



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

B-171630

APRIL 25, 1979



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The Honorable William H. Harsha
House of Representatives

Dear Mr. Harsha:

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On January 10, 1979, we issued a report (CED-79-7) to you responding to your request for a review of the Department of Housing and Urban Development's processing of the application for the Oakwood apartments--an assisted housing project near Milford, Ohio. We gave the Department an opportunity to provide written comments on a draft of this report, but we did not receive its response in time to include it in the report.

This letter transmits to you the Department's February 23, 1979, comments on the report (see enclosure) and our evaluation.

Our report contained four recommendations for improving the Department's local government notification and certain project review procedures and requirements. The Department did not agree with two of our recommendations and stated that the intent of another was unclear. However, its comments do not alter our position, and we still believe that the recommended changes are needed.

The Department reiterated the conclusion it reached after a detailed review of the project last year; namely, that although there were ways in which the processing of the Oakwood project could have been improved, no shortcomings in the processing were found which would have disqualified the project from receiving section 8 housing assistance or Department mortgage insurance.

The following sections list our recommendations, a summary of the Department's comments on the recommendations, and our evaluation.

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Letter Report

CED-79-76
(38219)

1. We recommended that the Secretary of Housing and Urban Development emphasize to the Columbus, Ohio, field office the importance of following all notification requirements relating to proposed Department-assisted housing projects.

The Department agreed to emphasize the importance of following all notification requirements. It stated that it will emphasize the importance of local government notification requirements in its upcoming revision to the "Section 8 New Construction Processing Handbook" and in training sessions planned for later this fiscal year. It also stated that a copy of the response to our report will be forwarded to its Columbus and Cincinnati, Ohio, offices.

We believe that these actions will help insure that the Department's local notification requirements are met.

2. We recommended that the Secretary of Housing and Urban Development expand local government notification requirements to insure that all local governments affected by proposed housing projects are notified about the project and given a chance to comment.

The Department stated that the intent of this recommendation is unclear because the recommendation does not indicate how local government notification should be expanded. It pointed out that the local government notification requirement is statutory and applies to certain units of general local government and not single-purpose governmental entities, such as school and water and sewer districts. It stated that its regulations are sufficient to comply with legislative intent. If the intent of our recommendation is that the Department also notify single-purpose governmental entities, the Department said it does not agree because the appropriate locus for notification and consideration of comments from such entities are the areawide clearinghouses.

Our recommendation referred only to expanding local government notification requirements to include all units of general local government affected by proposed housing projects. We were not referring to single-purpose governmental entities.

As explained on page 6 of enclosure I of the January 10, 1979, report, our concern is that neither the statutory requirement nor Department regulations insure that all effected units of general local government are notified and given an opportunity to comment on proposed Department-assisted housing. The Oakwood case is an example. In the report we pointed out that present procedures would not require the Department to notify Milford and, in some cases, Miami Township, even though these units of general local government would be affected by the project--Milford would provide public schools and sewer services to the Oakwood apartments and the project is located in Miami Township.

We did not conclude that the Department's regulations are insufficient to comply with legislative intent. Rather, the basis for our recommendation, as discussed on page 2 of the report, is that the views of all affected units of general local government may not be available to the Department unless the notifications are expanded to include them.

3. We recommended that the Secretary of Housing and Urban Development establish procedures explaining what factors or aspects of public facilities and services need to be assessed, what documentation should be collected and maintained, and what conditions are serious enough to warrant a conclusion that a facility or service is inadequate.

The Department outlined its current requirements concerning public facilities and services, pointed out the difficulties inherent in establishing universal standards to determine adequacy, and outlined actions it will take to provide more guidance on determining the adequacy of public facilities and services.

The Department stated that in the upcoming version of the "Section 8 New Construction Processing Handbook" it will emphasize to its field office staff the need to make sure that a review of local standards and the local government's future plans for facilities and services has been made, and that locally accepted levels of facilities and services would be available to the proposed projects.

We believe that this additional guidance, emphasizing specific reviews to assure that locally accepted levels of facilities and services will be available to a proposed project, is an improvement. We also believe, however, that the procedures our recommendation set out--specifying what factors or aspects of public facilities and services need to be assessed, what conditions are serious enough to conclude that a facility or service is inadequate, and what documentation should be maintained--would make Department reviewers more aware of their assessment responsibilities and help insure that decisions are based on some objective data and criteria.

