

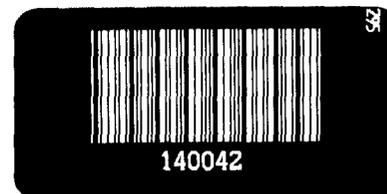
GAO

Report to the Honorable
Martin Frost, House of Representatives

October 1989

PUBLIC HOUSING

HUD's Approval Process for Country Creek Housing Project, Dallas, Texas



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Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-236860

October 20, 1989

The Honorable Martin Frost
House of Representatives

Dear Mr. Frost:

As requested in your September 23, 1988, letter and in subsequent discussions with you and your office, we reviewed the Department of Housing and Urban Development's (HUD) approval of the Dallas Housing Authority's construction of 100 units of low-income public housing on Country Creek Drive in Dallas, Texas. A consent decree, approved by the U.S. District Court for the Northern District of Texas, required the Authority to provide 100 three-bedroom units of housing as partial settlement of a racial discrimination and segregation lawsuit filed by seven Dallas low-income housing residents against HUD and the Authority. The new units will replace other low-income housing units of the West Dallas housing project slated for demolition under the consent decree.

Specifically, we agreed to (1) review HUD's compliance with applicable laws and regulations in approving the Authority's proposal to build the project at the Country Creek site, (2) determine what impact the "Frost Amendment" to HUD's 1988 appropriations bill prohibiting use of federally appropriated money for demolition of the West Dallas housing units had on the consent decree, and (3) determine whether proceeds the Authority realized from the sale of another Dallas housing project, Washington Place, should be categorized as nonfederal funds and whether these funds could be used to pay for demolition of West Dallas units.

Results in Brief

HUD processed the Authority's proposal for the Country Creek project in accordance with its established guidelines and procedures while also attempting to meet obligations under the consent decree, which resulted from the lawsuit against HUD and the Authority in the U.S. District Court for the Northern District of Texas. The amendment to HUD's 1988 appropriations bill did not invalidate the court-approved consent decree, but it did delay HUD's approval of the new units' construction. HUD delayed its approval until the Authority agreed to use its own resources to pay for the cost of demolishing the West Dallas housing units required by the terms of the consent decree.

The proceeds from the sale of the Washington Place public housing project are nonfederal funds. Since these proceeds are not federal funds, using these funds to demolish the West Dallas units is not inconsistent with the Frost Amendment. However, for reasons unrelated to the amendment,¹ the U.S. District Court, which has retained jurisdiction over the consent decree, stated that it would not permit the use of these funds to demolish the West Dallas units.

Background

The United States Housing Act, codified at 42 U.S.C. 1437, et seq., authorizes HUD to provide technical and financial assistance to public housing agencies for the development and operation of low-income housing projects. On September 30, 1986, HUD allocated \$4.27 million from fiscal year 1986 funds to the Authority for development of 100 three-bedroom low-income public housing units. These units were to be provided as part of a settlement HUD and the Authority reached with seven public housing tenants who had filed suit in 1985 against HUD and the Authority, alleging discrimination and segregation in public housing assignments.

The settlement also called for demolishing up to 2,654 units of the 3,500-unit West Dallas housing project. On January 20, 1987, the U.S. District Court for the Northern District of Texas approved the settlement in a consent decree signed by the parties to the suit. Walker v. HUD, CA 3-85-1210-R (consent decree, January 20, 1987). The consent decree called for a site or sites for the 100 three-bedroom units to be selected by July 20, 1987. Construction was to commence by April 20, 1988, and the units were to be ready for occupancy by January 1989. None of these target dates were met.

On the basis of a March 1987 Request for Proposals (RFP), the Authority initially sought to develop the 100 housing units from existing properties on sites scattered throughout the City of Dallas, but developers could not locate enough properties that could be rehabilitated or converted to three-bedroom units. Therefore, on April 24, 1987, the Authority issued a second RFP that called for new construction of 100 three-bedroom units on either scattered sites or at a single location. By the closing date for RFPs, June 10, 1987, the Authority received 16 proposals for constructing the units, 4 of which it considered to be responsive.

¹The court in Walker v. HUD, CA 3-85-1210-R (N. Dist. TX. August 4, 1989), issued a memorandum opinion, in which it wrote that "this court would not permit the Washington Place funds to be used for any other purposes besides those specified in the settlement" of a separate lawsuit involving the 1984 sale of Washington Place to Baylor University Medical Center.

Because the Authority was slow in implementing that part of the decree to select the site for the 100 three-bedroom units, on September 18, 1987, the court, overseeing the decree, ordered the Authority to select the Country Creek site. The following month, the Authority submitted its proposal for constructing 100 new units on the Country Creek site to HUD's Fort Worth office for approval.

Expressing concern over the limited availability of low-income housing in Dallas, you sponsored an amendment to HUD's 1988 appropriations bill in September 1987 that would prohibit the use of federally appropriated money for demolishing West Dallas housing units. This amendment, commonly referred to as the "Frost Amendment," was enacted into law on December 22, 1987, as part of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (P.L. 100-202).²

Although the amendment did delay HUD's approval of the Country Creek proposal, on March 25, 1988, the court directed HUD to approve the proposal within 7 days. HUD approved the Authority's proposal for construction at Country Creek on April 1, 1988. (See app. II for Country Creek's site plan and unit design.)

HUD Processing Procedures Complied With Existing Guidelines

HUD processed the Authority's proposal for constructing the Country Creek housing project in accordance with the United States Housing Act, codified at 42 U.S.C. 1437, et seq., HUD regulations contained in 24 CFR Section 941, and HUD's procedures for reviewing Public Housing Authority proposals contained in HUD's Public Housing Development Handbook 7417.1 REV-1, Chapter 7, dated October 1980. HUD's approval standards, for the most part, are stated in very general terms. Consequently, HUD has considerable latitude and discretion in determining whether to approve a proposed project.

