

Appendix #10



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-1000

OFFICE OF THE ASSISTANT SECRETARY FOR
CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS

Mr. Robert W. Healy
City Manager
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139

OCT 11 2000

Dear Mr. Healy:

On behalf of Secretary Cuomo, thank you for your letter of August 4, 2000, concerning the eligibility of Mr. George Welch for relocation assistance pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). You questioned why the written position of HUD's Massachusetts State Office is now being reversed.

The Office of Affordable Housing Programs (OAHP) in HUD Headquarters' Community Planning and Development Office has responsibility for implementation of the URA and the HOME Program. That office has carefully considered the facts surrounding Mr. Welch's relocation from the Cambridge YMCA. The unit from which Mr. Welch moved was assisted under the HOME Program. Mr. Welch was not provided written notice of the HOME project, nor the facts that he would be temporarily relocated or displaced from that unit, nor that he would not qualify as a displaced person. It is, and since 1994 has been, OAHP's opinion that Mr. Welch was displaced, without proper notification, from a unit at the YMCA which was demolished with HOME funds and that he is entitled to relocation assistance pursuant to the URA. That determination is final. In accordance with the URA regulations, the City must:

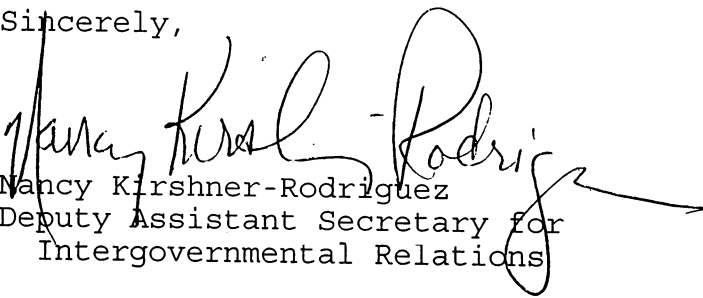
- Make available to Mr. Welch a minimum of one comparable replacement dwelling (49 CFR 24.204(a));
- Assist Mr. Welch in completing and filing his relocation claim (49 CFR 24.207(a));
- Promptly review and process the claim, and make expeditious payment (49 CFR 24.207(b)).

You also expressed a concern that, had HUD made the determination that Mr. Welch is entitled to relocation benefits originally, the Cambridge Housing Authority (CHA) "would probably have simply paid the benefits out of the grant money at that time. . . . [T]he grant money is long since spent." It should be clear that the City of Cambridge, which provided the HOME funds, not the CHA, which funded the Shelter Plus Care project, has the responsibility for compliance with the URA for the HOME project.

Finally, you request that HUD provide additional funds to cover the cost of relocation advisory services and payments. The cost of required relocation assistance is an eligible HOME project cost in the same manner and to the same extent as the other project costs. However, such assistance may also be paid for with funds available from other sources. Therefore, the City of Cambridge may use its HOME funds or other resources to make payment to Mr. Welch.

Thank you for your interest in the Department's programs.

Sincerely,


Nancy Kirshner-Rodriguez
Deputy Assistant Secretary for
Intergovernmental Relations

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor



Arthur J. Goldberg
Supervising Legal Counsel

Legal Counsel
Birge Albright
Gail S. Gabriel
Vali Buland
Cheryl Anne Watson
Nancy B. Schlacter

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

October 10, 2000

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Relocation claim of George Welch;
Council Orders #29 of 6/5/00 and #31 of 7/31/00

Dear Mr. Healy:

The above Council Orders concern a renovation project done at the Cambridge YMCA in the early 1990s. Funding for the renovations came from several sources, including HUD federal grant programs administered by the City. At the time of its application for federal "Shelter-Plus Care" funding, the YMCA certified (on February 28, 1992) that the units at issue were vacant. Associated with the federal grant programs was a relocation benefit program that made certain aid available to qualified individuals displaced by renovations. The Cambridge YMCA desired to rent some of its rooms subsequent to its application for federal funding and pending construction. It was allowed to do so. The tenants who moved in at that time were notified of the pending construction and the temporary nature of that housing, and were required to sign waivers of whatever rights they might have had to relocation benefits prior to moving in. Along with other tenants moving in at that time, Mr. Welch signed the waiver on May 1, 1992. Soon after, on July 2, 1992, at Mr. Welch's request, he was permitted to move within the YMCA, essentially down the hall, from room 437 to room 432. In April, 1993, he was notified that his room was ready for renovation and he moved out of the YMCA.

