

Legal Opinion: GCH-0039

Index: 2.8000

Subject: Nehemiah Program--Evidence of Resident Consultation

February 4, 1992

MEMORANDUM FOR: Joan Morgan, Chief, Programs and  
Procedures Branch, HSIDP

FROM: Michael Reardon, Assistant General Counsel  
Assisted Housing Division, GCH

SUBJECT: Nehemiah Housing Opportunity Grant Program

This is in response to your December 12, 1991, memorandum concerning the Nehemiah Housing Opportunity Grant Program and standard language developed between your office and the Assisted Housing Division concerning required submissions for a grantee to change project locations. Specifically, you requested clarification on the issue of whether a grantee must submit new evidence of resident consultation.

Matters to be considered in making this determination may include, but are not limited to, the purpose of the program and whether granting approval of a site change without evidence of resident consultation may frustrate that purpose. We do not believe that a change in site (within a neighborhood) without consulting neighborhood residents will frustrate the purpose of the program.

Section 606(a) of the authorizing statute, the Housing and Community Development Act of 1987, and implementing regulation, 24 CFR 280.215(b)(5) require an applicant to submit information demonstrating that it has "consulted with and received the support, of residents of the neighborhood in which the program is located." We note that at a minimum the local consultation requirement is met if "the applicant . . . demonstrates that it provided a description of the program to the residents of the neighborhood and requested their comments on the proposal." (24 CFR § 280.215 (b)(5)) There is no requirement for consultation with residents on a specific site. Therefore, we believe that there is no further requirement for neighborhood consultation concerning changes in sites within the neighborhood, provided that the following conditions are met.

Because site control is one of the selection criteria, it is our position that in order to receive approval for a site change, an applicant should demonstrate that there is a good cause basis for the change (e.g., the original site is unacceptable for environmental reasons), that the new site is within the same

neighborhood as the original and is acceptable to HUD and; that such change would not have adversely affected the selection of the applicant. However, we see no need for further consultations with neighborhood residents.