HUD's processing procedures included concurrent review by various HUD divisions and branches for content and consistency with program requirements. HUD reviewers determined that the proposal complied with fair housing and equal opportunity laws, the location was not in an economically impacted area or in an area with a high concentration of assisted persons, and the location was in a tract designated by the Dallas

²In a memorandum opinion written on August 4, 1989, the court in *Walker v. HUD*, CA 3-85-1210-R, ruled that the Frost Amendment was "unconstitutional because it violates the principle of separation of powers."

Housing Assistance Plan as eligible for new construction. HUD reviewers also determined that proposed construction documents were satisfactory; utilities, streets, and topography of the land presented no problems; and the site met HUD's environmental requirements concerning noise abatement, floodplain and wetlands, and air and water quality. HUD's appraiser determined that the convenience of transportation and accessibility to adequate services met HUD's site and neighborhood standards.

Initially, the developer's total development cost estimate of the project exceeded HUD's funding allocation of \$4.27 million by \$811,600. Consequently, some critics of the project have asserted that the developer's proposal was unresponsive and should have been rejected. However, we found that the Authority had issued an amendment to its RFP to all potential bidders before the deadline for proposal submission, which provided that a developer's proposal could exceed the cost ceiling included in the RFP, subject to the Authority's obtaining additional funds. Because the estimated cost exceeded HUD's allocated funding, HUD regulations required that the proposal be reviewed by a panel made up of HUD headquarters technical staff. HUD's Fort Worth office submitted the proposal to HUD headquarters on March 8, 1988, and HUD's Assistant Secretary for Public Housing approved it on April 1, 1988, subject to the Authority's covering all development costs in excess of the HUD-approved allocation. Subsequently, when HUD approved the final construction plans and development costs, the Authority agreed to fund the excess cost which then totalled \$635,270.

See appendix I for details concerning HUD's approval process.

Frost Amendment Delayed Project Approval

The Frost Amendment, which prohibited the use of federally appropriated money for demolishing West Dallas housing units, did not invalidate the consent decree, but it caused HUD to delay approval of the Authority's Country Creek project for about 3 months. HUD had completed its review of the project proposal at about the time the Frost Amendment was enacted into law on December 22, 1987. HUD was concerned that the Authority might not be willing to provide funds from its own resources to pay for demolishing those West Dallas housing units mandated by the consent decree, and HUD was prohibited by the Frost Amendment from using federally appropriated funds for this demolition. HUD was seeking a firm commitment from the Authority that it would use nonfederal funds to pay for the demolition. The Authority's reluctance to provide HUD assurance that it would use nonfederal funds

for demolition raised concerns within HUD over a possible breach of the consent decree.

The consent decree called for demolishing up to 2,654 units of the 3,500-unit West Dallas housing project, but it did not specifically require HUD to finance the demolition and did not require the Authority to use funds from any particular source for the demolition. At a hearing on March 25, 1988, the parties to the suit agreed with the court that the terms of the consent decree need not be changed because of the Frost Amendment if the Authority would agree to provide nonfederal funds to cover the cost of demolition at West Dallas. The Authority agreed to this at the hearing. The court then directed HUD to approve the Country Creek project proposal within 7 days, and HUD did so on April 1, 1988.

Washington Place Sale Proceeds Are Nonfederal Funds but Cannot Be Used to Demolish West Dallas

In April 1984, the Authority sold the Washington Place public housing project to Baylor University Medical Center for \$9.5 million. This project had been constructed with the aid of federal funds provided to the Authority under a contract entered into under the authority of the United States Housing Act. Under the contract, the federal government, through HUD, financed the cost of the project by means of annual contributions to the Authority over a 40-year period sufficient to pay the principal and interest on bonds issued by the Authority to construct the project. In return, the Authority made numerous contractual promises to HUD, the most important of which was to rent Washington Place to low-income persons, as defined under the act.

In our view, the proceeds from the sale of the Washington Place project are not "federal funds." The United States Housing Act provides no basis for construing the proceeds to be federal funds. Indeed, the act makes it clear that the federal government does not own public housing projects. The function of the federal government, though HUD, is "to assist [public housing agencies] in achieving and maintaining the lower income character of their project" (42 U.S.C. Section 1437c(a) (emphasis added)). Neither the court cases interpreting the act, nor our own office's appropriations decisions, provide a basis for construing the proceeds from the sale of Washington Place to be federal funds. Thus, the only other possible basis for construing the proceeds for the sale of Washington Place to be federal funds is the contract between the Authority and HUD. The contract would provide such a basis if it contained a provision which expressly provided that the proceeds from the sale would go to the federal government. However, the contract contains

no such provision. Therefore, the Frost Amendment would not prohibit the use of these proceeds to demolish the West Dallas housing units.

While the amendment does not prohibit the use of proceeds from Washington Place for the demolition of West Dallas housing units, the court in Walker v. HUD, CA 3-85-1210-R (memorandum opinion, Aug. 4, 1989) recently held that such use of the proceeds is not legally permissible because it would be inconsistent with a court-approved settlement of a separate 1984 lawsuit involving the sale of Washington Place. The court's ruling thus prohibits the use of Washington Place proceeds for demolishing West Dallas housing units.