Then began Mr. Welch's long campaign to obtain relocation benefits. In 1994 and 1995, he sought relocation benefits from the Cambridge Housing Authority, which was a co-applicant with the City to HUD for the Shelter-Plus Care funds. He was denied, and in fact never properly completed his claim form for the benefits. He also wrote to City officials who denied his request and referred him to the CHA and HUD. He appealed to HUD and was denied emphatically in 1995 in an 8/29/95 letter from HUD official Robert L. Paquin (copy attached). Apparently, he took no further action at that time. Then, in

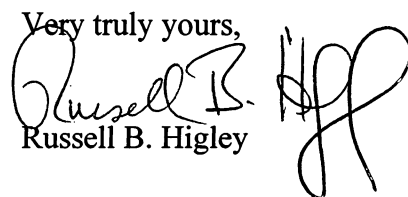
May, 2000, Mr. Welch re-launched his campaign for relocation benefits, based on the same arguments he had made years before. He appears to have contacted recently several HUD officials and several federal and local elected officials. By letter of May 12, 2000, James Barnes, Director of the Boston HUD Office of Community Planning and Development, affirmed Mr. Paquin's 1995 denial of Mr. Welch's claim (copy attached).

Mr. Welch, then, apparently contacted officials in HUD's Washington office seeking to reverse the position of HUD's Boston office and order that Mr. Welch get his relocation benefits. He was successful in those efforts. See attached letter from Mary Kolesar, Director of HUD Office of Affordable Housing Programs in Washington of July, 2000. The key factor to Ms. Kolesar's reversal, and what also makes Mr. Welch's situation different from other tenants at that time, is that he moved within the YMCA prior to leaving, and he did not sign a second waiver of relocation benefits specifically related to the second room.

Also attached hereto is your letter to HUD Secretary Andrew Cuomo of August 4, 2000 expressing concern with HUD's inconsistency on this issue, and requesting guidance on how HUD expects the specific relocation benefits to be determined and provided. To date there has been no response to your letter to Secretary Cuomo.

The current status of this matter is that City officials are engaged in discussions with HUD officials in Boston over how best to finally resolve this matter if HUD's latest decision is implemented. The exact scope of what HUD and the City believe Mr. Welch is entitled to is being discussed, as well as the source of funding for any relocation payment that may be due.

Very truly yours,


Russell B. Higley



New England

U.S. Department of Housing and Urban Development

Office of Community Planning and Development
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston, Massachusetts 02222-1092

August 29, 1995

George F. Welch Jr.
P.O. Box 391818
Cambridge MA 02139

Dear Mr. Welch:

Subject: Relocation Appeal

Your letter of July 19, 1995 to Mary Lou Crane, Secretary's Representative to the Massachusetts State Office of the Department of Housing and Urban Development, appears to be an appeal to HUD to overturn the decision of the Cambridge Housing Authority (CHA) which denied your claim for relocation benefits relative to your move from the Cambridge YMCA.

HUD procedures provide for an appeal to HUD after the claimant has appealed the jurisdiction's denial. Based on the documentation you have furnished, as well as that provided by the Cambridge Housing Authority, it appears that you did not appeal their October 4, 1994 denial of your relocation claim. In their denial the CHA informed you that "you may seek further review of this claim by requesting such review in writing within 60 days..." Again, we understand that no appeal was filed, based, at least in part, on your rejection of the legitimacy of the Housing Authority to act on such claims.

