowable cost under the Drug Elimination Program.

You propose to enter into an agreement with the Center for Individual Rights, Neighborhood Assistance Project (CIR) whereby the CIR would assist the Authority with pro bono legal representation in drug-related eviction matters. The issue has arisen regarding the reimbursement from PHDEP funds of expenses incurred (e.g., travel, court costs) for the CIR and those attorneys associated with the CIR. You raised the issue with Ms. Meg Schroeder, Resident Initiatives Coordinator, of the HUD Newark Office, requesting of her an opinion as to whether the Authority could use PHDEP funds for expenses incurred by the CIR, and attorneys associated with it, in the course of evicting residents for drug-related criminal activity. Ms. Schroeder informed you that the Final Rule prohibits administrative costs related to screening and evicting residents for drug-related crime.

We concur in and support Ms. Schroeder's opinion that the Final Rule prohibits administrative costs related to the screening or eviction of residents for drug-related crime. Public housing agencies (PHAs) are subject to OMB Circular A-87 (Cost Principles for State and Local Governments). Section C(1) (Attachment A) provides that:

To be allowable under a grant program, costs must not be a general expense required to carry out the overall responsibilities of local governments. (Emphasis Added.)

Evictions are a part of the normal and regular functions of a PHA. The costs of screening or evicting tenants (including court costs and other legal expenses related thereto) are a general
expense required to carry out the overall responsibilities of a
PHA as a provider of low-income housing and as such are covered
by operating subsidies. Thus, we will not allow the court costs,
fees, and other routine legal expenses related to the eviction of
tenants to be covered by grant funds.

We will, however, allow the travel expenses of CIR attorneys
to be paid from grant funds. It is our understanding that the
services of CIR attorneys are required because of their expertise
in handling drug-related cases. We also understand that they
will be working closely with investigators in developing cases.
As such, we consider CIR travel costs related to the
investigation of drug-related cases and will for the purpose of
this particular grant allow the use of grant funds for CIR travel
costs. However, any routine and general expenses associated with
the eviction cases (e.g., court costs, attorney fees) cannot be
paid with PHDEP grant funds.

I hope the information provided has been of assistance.

Very sincerely yours,

C. H. Albright, Jr.
Deputy General Counsel