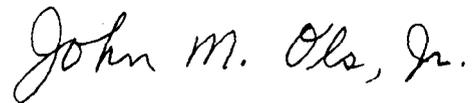
Scope and Methodology

To identify the laws and regulations HUD should have complied with in approving the Authority's proposal for constructing housing on Country Creek Drive, we examined the United States Housing Act, codified at 42 U.S.C. 1437; HUD's implementing regulations; and HUD's Public Housing Development Handbook 7417.1 REV-1, dated October 1980. To determine HUD's compliance, we reviewed HUD records at HUD's area office in Fort Worth, Texas, and HUD national office records in Washington, D.C.; and interviewed agency officials at these locations. We reviewed Dallas Housing Authority records and interviewed Authority officials in Dallas. In addition, we reviewed court documents on file in the United States District Court for the Northern District of Texas, Dallas Division, relating to Walker v. HUD, CA 3-85-1210-R. Our Office of the General Counsel reviewed the impact of the Frost Amendment on the consent decree and whether the proceeds from the sale of Washington Place are federal or nonfederal funds.

We conducted our review between December 1988 and April 1989 in accordance with generally accepted government auditing standards. We discussed the information in the report with HUD and Authority officials and considered their views in finalizing our product. However, as you requested, we did not obtain official agency comments on this report. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of Housing and Urban Development, the Executive Director of the Dallas

Housing Authority, and other interested parties. If we can be of further assistance, please contact me at (202) 275-5525. Major contributors to this report are included in appendix III.

Sincerely yours,



John M. Ols, Jr.
Director, Housing and
Community Development Issues

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Abbreviations

A&E	Architectural and Engineering
GAO	General Accounting Office
HAP	Housing Assistance Plan
HUD	Department of Housing and Urban Development
PHA	Public Housing Authority
RFP	Request for Proposals

HUD Approval of Country Creek Project Proposal

HUD processed the Authority's proposal for constructing the Country Creek housing project in accordance with the United States Housing Act, codified at 42 U.S.C. 1437 et seq., HUD regulations contained in 24 CFR Section 941, and HUD's procedures for reviewing Public Housing Authority proposals as contained in HUD's Public Housing Development Handbook 7417.1 REV-1, Chapter 7, dated October 1980. HUD's approval standards, for the most part, are stated in very general terms. Consequently, HUD has considerable latitude and discretion in determining whether to approve a proposed project. HUD's processing steps for turnkey new construction of low-income housing projects,¹ such as the Country Creek project, are illustrated in figure I.1.

Selection of Turnkey Developer

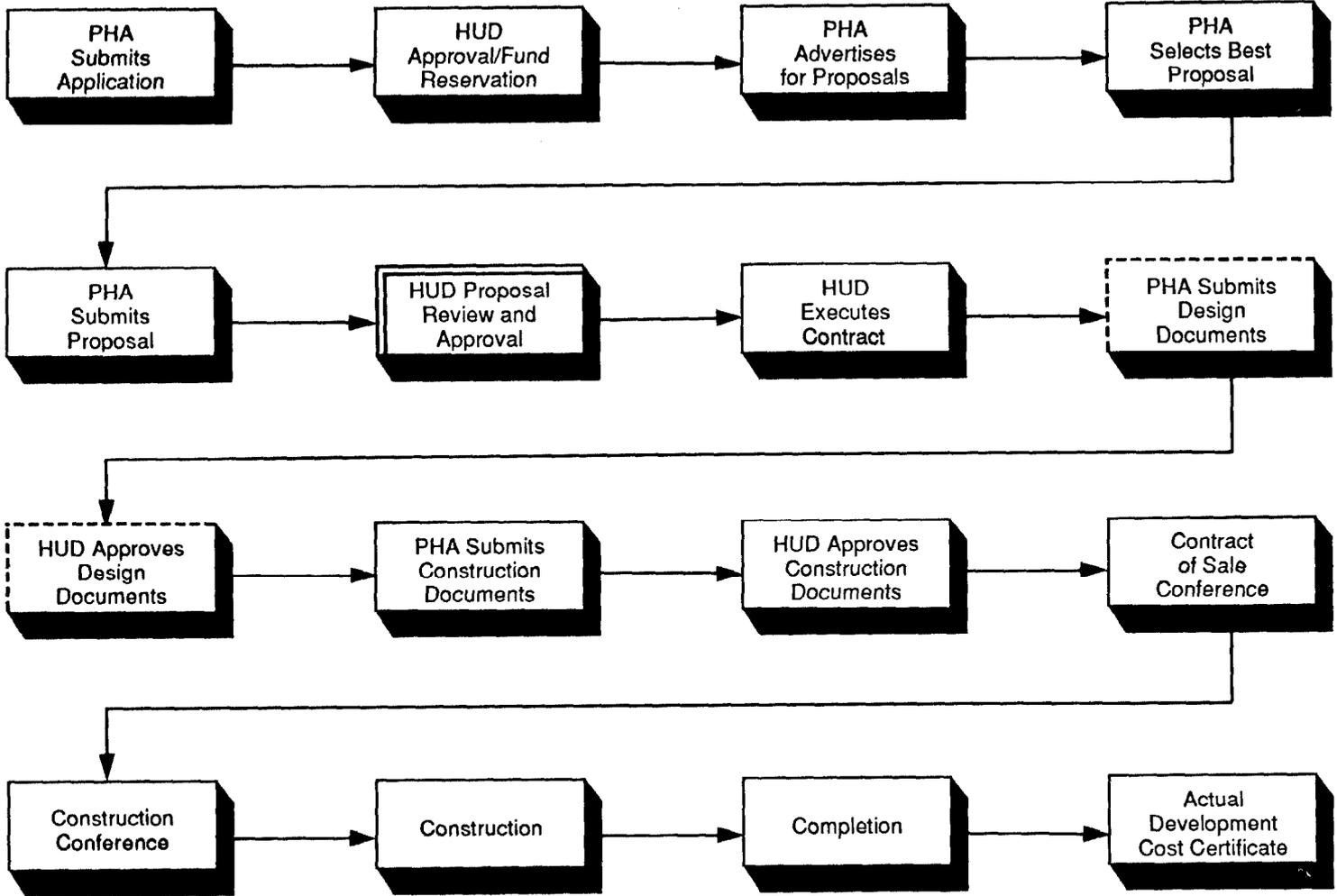
The Authority selected Intervest Engineering Group, Inc., as the "turnkey" developer to construct 100 three-bedroom low-income housing units on Country Creek Drive in Southwest Dallas pursuant to HUD's Public Housing Development Handbook 7417.1 REV-1.