Notwithstanding that HUD does not normally entertain an appeal until after the claimant has appealed the original denial, we will consider your appeal. We are taking this action because we are knowledgeable of the facts of your case, and to require you to exhaust the local appeal procedure would only lead to more expense to you, the CHA, and HUD.

The record, which we have reviewed with you on many occasions over many hours, clearly demonstrates that you are not entitled to benefits under the Uniform Relocation Act. The Boarding Agreement which you signed on May 1, 1992 disclosed the nature of your tenancy, and clearly stated that you would not be entitled to any relocation benefits. This agreement was signed by you subsequent to Feb 23, 1992, the date of the Housing Authority's application to HUD for Federal Assistance, (the Shelter Plus Care Program), at which time the Building became subject to the Uniform Relocation Act, and at which time the Authority had to certify that the rooms to be rehabilitated were vacant. The YMCA was subsequently allowed to rent these rooms on a temporary basis, providing proper notice was given to any prospective tenant so as not to incur any relocation liability against the

project. We find that the Boarding Agreement which you signed to be adequate and proper notice for this purpose.

Your letter makes repeated reference to HUD's HOME program as the program which triggered your relocation eligibility status. The fact that additional HUD funds (\$340,000 of HOME funds) were subsequently made available [i.e. subsequent to the initial request for Federal Assistance of Feb. 23, 1992] to the project as "gap financing" does not alter your status vis a vis relocation eligibility. That status was established as of the date of your signing of the Boarding Agreement, May 1, 1992, and did not change simply because additional Federal funds were made available under a different program.

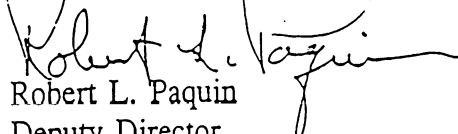
We have reviewed the actions of the CHA and the YMCA relative to the Boarding Agreement and found that those actions were entirely consistent with pertinent Federal Law and Regulation as to the point at issue. Whatever administrative deficiencies you may believe exist relative to this project, e.g. the dates of agreements between the administering agencies as to the designation of a "lead agency" for administrative purposes, the standing of the so called "Boarding Agreement" with Massachusetts laws, the room number(s) or number of rooms which you occupied (both rooms which you occupied were designated as Federally assisted under the Shelter Plus Care program) etc. - are not germane to the issue of your eligibility for relocation payments. They are, if they exist at all, de minimis technicalities that do not form a legitimate basis to establish an entitlement to relocation benefits.

The language of the Boarding Agreement which you signed was plainly clear in its implication that if you became a tenant of the YMCA that you would be doing so on a temporary basis because of the pending renovation work and further that you would not be eligible for relocation benefits.

It is our opinion that the procedures of the Uniform Relocation Act and the regulations of the Shelter Plus Care program and HOME program have been properly applied, that the Cambridge Housing Authority has jurisdiction over the administrative processes of your claim, and that you, not being a "displaced person" under the Act, are not entitled to any relocation benefits.

You may of course pursue this matter in court if you feel your claim has been wrongly denied. There are no further appeals within HUD.

Very sincerely yours,


Robert L. Paquin
Deputy Director
Office of Community Planning
and Development

cc: Mary Lou K. Crane, Secretary's Representative
Miniard Culpepper, Assistant General Counsel



U.S. Department of Housing and Urban Development

MASSACHUSETTS STATE OFFICE, NEW ENGLAND AREA
Office of Community Planning and Development
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street - Fifth Floor
Boston, Massachusetts 02222-1092

Fax (617) 565-5442

May 12, 2000

Mr. George F. Welch Jr.
316 Huntington Ave., Unit 721
Boston, MA 02115

Dear Mr. Welch:

Subject: Relocation Appeal

On May 5, 2000 you met with me to ask that your relocation case be reviewed again. You followed up with a letter dated May 8, 2000.

