



OFFICE OF THE ASSISTANT SECRETARY FOR  
CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS

COPY

Honorable Robert T. Matsui  
Member, United States  
House of Representatives  
8058 Federal Building  
850 Capitol Mall  
Sacramento, CA 95814

Dear Representative Matsui:

This is in response to your letters on behalf of Mr. Don Harris regarding the Nehemiah Progressive Housing Development Corporation (NPHDC) downpayment assistance program.

Due to the complexity of NPHDC's program, the Office of General Counsel (OGC) was asked to review the downpayment assistance program and provide an opinion as to whether or not mortgage loans originated using NPHDC's downpayment assistance program were eligible for FHA mortgage insurance. OGC has concluded that the Federal Housing Administration has discretion to specify, through handbooks and mortgagee letters, appropriate means by which borrowers may meet their statutorily required cash investment.

As a rule, FHA permits charitable organizations to provide downpayment assistance provided it is not the seller of the property, and the organization is not controlled by the seller. NPHDC's Trust I program appears to meet these criteria.

However, before we can approve NPHDC's program, HUD will need to verify that a description of the Trust I program was included in NPHDC's application or other submission to the Internal Revenue Service (IRS) for tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986. Further, that IRS's grant or other affirmation of such status took into account NPHDC's activities under the Trust I program. This would confirm that IRS considers the operation of the Trust I as consistent with its criteria for a charitable organization. If Mr. Harris did not specifically include the Trust I program in NPHDC's application for tax exempt status, he will need to amend his Section 501(c)(3) application and receive IRS acknowledgement of eligibility. A separate letter to Mr. Harris will communicate this requirement.

I hope this information will help in responding to Mr. Harris. Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Hal C. DeCall III". The signature is written in a cursive style with some stylized flourishes.

Hal C. DeCall III  
Assistant Secretary