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CITY OF DALLAS

January 4, 2001

Ms. Harriet Miers
Assistant to the President
The White House
Washington, DC 20500

VIA FACSIMILE: 202/456-2215

Dear Harriet:

Thank you for your willingness to assist us on behalf of the Davis Building Redevelopment Project.

Attached is a letter that I sent yesterday to HUD Assistant Secretary Roy Bernardi. The letter is in response to correspondence from HUD in which the City's Section 108 loan application for this project was denied. I am deeply distressed that HUD continues to oppose this project, which will transform one of downtown Dallas' most handsome historic buildings into a thriving residential community.

HUD apparently is basing its decision on a finding of non-compliance with the requirements of the two regulatory waivers for four other rental housing developments that are part of the City's Intown Housing Program. As you will notice in my correspondence, the City of Dallas has addressed all of HUD's concerns regarding compliance with CDBG regulations. I cannot understand why our application is being denied.

Your support for this project is very important to our efforts and greatly appreciated. Any further assistance you can provide will be extremely helpful. As always, if you have any questions or comments, please let me know.

Sincerely,

Mary Poss
Acting Mayor

bw

MARY POSS

MAYOR PRO TEM



CITY OF DALLAS

January 3, 2002

The Honorable Roy Bernardi
Assistant Secretary for Community Planning and Development
United States Department of Housing and Urban Development
451 7th Street SW – Room 7100
Washington, DC 20410

VIA FACSIMILE: 202/708-3336

Dear Secretary Bernardi:

I am in receipt of correspondence from Deputy Assistant Secretary Nelson Bregon regarding the Davis Building, which we discussed recently. As you know, the Davis Building is the final project in the City's nationally acclaimed Intown Housing Program. Mr. Bregon informed me of HUD's decision not to approve our Section 108 loan application and waiver of the CDBG national objective for serving low and moderate-income persons. This decision will literally bring this extremely important redevelopment project to a halt.

Mr. Bregon states that the decision was based on the finding of non-compliance with the requirements of the two regulatory waivers for four other rental housing developments that are part of the City's Intown Housing Program. When issues of non-compliance have been raised, the City has acted expeditiously to resolve them. Five of our six Intown Housing projects have been determined by HUD to be in compliance. Attachment 1 summarizes these projects and their compliance status. For your convenience, I have attached correspondence from the Director of the Texas State Office of Community Planning and Development dated June 9, 2000 and January 12, 2001 that confirms that all findings of non-compliance on these projects have been cleared. The City's determination that the sixth project, the Deep Ellum Lofts, is also in compliance is pending HUD's confirmation.

I hope that this information demonstrates to you the City's practice of taking compliance with all HUD regulatory requirements very seriously. We continuously monitor these projects to assure compliance and seek resolution of any finding in a timely manner. It is our intent to do the same with the Davis Building project. The record does not support that our management of the previous projects now necessitates HUD requiring some "safeguards to assure program compliance."

I do not understand why HUD, specifically the regional office, is so vehemently opposed to this project. Could their concern regarding compliance relate to their interpretation of the waiver requirements regarding families? The current test is more stringent than any that have been previously applied. Why? Let me remind you that the Davis Building project has been revised to address these concerns through the inclusion of 20 two and three bedroom apartments.

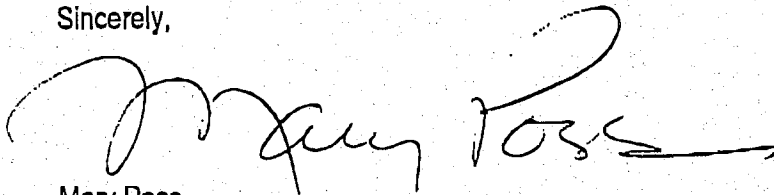
Mr. Bregon suggested alternatives for the City to consider including meeting another national objective of "activities to aid in the prevention or elimination of slums and blight". As I mentioned in my last correspondence to you, there are several practical reasons why this approach is not an option. Additionally, Mr. Bregon suggested that the City consider the use of Section 108 funds to refinance interim financing arranged by the developer, or securing Section 108 loan funds with a letter of credit. For a number of reasons, these options are also not viable.

It would truly be a shame to abandon such an important redevelopment effort. We have made great strides in promoting downtown Dallas as a great place to live. The City's Intown Housing Program has attracted more than 15,000 new resident to central Dallas, encouraged the reuse of a wide variety of historic properties, and created a greater variety of housing options for families at all income levels.

