

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR-4698-F-02]

RIN 2506-AC10

Requirement of HUD Approval Before a Grantee May Undertake CDBG-Assisted Demolition of HUD-Owned Housing Units

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Community Development Block Grant (CDBG) Entitlement program regulations by requiring grantees to obtain HUD's approval to demolish HUD-owned housing units. The amendment will ensure that HUD receives notification of a grantee's intent to use CDBG funds to demolish HUD-owned housing units. In addition, the application of this rule will aid in preserving the supply of affordable housing that is available to low- and moderate-income persons. This final rule follows publication of a proposed rule on January 22, 2002, which elicited one comment. The one comment supported the rule, which HUD is adopting without change.

DATES: Effective Date: August 16, 2002.

FOR FURTHER INFORMATION CONTACT: Sue Miller, Director, Entitlement Communities Division, Office of Block Grant Assistance, Room 7282, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-1577 (this is not a toll-free number). Hearing- or speech-impaired individuals may access the telephone number listed in this section by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background—The January 22, 2002, Proposed Rule

On January 22, 2002 (67 FR 2958), HUD published a proposed rule to revise the CDBG Entitlement program regulations at 24 CFR 570.201(d), to prohibit grantees from using CDBG funds for the demolition of HUD-owned housing units without prior approval from HUD. Before this amendment, the regulation at § 570.201(d) required that a grantee obtain HUD's approval to demolish HUD-assisted housing units. The preamble to the proposed rule indicated that, although the CDBG regulations did not contain a definition of the term "HUD-assisted housing

units," the term had been considered to include various forms of subsidized housing such as section 8 or public housing. It had not been HUD policy to interpret the regulation as including HUD-owned properties. Thus, this amendment to § 570.201(d) will ensure that CDBG-assisted demolition of HUD-owned housing units could be carried out only with the prior approval of HUD.

The proposed rule also stated that HUD believed that the amendment will aid in achieving three primary objectives: (1) Ensure that grantees notify HUD of their plans to demolish HUD-owned housing units; (2) prevent grantees from demolishing, without reasonable cause, HUD-owned housing units; and, (3) ensure that grantees preserve the supply of affordable housing available to low- and moderate-income persons.

II. This Final Rule

This final rule follows publication of the January 22, 2002, proposed rule. The proposed rule invited public comment on the revision to 24 CFR 570.201(d). The comment period closed on March 25, 2002. One comment was received that urged HUD to adopt the rule. Accordingly, because the commenter encouraged the adoption of the rule, and because HUD believes this final rule will achieve the objectives described in the proposed rule of January 22, 2002, and restated above, HUD is adopting the proposed rule without change.

III. The Public Comment

The one comment received in response to the issuance of the proposed rule on January 22, 2002, supported the rule. The commenter stated that it believes "requiring HUD approval before CDBG funds can be used to demolish HUD-owned properties will help ensure the existence of integrated housing opportunities and the continued supply of affordable housing for minority and low- and moderate-income communities." The commenter wrote that HUD oversight of CDBG funds used in the demolition of HUD-owned housing units will help to ensure that grantees do not violate the anti-discrimination provisions of the Fair Housing Act. The commenter further added that adoption of the rule is critical to ensure the financial stability of the FHA mortgage insurance program. According to the commenter, the costs of unnecessary demolitions, often resulting in liens being placed on the property, and the decrease in value of the property after demolition, result in the FHA insurance program suffering significant losses.

IV. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The Finding of No Significant Impact remains available for public inspection weekdays between the hours of 7:30 a.m. and 5:30 p.m. in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that need to be complied with by small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose a Federal mandate on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.218.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grant, Grant programs-education, Grant program-housing and community development, Guam, Indians, Loan programs-housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 570 to read as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

2. Section 570.201 is amended by revising paragraph (d) to read as follows:

§ 570.201 Basic eligible activities.

* * * * *

(d) *Clearance activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD.

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Dated: June 27, 2002.

Donna M. Abbenante,

*General Deputy Assistant Secretary for
Community Planning and Development.*

[FR Doc. 02–17928 Filed 7–16–02; 8:45 am]

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