Initially, the Authority sought to develop the 100 three-bedroom housing units from existing properties on sites scattered throughout the City of Dallas, but developers could not locate enough properties that could be rehabilitated or converted to three-bedroom units. Five proposals received from three developers in response to the Authority's March 1987 Request for Proposals (RFP) that gave developers the option of building new units or rehabilitating existing units at no less than three sites scattered throughout the city would not have provided the 100 three-bedroom units required by the consent decree. Authority research determined that less than 2 percent of the multifamily housing in Dallas contained three bedrooms, and affordable three- and four-bedroom single houses generally were located in areas that did not meet HUD site and neighborhood standards regarding income levels and density of minority population. Therefore, on April 24, 1987, the Authority issued a second RFP that called for new construction of 100 three-bedroom units on either scattered sites or at a single location. The closing date for submitting proposals was June 10, 1987.

¹Turnkey development, as used in this report, refers to a method of procurement where the developer is responsible for buying the land and constructing the project to Authority specifications. The Authority then buys the project after it is completed.

Appendix I
 HUD Approval of Country Creek
 Project Proposal

Figure I.1: HUD Processes for Turnkey New Construction of Low-Income Housing



 Focus of GAO Review
 Process steps eliminated for the Country Creek project by order of the U.S. District Court for the North District of Texas

Source: GAO illustration based on guidelines in HUD Public Housing Development Handbook 7417.1 REV-1, dated October 1980.

The Authority's Director of Development told us that developers preparing project proposals informally advised the Authority that they were having a hard time staying within the \$4.015 million cost limitation included in the RFP,² mainly because of high land costs. Accordingly, the Authority issued an amendment to the RFP on June 4, 1987, which permitted developers to submit proposals that exceeded HUD's total development cost ceiling, subject to availability of additional funds. The June 10, 1987, closing date for proposals was not changed.

Five developers submitted 16 proposals. Twelve proposals were considered nonresponsive³ because the proposed sites were either located in flood plains, industrial areas, or had accessibility problems. Of the four proposals considered "responsive," the sites proposed were located on Seagoville Road in Southeast Dallas, Country Creek Drive in Southwest Dallas, Highland and Ferguson Roads in Northeast Dallas, and Crystal Lake Drive in Southwest Dallas. All 16 proposals exceeded HUD's total development cost ceiling.

On the basis of the HUD ranking criteria, Seagoville Road emerged as the preferred site. However, after the Authority had arranged a public meeting to discuss this site, the Authority determined that an unrecorded enforceable deed restriction requiring minimum building sizes prevented construction at this location. The Authority then held a public meeting on September 15, 1987, to discuss its second-ranked proposal—the Country Creek site. According to the Authority's Planning Officer, an overwhelming majority of the 300 people attending strongly opposed development of a 100-unit public housing project at Country Creek. Numerous citizens and organizations wrote letters to the Authority, HUD, and members of Texas' congressional delegation expressing their concerns. They asserted that private property values would decline as a result of the project, and that the site did not meet HUD guidelines for access to community services, shopping facilities, schools, public transportation, and medical facilities. In addition, questions were raised concerning the Authority's compliance with HUD's policy of constructing public housing on scattered sites rather than clustering all 100 units at one location.

²The cost limitation included in the RFP was lower than the \$4.27 million allocated by HUD for this project because HUD required the Authority to reserve a portion of the allocation to cover administrative costs.

³A proposal is considered "nonresponsive" if critical information is missing or the proposal represents a major deviation from the project requirements. To be "responsive," a proposal must comply with the RFP and the program requirements identified for the project.

On September 18, 1987, the U.S. District Court for the Northern District of Texas held a hearing in Dallas to consider the Authority's reasons for not meeting the July 20, 1987, deadline for choosing a site for the 100 new units mandated by the consent decree. The plaintiffs' counsel testified that although the Country Creek site may not be the plaintiffs' first choice, it was acceptable. After much discussion regarding the problems in site selection and the further delay that would occur if the Authority issued yet another RFP, or again changed its development method, the court ordered the Authority to select the Country Creek site for submission to HUD for approval. Further, the court suggested that the Authority consider alternate sites if, for some reason, HUD could not approve the Country Creek proposal. The Authority submitted its proposal for construction by Intervest Engineering Group, Inc., on the Country Creek site to the HUD Fort Worth area office for approval on October 13, 1987.

HUD Review and Approval of Country Creek Project

The HUD Fort Worth area office and HUD's Washington, D.C., national office followed their established procedures in reviewing and approving the Authority's proposal. Figure I.2 shows the major responsibilities of the HUD divisions or branches involved in the approval process.