HUD's decision could stymie this substantial progress and sow the seeds for the further deterioration of one of downtown Dallas' most handsome historic buildings. Enabling this project to proceed is a very high priority for me. I respectfully request that you reconsider the Department's decision not to approve this application and waiver.

Please feel free to contact me at any time if you have any questions or need additional information. I look forward to a favorable response from you soon.

Sincerely,



Mary Poss
Acting Mayor

bw

Attachments

ATTACHMENT I

Status of Section 108 Monitoring Reviews and Resolutions

Project	Date of Monitoring Review	Date of Monitoring Report	Date of Final Resolution	Date of HUD's Notice of Compliance
Treymore at Cityplace	July 21-23, 1999	October 12, 1999	April 28, 2000 (eligibility, income verification and documentation) June 29, 2000 (unit distribution and number of required affordable units)	June 9, 2000 (income documentation and verification) January 12, 2001 (unit distribution)
Majestic Lofts	August 11-12, 1999	October 18, 1999	April 28, 2000	June 9, 2000
Kirby Residences	September 8-10, 1999	October 21, 1999	April 28, 2000	June 9, 2000
Santa Fe Terminal Lofts	August 30 and September 1, 1999	October 27, 1999	November 14, 2000	January 12, 2001
Eban Village Apartments	January 25, 2000	February 10, 2000	April 28, 2000	June 9, 2000
Deep Ellum Lofts	October 11-12, 2001	November 27, 2001	November 28, 2001 (eligibility, income verification and documentation, unit distribution and required number of affordable units)	pending



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U.S. Department of Housing and Urban Development
Texas State Office, Southwest
Office of Community Planning and Development
801 Cherry Street, 28th Floor
Fort Worth, Texas 76102

JUN 9 2000

Mr. Doug Dykman
Interim Director of Housing
Dallas City Hall
1500 Marilla, 6DN
Dallas, TX 75201

Dear Mr. Dykman:

SUBJECT: City's Monitoring Response
Section 108 - Intown Housing Program
Project No.: B-93-MC-48-0009

We have received your letter of April 28, 2000, which provided our office a status report on the open monitoring findings in your Section 108 - Intown Housing program. On May 15 and 16, 2000, we conducted a follow-up monitoring visit to review documentation compiled by the city in its monitoring of each of the Intown Housing developments. Based on our review of the information that was available during our on-site visit, we have made the following determinations:

1. Kirby Residences - This development is currently in compliance with the requirements to lease an appropriate number of affordable units to low- and moderate-income persons. The required number of affordable units by bedroom size is: 11 efficiency units; 27 one-bedroom units; and 19 two-bedroom units. According to our follow-up review, this mix is currently being maintained. We also reviewed a sample of the affordable tenant files to determine if proper income documentation and verification was maintained. We were able to conclude that Kirby Residences currently has low and moderate income tenants residing in the affordable units. No further action is required to resolve this finding.
2. Eban Village - There were no findings regarding tenant eligibility or income verifications and all units in this development are affordable. No action is required by the city.
3. Majestic Lofts - This development is currently in compliance with the requirements to lease an appropriate number of affordable units to low- and moderate-income persons. The required number of affordable units by bedroom size is: 36 one-bedroom units and 15 two-bedroom units. According to our follow-up review, this mix is currently being maintained. We also reviewed a sample of the affordable tenant files to determine if proper income documentation and verification was maintained. We were able to conclude that Majestic Lofts currently has low- and moderate-income tenants residing in the affordable units. However, the tenant occupying unit 214 exceeded the low- and moderate-income limits and the unit was not counted as affordable. No further action is required to resolve this finding.

4. **Treymore Apartments** - According to our review of the April 26, 2000, Monthly Occupancy Report, 82 units are occupied by low- and moderate-income persons which included 36 one-bedroom units; 24 two-bedroom units; and 22 three-bedroom units. The required number of affordable units by bedroom size is: 39 one-bedroom units; 29 two-bedroom units; and 24 three-bedroom units. Treymore is ten units short of the required 92 affordable units. Specifically, it is 3 one-bedroom; 5 two-bedroom; and 2 three-bedroom units short.