We recognize that it may not be feasible to develop firm standards by which to determine the adequacy of public facilities and services in all locations. We believe, however, that the absence of any procedures and descriptions of what needs to be assessed and what conditions are acceptable can result in determinations of adequacy which are not based on any objective data or criteria.

For example, the Department's Cincinnati office's conclusion that schools were adequate to serve the Oakwood project demonstrates the need for some procedures and criteria. As discussed on pages 7 and 8 of enclosure I of the report, the only basis listed for this decision was "field observations." Department central office officials told us that a judgmental decision based on field observation is not a proper method for determining the adequacy of public schools. However, the Department's instructions do not describe what procedures to follow in determining the adequacy of schools or other public facilities.

4. We recommended that the Secretary of Housing and Urban Development (1) clarify the Department's policy on whether proposed assisted housing projects must be in locations specified in local housing assistance plans, (2) make the Department's regulations and procedures consistent with this policy, and (3) communicate this policy to local communities, potential developers, and clearing-houses.

The Department pointed out that its regulations are specific on the above points because the regulations make inconsistency of project locations with the general locations

specified in local housing assistance plans grounds for local government objection. It explained that the field office must concur in an objection, unless the field office independently determines consistency based on substantial evidence. Also, the Department explained that if the local government has not submitted an objection, the field office may approve the application unless the field office independently determines that the application is inconsistent with the applicable housing assistance plan. However, the Department also stated that it will include this issue in upcoming training sessions.

We believe that the Department's comments do not adequately address the issues raised in our review and contained on pages 9, 10, and 11 of enclosure I of the report. We recognize that the Department's regulations permit jurisdictions to object when proposed housing locations are inconsistent with local housing assistance plans. However, the point of our recommendation is that the Department has not adequately explained its position that proposed housing projects do not have to be in a designated census tract to be consistent with a housing assistance plan. For example, we pointed out in the report that Department regulations do not indicate how the Department determines whether a proposed housing location is consistent with housing assistance plan locations.

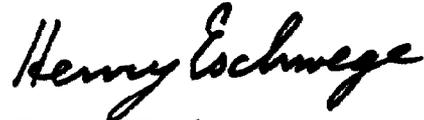
We also pointed out that Department instructions on preparing information packets for potential developers further confuses its position. The instructions require field offices to inform developers that they must comply with housing assistance plan requirements and use "general locations of lower income housing" as a factor they are expected to meet. In addition, we provided an example of the confusion these discrepancies have caused in that a local clearinghouse believes proposed projects must be located in designated census tracts to be approved by the Department.

We believe that clarification of this issue is needed so that local governments, clearinghouses, and developers will clearly understand the Department's position.

B-171630

Copies of this letter are being sent to the Director, Office of Management and Budget, the Secretary of Housing and Urban Development, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, and the House and Senate Committees on Appropriations.

Sincerely yours,

A handwritten signature in cursive script that reads "Henry Eschwege".

Henry Eschwege
Director

Enclosure



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

FEB 23 1979

IN REPLY REFER TO:

Mr. Henry Eschwege
Director, Community and Economic
Development Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

Your letter of October 26, 1978, addressed to the Secretary of Housing and Urban Development transmitting a proposed report to Congressman William H. Harsha concerning the processing of the Oakwood Apartments near Milford, Ohio, was referred to me for reply.

Members of my staff conducted a detailed review of both the Section 8 and mortgage insurance processing of the Oakwood project last year. I feel that it is important to reiterate at this time the conclusion which was reached; that is, that although there were ways in which the processing of the Oakwood project could have been improved, no shortcomings in the processing were found which would have disqualified the project from receiving Section 8 assistance or HUD mortgage insurance. This conclusion was fully explained in a letter to Congressman Harsha dated May 24 of last year.

I will respond to the report's recommendations in the order in which they were presented.

Recommendation No. 1: The Secretary of Housing and Urban Development should emphasize to the Columbus and Cincinnati field offices the importance of following all notification requirements relating to proposed Department assisted housing projects.

Reply: Familiarity with Section 8 processing requirements, including those regarding notification of local governments, has improved since the Oakwood project was processed in 1976 and 1977. However, we agree with the need to reinforce, whenever possible, the importance of these requirements. Therefore, local government notification is one of the primary indicators examined as part of regular Headquarters reviews of field offices. In addition, we will emphasize the importance of local government notification requirements in our upcoming revision to the Section 8 New Construction Processing Handbook and in training sessions we are planning for later this fiscal year. Regarding the Columbus and Cincinnati

offices specifically, a copy of this response will be forwarded to the Columbus Area Office. Even though the Cincinnati office is no longer processing Section 8 proposals, they will also receive a copy of this response.