Multifamily Housing Programs Branch

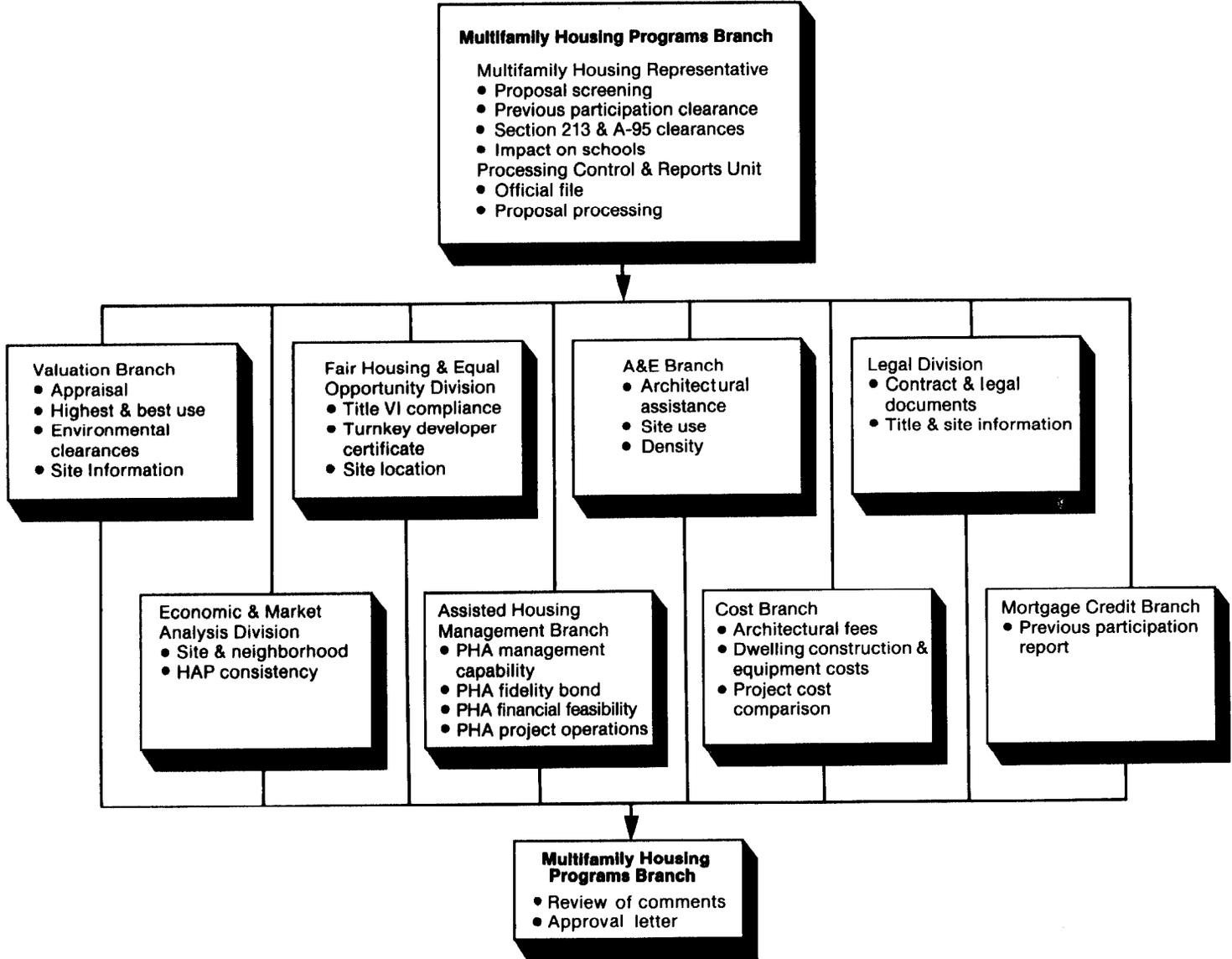
Upon receipt of a proposal, the Multifamily Housing Programs Branch (1) serves as the agency's focal point in coordinating the proposal review process, (2) determines developer eligibility, (3) ensures compliance with A-95 clearance and OMB Circular A-102,⁴ and (4) gathers, processes, and reviews all comments and recommendations from HUD branches and divisions and various other entities. (This final responsibility is discussed in detail at the end of this appendix.)

HUD's Multifamily Housing Programs Branch representative received the Authority proposal and screened the proposal for content and consistency with program requirements. The Processing Control and Reports Unit of this branch established the official processing file and transmitted proposal documents to various HUD divisions and branches for in-depth, concurrent reviews.

⁴OMB Circular A-102 applies to programs funded through grants. The contract between HUD and the Authority regarding the Country Creek housing project is neither a grant nor cooperative agreement. Thus, A-102 is not applicable in reviewing and approving the proposal.

Appendix I
 HUD Approval of Country Creek
 Project Proposal

Figure I.2: HUD Review and Approval Process for Turnkey New Construction Proposal



Source: GAO illustration based on guidelines in HUD Public Housing Development Handbook 7417.1 REV-1, dated October 1980.

The branch representative determined that the turnkey developer and its contractors were not listed on HUD's consolidated list of debarred, suspended, and ineligible contractors. The developers identified in the proposal were cleared and approved after it was determined that HUD's Previous Participation Review System contained no adverse information concerning these individuals. On November 19, 1987, the branch representative also requested the Mayor of Dallas to advise HUD within 30 days of any objections the City of Dallas had to HUD approval of the project based on possible inconsistencies with Dallas' Housing Assistance Plan (HAP), pursuant to Section 213(c) of the Housing and Community Development Act of 1974. The Mayor did not respond to HUD, but she had previously advised the Authority on October 1, 1987, that the proposal was "not inconsistent" with provisions of the Dallas HAP. Subsequently, on November 23, 1987, the Mayor informed the Authority's Executive Director that the Dallas City Council "supports the dispersion of low income housing units and rejects the clustering approach such as the Country Creek proposal."

The North Central Texas Council of Governments reviewed the application in accordance with Executive Order 12372 and 24 CFR Section 52. This process is commonly referred to as A-95 Clearance. The Council advised HUD that the project met the Texas Review and Comment System criteria and recommended favorable consideration of the project.