According to your letter of April 28, 2000, you indicated that the finding relating to the inappropriate distribution of affordable units by bedroom size is a local requirement and that the owner has initiated discussions with the city to remove this requirement. The owner must maintain a minimum of 92 affordable units because of the statutory requirement that not less than 51 percent of the units be affordable. In addition, our office believes that the owner must maintain those 92 affordable units within the above specified bedroom distribution even though a waiver was not granted for this development.

The reason that we believe that the owner must maintain the distribution of affordable units by bedroom size is because the Section 108 application for Treymore Apartments was approved by HUD with the initial determination that all 180 units would be leased at affordable rents. However, if the owner sought to reduce the number of affordable units to the minimum statutory requirement of 51 percent then the owner would provide 39 one-bedroom units, 29 two-bedroom units and 24 three-bedroom units at affordable rents.

We refer you to an October 9, 1996, letter from Mr. R. David Kelley of Carleton Residential Properties to the City of Dallas which states: " In the event that the number of affordable units is reduced to the minimum statutory requirement of 51 percent (of) the units at affordable rents; the following selection will be provided for lower income tenants: 39 one-bedroom units or 46 percent of the one-bedroom units; 29 two-bedroom units or 40 percent of the total two-bedroom units; and 24 three-bedroom units or 100 percent of the total three-bedroom units." This requirement was confirmed by a City of Dallas Memorandum, dated October 9, 1996.

It appears that the owner has reduced the number of affordable units to the statutory minimum of 51 percent, or 92 units. However, the owner will be required to maintain the bedroom distribution of 39 one-bedroom units; 29 two-bedroom units; and 24 three-bedroom units.

We also reviewed a sample of the affordable tenant files to determine if proper income documentation and verification was maintained. We were able to conclude that Treymore Apartments currently has low and moderate income tenants residing in the affordable units. No further action is required to resolve this finding relating to income documentation and verification.

In order to fully resolve all findings pertaining to Treymore Apartments, please provide our office a schedule for when the owner will lease the remaining ten affordable units which includes: 3 one-bedroom; 5 two-bedroom; and 2 three-bedroom units. These units must be leased to income eligible tenants.

5. **Santa Fe Terminal Lofts** - The owner did not submit sufficient information to the city in response to your monitoring of Santa Fe Terminal Lofts. Therefore, our office is unable to determine if Santa Fe Terminal Lofts is in compliance with the CDBG and Section 108 requirements. You indicated that the owner would provide the city with its response by May 19, 2000. The city would then submit a final report for resolution to our office by May 31, 2000.
6. **Deep Ellum Lofts** - The owner did not submit sufficient information to the city in response to your monitoring of Deep Ellum Lofts. Therefore, our office is unable to determine if Deep Ellum Lofts is in compliance with the CDBG and Section 108 requirements. You indicated that the owner would

provide the city with its response by May 19, 2000. The city would then submit a final report for resolution to our office by May 31, 2000.

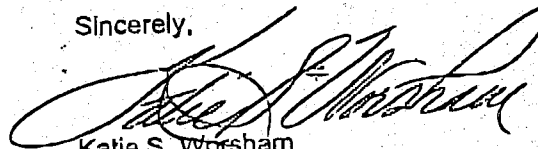
Our office cannot clear the findings related to Sante Fe Terminal Lofts or Deep Ellum Lofts until we can determine that the required affordable units, by bedroom distribution, are occupied by eligible low- and moderate-income persons. Please provide our office a detailed schedule for when this will be accomplished for each of these developments. The schedule should include several items. Firstly, it should include the required number of affordable units by bedroom size for each development. Secondly, it should include the number of units by bedroom size that are currently occupied by eligible tenants. Thirdly, it should identify the units by bedroom size the owner intends to occupy with eligible tenants that will bring the development into compliance. Fourthly, it should provide a date the units will become available for occupancy by eligible tenants. Lastly, if special outreach to low- and moderate-income persons is needed by the city or developers to bring the developments into compliance, provide our office a summary of your efforts.

Please provide the above requested information to our office within 15 days from the date of this letter. Once we have received and reviewed the information we will conduct a follow-up visit to verify the information submitted by the developers.

We would like to remind you that if Deep Ellum Lofts and Santa Fe Terminal Lofts are not brought into full compliance with the regulatory and statutory requirements of the CDBG and Section 108 programs, as well as with the waiver provisions, the Section 108 costs associated with these developments would be ineligible. As a result, the City of Dallas may have to reimburse its line-of-credit for any Section 108 repayments made with CDBG funds for these two developments.