Recommendation No. 2: The Secretary of Housing and Urban Development should expand local government notification requirements to insure that all local governments affected by proposed housing projects will be notified and given a chance to comment.

Reply: The intent of Recommendation No. 2 is unclear in that it does not indicate how local government notification should be expanded. The local government notification requirement is statutory (Section 213 of the Housing and Community Development Act of 1974) and does not extend to special purpose governmental entities, only to units of general local government. Present regulations require that all units of general local government with applicable Housing Assistance Plans be notified. For a site in an area which is not covered by a Housing Assistance Plan, all local governments having overlapping jurisdiction over the site are required to be notified. This notification is sufficient to comply with the legislative intent. If the intent of the recommendation is that HUD also notify all single purpose governmental entities, such as school districts and water and sewer districts, etc., we do not agree with the recommendation. The appropriate locus for notification of and consideration of comments from special purpose governmental entities is a part of A-95 areawide clearinghouse reviews. As part of their reviews of Community Development Block Grant applications, clearinghouses have already been asked to review functional plans, such as water, sewer, transportation, health and education, and specifically, to comment on whether additional services and facilities would be necessary to support Housing Assistance Plan goals. Review in relation to a particular proposed assisted housing project would be a natural extension of this review. The individual review could easily involve notification of special purpose governmental entities and/or the governmental bodies responsible for planning for them, a function which clearinghouses already have the latitude to perform.

Recommendation No. 3: The Secretary of Housing and Urban Development should establish procedures to assist field offices in determining what factors or aspects of public facilities and services need to be assessed, what documents should be collected and maintained, and what conditions are serious enough to conclude that a facility or service is inadequate.

Reply: The Section 8 requirements having to do with public facilities and services are contained in the site and neighborhood standards for the program. Specific mention is made of the adequacy of utilities, including water, sewer, gas and electricity, and streets. The availability of utilities, which directly affect whether a project can be built, is carefully reviewed by technical staff in the field offices. The site and neighborhood standards also require that projects be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal services which are "at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing of similar market rents." This standard recognizes the fact that there are facilities and services which are not easily subject to quantification, and that there is no one standard for these which would be equally applicable to all proposed sites. The adequacy of non-utility facilities and services is a subjective judgment which varies from locale to locale, and it is inappropriate to try to impose an artificial universal standard of adequacy. Further, the future location of facilities and level of services is determined primarily by local governments, and should be reflected not only in functional plans for the facilities and services, but also in the zoning decisions made by local governments and in their Housing Assistance Plan goals and general locations. Review of the functional plans as they relate to the development of assisted housing should occur as part of A-95 areawide clearinghouse reviews. (See Recommendation No. 2.) In the upcoming revision of the Section 8 New Construction Processing Handbook, we will emphasize to field office staff responsible for the review of proposals the need to make sure that a review in relation to local standards and future plans has been made and that locally-accepted levels of facilities and services would be available to the proposed projects.

Recommendation No. 4: The Secretary of Housing and Urban Development should clarify the Department's policy on whether proposed assisted housing projects must be in locations specified in local housing assistance plans, make the Department's regulations and procedures consistent with this policy, and communicate this policy to local communities, potential developers, and clearinghouses.

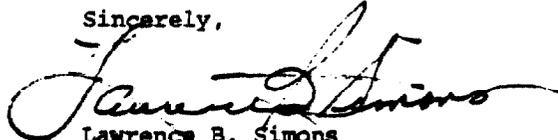
Reply: Present regulations governing the review of proposals for housing assistance (24 CFR, Part 891) are specific on this point. Section 891.204(b)(2) makes inconsistency with the general locations specified in the Housing Assistance Plan a grounds for objection. The field office must concur in an objection unless it makes an independent determination of consistency based on substantial evidence. If the local government has not submitted an objection, the field office may approve the application unless it makes an independent determination that the

application is inconsistent with the applicable Housing Assistance Plan. We will include this issue in upcoming training sessions also.

In addition, several corrections to the proposed report have already been discussed with General Accounting Office staff informally.

Thank you for the opportunity to review the proposed report and comment on its recommendations.

Sincerely,



Lawrence B. Simons
Assistant Secretary