The Multifamily Housing Programs Branch was responsible for determining the suitability of the project in terms of access to schools. The northern part of the site is located in the Dallas Independent School District and the southern part in the Duncanville Independent School District. The Dallas Independent School District informed the Authority that additions to the elementary and high schools in the area would be available to accommodate Country Creek Project residents in the fall of 1988. The Duncanville School Superintendent advised the Authority that elementary school students would have to be bused to a school outside of the Country Creek area in order to accommodate them, and that Duncanville's high school enrollment of 3,400 in September 1987 was in excess of what was considered to be an "educationally sound" enrollment. According to the Superintendent, no relief was expected until the fall of 1989.

The HUD reviewer said crowded schools cannot be used as a basis for rejecting a site because the courts have ruled that a public school system must provide education for children within its district. He said that HUD would take a different view if a school was structurally unsound or

found to be unsafe, but a crowded school was not sufficient reason to disapprove a proposal.

Valuation Branch

The Valuation Branch was responsible for determining whether the site (1) was appraised fairly, reflecting the highest and best use permitted by current zoning and building codes, (2) met HUD's environmental standards, and (3) met HUD's site and neighborhood standards regarding access to facilities and services. The HUD appraiser estimated the "as is" value for the highest and best use of the land at \$868,000, based on four property sales in the area between January 1985 and May 1987. He noted that in November 1985, when this same site was proposed for another public housing project, a commercial appraiser estimated its market value at \$1.6 million. We determined that the developer paid \$945,000 for the property—\$868,000 plus \$77,000 of accrued interest at closing— and HUD allocated \$868,000 to cover land cost in its negotiations with the Authority.

Regarding environmental standards, we found that HUD's appraiser conducted an environmental assessment and determined that the site was in compliance with HUD's minimum standards relating to noise abatement; floodplain and wetlands; air and water quality; fish and wildlife; and explosive, flammable, and toxic fuels or chemicals.

The Valuation Branch determined that the site complied with HUD site and neighborhood standards, and assured the availability of streets, utilities, and public transportation. HUD's Valuation Branch appraiser assessed the convenience of transportation and accessibility to adequate services, such as social, recreational, educational, and health facilities. HUD's site and neighborhood standards for access to facilities and services are found in HUD regulations, 24 CFR 941.202(g) and (h), which state

"(g) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of similar unassisted standard housing."

"(h) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive."

HUD's regulations and implementing guidelines do not define "accessible" or "excessive." Therefore, HUD exercised considerable judgment in determining whether the Country Creek site met its site and neighborhood standards. HUD determined that

- access to social facilities and services was adequate on the basis of facilities and services available from Dallas County, the City of Dallas, the Texas Department of Human Services, and private or nonprofit organizations throughout the community;
- access to recreational facilities was adequate because Westhaven Park was about 1 mile away, Kiest Park and Boulder Park were within 3 miles, and a YMCA and YWCA were about 5 miles away;
- access to educational facilities was adequate because bus transportation was available for schools more than 2 miles away;
- access to commercial facilities was adequate because a convenience store was located about one-half mile away and Red Bird Mall Shopping Center was about 3 miles away;
- access to health facilities and services was adequate because doctors' offices were available, a Primacare Medical Clinic and Red Bird Emergency Clinic were within 4 miles, two hospitals were located within 5 miles, and emergency rescue and ambulance service was available on demand;
- access to municipal facilities and services was adequate because a Dallas Fire Department station was about 2 miles away and a new station adjacent to the Country Creek site had been proposed, a Dallas Police substation was about 2.5 miles away, and streets and utilities were available; and
- Dallas Area Rapid Transit bus service, although limited on Sundays, was available.

Economic and Market Analysis Division

The Economic and Market Analysis Division was responsible primarily for determining that the Country Creek site was not in an economically impacted area or in an area with a high concentration of assisted persons. The site is located in Census Tract 165.01, a tract designated by the Dallas Housing Assistance Plan as eligible for new construction. To evaluate economic impact, the HUD reviewer compared 1980 Census data, reflecting median family income of \$19,043 for tract 165.01, with the median family income of \$22,242 for the Dallas Primary Metropolitan Statistical Area. According to HUD, more recent income data were not readily available. Because the median family income of tract 165.01 exceeded 80 percent of the Dallas median family income, it met HUD's economic impact test.

The reviewer determined that the Country Creek site was not in an area with a high concentration of assisted persons because tract 165.01 did not contain any HUD-assisted housing units at that time. HUD regulations do not specify criteria for determining “high concentration.” The reviewer also told us that although 21 additional subsidized housing units were planned for tract 165.01 under another Authority project, these additional units will not be located in the immediate vicinity of Country Creek and, in her opinion, will not cause a high concentration of assisted persons.

**Fair Housing and Equal
Opportunity Division**

The Fair Housing and Equal Opportunity Division must ensure that the local housing authority and turnkey developer are in compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 11063—which prohibit discrimination on the basis of race, color, creed, or national origin in federally assisted programs—and other fair housing and equal opportunity laws. According to HUD’s Region VI Director, Office of Fair Housing and Equal Opportunity, for purposes of the Country Creek proposal, HUD considered the Authority to be in compliance with Title VI requirements because it did not have any information to indicate otherwise at the time of the proposal’s review. Further, the developer certified that all fair housing and equal opportunity requirements would be met during project development.

This division must also ensure that the proposed site is not in an area of minority concentration. HUD’s Program Operations Director told us that the threshold for determining minority concentration is when the percentage of minorities in the census tract is equal to or exceeds the percentage of minorities within the city. The HUD reviewer determined that the proposed project complied with the applicable civil rights laws and housing opportunity requirements and that the site was not located in an area of minority concentration, based on an analysis of 1980 Census data. These data showed that Census Tract 165.01 included a minority population of 11 percent (260 minorities out of a total population of 2,209), while the City of Dallas had a minority population of 28 percent. The HUD reviewer told us that 1980 Census data were the most current reliable data available at the time of HUD’s review in late 1987.