We would like to thank you and your staff for the hard work you have done so far to resolve many of the outstanding issues raised during our June 1999 monitoring visit. However, we still have some serious outstanding issues that need to be resolved expeditiously. If you have any questions regarding this letter please contact Jerry Jensen, Community Planning and Development Representative, at (817) 978-5959.

Sincerely,



Katie S. Worsham
Director

cc: Karen Bradford



U.S. Department of Housing and Urban Development
Texas State Office, Southwest
Office of Community Planning and Development
801 Cherry Street, 28th Floor
Fort Worth, Texas 76102

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JAN 12 2001

Mr. Doug Dykman
Interim Director of Housing
Dallas City Hall
1500 Marilla, 6DN
Dallas, TX 75201

Dear Mr. Dykman:

SUBJECT: City's Monitoring Response
Section 108 - Intown Housing Program
Project No.: B-93-MC-48-0009

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On November 16, 2000, our office conducted a follow-up monitoring visit to review documentation compiled by the city in its monitoring of Treymore at Cityplace Apartments, Santa Fe Terminal Lofts, and Deep Ellum Lofts. We required the city to monitor these developments for compliance with the CDBG and Section 108 requirements, as well as the waiver requirements. Based on our review of your files we have cleared HUD's open findings related to Treymore Apartments and Santa Fe Lofts. We have not cleared the findings against Deep Ellum Lofts.

We delayed this letter because the city inquired about reducing the proportionality requirements at Deep Ellum Lofts, at our exit conference of November 16, 2000. We have received your correspondence, dated December 11, 2000, which formally requested that the affordability requirement be reduced from 30 percent to 20 percent because of economic reasons. We will answer your request under separate cover so the issues are not confused.

In June 1999, our office initially monitored the Section 108 Intown Housing program for compliance with the CDBG and Section 108 requirements. During our monitoring we found that Deep Ellum Lofts did not comply with the National Objective requirements of providing affordable housing to low- and moderate-income (LMI) persons, as amended by the November 18, 1994, waiver from Assistant Secretary Andrew Cuomo. The CDBG regulations require that at least 51 percent of the units in a multi-family development to be occupied by LMI persons at affordable rents. The waiver allowed the city to reduce the occupancy percentage to be proportionate to the amount of Section 108 funds in the development. The waiver also extended the minimum occupancy requirement across bedroom sizes to address HUD's concern about meeting the affordable housing needs of all LMI families in Dallas.

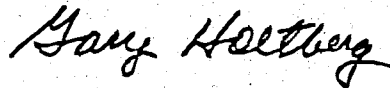
Deep Ellum Lofts has 124 total rental units of which 37 units, or 30 percent, are to be occupied by LMI persons at affordable rents. The required affordable bedroom mix is as follows: 2 efficiency, 4 one-bedroom, and 31 two-bedroom units. According to the city's October 2000, status report, 12 units were occupied and 15 units were held vacant for eligible persons. As a result, only 27 of the 37 required affordable units are occupied or available to LMI persons. There remains a shortage of 10 affordable housing units.

Our office has determined that Deep Ellum Lofts is still not in compliance with the National Objective requirement to provide affordable housing to 37 LMI persons. We first brought this to the city's attention during our initial monitoring visit in June 1999. In addition to our monitoring, the city monitored Deep Ellum Lofts in January 1998. City staff's monitoring report dated February 28, 1998, indicated that there may have been rental practices that did not further the affordable housing objectives. Our office is very concerned that there has been no resolution in the year and one-half since HUD's monitoring. We are also concerned that eligibility problems may have existed for at least three years and they continue.

We will delay final corrective action until we are able to review and respond to your December 11, 2000, request. However, we want to inform the city that a National Objective must be met if the city chooses to use CDBG funds for this activity. The City of Dallas may have to reimburse its line-of-credit for any Section 108 repayments made with CDBG funds if Deep Ellum Lofts fails to comply with National Objective requirements.

We will be happy to meet with you to discuss a resolution to this situation. If you would like to schedule a meeting or have any questions regarding this letter, please contact Jerry Jensen, Senior Community Planning and Development Representative, at (817) 978-5959.

Sincerely,



for Katie S. Worsham
Director

cc: Sherell Cockrell, Planning Director