**Assisted Housing
Management Branch**

To assess the management capability and financial feasibility of the Authority, HUD’s Assisted Housing Management Branch conducted a management assessment and verified the Authority’s fidelity bond and insurance in July 1986, and awarded an outstanding rating. HUD staff

reviewed the estimated operating expenses, projected income and subsidy payments, and determined that the project was financially feasible and recommended approval of the proposal.

Architectural and Engineering Branch

HUD assigned a construction analyst from its Architectural and Engineering Branch to provide technical assistance throughout the proposal review process. The analyst reviewed the project design for compliance with HUD Minimum Property Standards and local codes and found the proposed construction documents to be satisfactory. He also evaluated the site and verified that public utilities were available for extension to the site, existing streets were adequate to serve project residents, and the dwelling and nondwelling structures and treatment of open spaces and recreational areas were consistent with good planning. In addition, HUD's construction analyst concluded that the architectural plans allowed for proper placement of buildings and the proposed density was consistent with local and program requirements for providing efficient and economical use of the site.

Cost Branch

The Cost Branch reviewed the estimated architectural services fees and dwelling construction and equipment costs submitted by the developer. The reviewer determined that the architectural fees were reasonable when compared with fees for similar projects in the area. A Cost Branch representative told us that reasonableness is established every few years by a local survey to set general fees for architectural services. The HUD reviewer compared the estimated dwelling construction and equipment costs with HUD's cost guidelines and determined that the developer's estimates amounted to 98 percent of the cost guidelines. In addition, the reviewer compared total project construction costs—consisting of cost estimates for site improvements, dwelling construction and equipment, and nondwelling construction and equipment—with HUD's data bank of comparable project costs and concluded that the estimates were reasonable.

Legal Division

To determine that all statutory and legal requirements were met and legal documents were properly executed by all parties, a representative of the Legal Division reviewed all contracts and other legal documents and ensured that all requirements were met. The legal staff reviewed the title and site information to ensure that clear title could be obtained and determined that the developer's contract to purchase the site was satisfactory and met HUD requirements. Concerns that existing property

deed restrictions might prevent development of this project because of design restrictions imposed by the original developer of the area proved to be unfounded when the Great Southwest Corporation, successor to the original developer, approved the site and building plans and specifications.

HUD's Associate Regional Counsel also reviewed the Authority's amendment to its RFP, which permitted proposals to be submitted in excess of the total development cost stipulated in the RFP. Counsel determined that such proposals, including the one selected by the Authority, could be accepted as responsive under local law but a contract could be awarded only if additional funds were provided from some source outside the existing commitment from HUD. The Authority subsequently agreed to fund the increased development cost of \$635,270.

Mortgage Credit Branch

The Mortgage Credit Branch performed a limited review because the proposal did not include any requisition for funds or contain other documents applicable to this branch. HUD's Previous Participation Review System contained no adverse findings relating to this developer or his contractor. Consequently, in-depth Mortgage Credit Branch review was not necessary.

Final HUD Review and Approval

HUD processing procedures required the Multifamily Housing Programs Branch to collect and review all recommendations and comments made by (1) HUD branches and divisions, (2) the Mayor of Dallas and the North Central Council of Governments, and (3) the Dallas and Duncanville public schools. The HUD official who performed these functions told us that HUD had completed most of its reviews by early December 1987, and HUD had determined that the proposed site was eligible for approval. However, HUD delayed its approval while it considered funding sources to cover (1) proposed development costs that exceeded HUD's allocation of funds for the project and (2) demolition of those West Dallas housing units mandated by the consent decree.

On March 25, 1988, the U.S. District Court held a hearing in Dallas to consider, among other matters, HUD's reasons for delaying approval of the project. After hearing testimony from HUD, the Authority, and others, the court decided there was no valid basis for further delay and ordered HUD to approve the Country Creek proposal by the end of the following week. The court also decided that there was no need for the Authority to submit preliminary construction plans to HUD for review

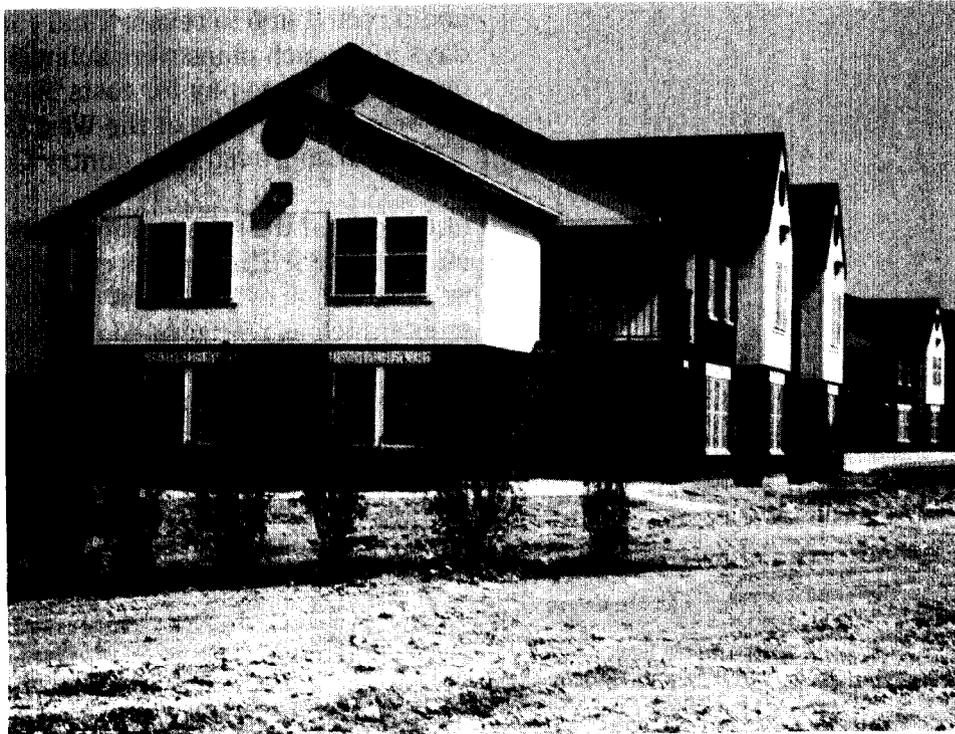
Appendix I
HUD Approval of Country Creek
Project Proposal

and directed HUD to review final construction plans within 5 working days after such plans were submitted. The Authority agreed to use its own resources to pay for costs in excess of HUD cost guidelines and costs for demolishing units of the West Dallas housing project. On April 1, 1988, HUD approved the Country Creek project.

HUD received the construction plans for the Country Creek project on May 24, 1988. These plans contained amenities that HUD considered to be in violation of HUD's cost containment and modest design requirements, such as refrigerated air conditioning, landscaping, extra-wide walks, a game court and game field, and others. However, because of the court order directing expeditious review of the plans and specifications within 5 working days, HUD's General Deputy Assistant Secretary for Public and Indian Housing, on May 25, 1988, approved the plans containing these items, subject to the Authority's covering all development costs in excess of the total development cost cap of \$4.27 million allocated by HUD on September 30, 1986.

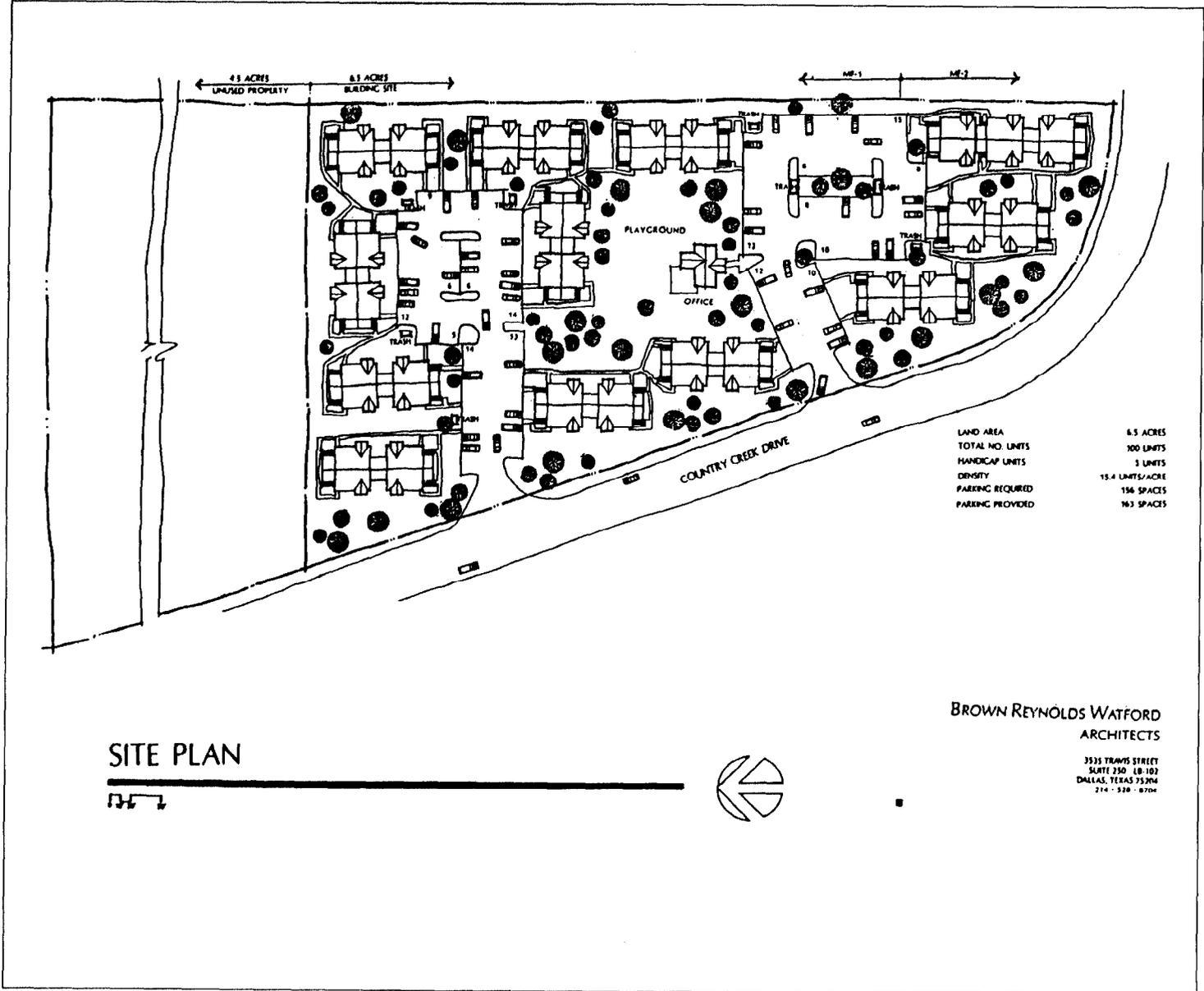
Country Creek Housing Project

Figure II.1: Housing Project Units Under Construction



Appendix II
Country Creek Housing Project

Figure II.2: Country Creek Housing Project Site Plan



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