In a letter dated August 29, 1995, Robert Paquin, Deputy Director of Community Planning and Development, notified you of the results of your original appeal. You are now claiming Mr. Paquin did not review the denial of "HOME Program Relocation Assistance" in his original determination. The HOME funding was part of the same project that includes both Shelter Plus Care and HOME funding. I have reviewed the information you have provided, and the facts upon which Mr. Paquin made his decision and I agree with Mr. Paquin's conclusion in 1995. The Cambridge Housing Authority acted properly in denying your claim for relocation benefits relative to your move from the Cambridge YMCA.

I am attaching a copy of Mr. Paquin's decision which is a thorough discussion of the matter. As his letter indicates, there are no further appeals within the Department.

Sincerely,

A handwritten signature in black ink that reads "James H. Barnes". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James H. Barnes
Director, Community Planning and
Development

cc: Mary Lou Crane, Secretary's Representative
Miniard Culpepper, Office of General Counsel
Arthur Goldberg, Cambridge Law Dept. ✓



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-7000

OFFICE OF THE ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

JUL 10 2000

MEMORANDUM FOR: James Barnes, Director, Office of Community
Planning and Development, IAD

FROM: *Mary Kolesar*
Mary Kolesar, Director, Office of Affordable Housing
Programs, DGH

SUBJECT: Relocation Claim of George Welch, Cambridge, MA

This will follow up our recent conference call concerning Mr. George Welch's claim for relocation assistance and payments pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

As you are aware, Mr. Welch moved into the YMCA after being notified of the Cambridge Housing Authority's Shelter Plus Care rehabilitation project. He moved from that unit into a second unit which was not part of the original federally assisted project. Mr. Welch was then relocated from that second unit as a result of a separate federally funded project, involving a separate grantee, the City of Cambridge.

It is HUD Headquarters' view that, absent additional documentation indicating otherwise, Mr. Welch was displaced, without proper notification, from that second unit at the YMCA, which was demolished with HOME funds. Therefore, this office has determined that Mr. Welch is entitled to relocation assistance pursuant to the URA.



CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager

Richard C. Rossi, Deputy City Manager

August 4, 2000

Andrew Cuomo, Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Re: Relocation claim of George Welch, Cambridge, MA

Dear Secretary Cuomo:

I am writing about a surprising piece of correspondence I received recently from HUD concerning a relocation claim of George Welch that I thought had been resolved long ago. The correspondence originated from Mary Kolesar, Director of the HUD Office of Affordable Housing Programs in Washington and was addressed to James Barnes, Director of the HUD Office of Community Planning and Development in Boston. A copy is attached. In that correspondence, Ms. Kolesar states that she has determined that George Welch is entitled to relocation payments pursuant to the Uniform Relocation Assistance Act of 1970.

This correspondence was troubling. It represented a reversal of the written position taken by HUD on two separate occasions in the past--a position with which the City agreed and upon which it relied. By letter to Mr. Welch dated August 29, 1995 (copy attached), Robert L. Paquin, Deputy Director of the Boston HUD Office of Community Planning and Development wrote that, "The record, which we have reviewed with you on many occasions over many hours, clearly demonstrates that you are not entitled to benefits under the Uniform Relocation Act." The concluding sentences of that letter state, "You may of course pursue this matter in court if you feel your claim has been wrongly denied. There are no further appeals within HUD." Mr. Welch did not pursue the denial in court. However, in May, 2000, he again approached HUD asking that the same claim (first made in 1994) be reviewed again. By letter dated May 12, 2000 (copy attached), James H. Barnes, Director of the Boston HUD Office of Community Planning and Development, revisited and reaffirmed Mr. Paquin's 1995 determination, and concluded his letter by stating, "...there are no further appeals within the Department."



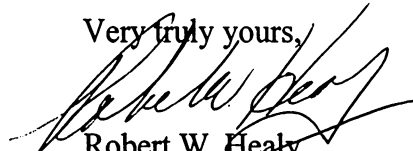
2000 Things 2 Do in 2000

Ms. Kolesar's July, 2000 reversal of her own agency's longstanding determination contradicted both Mr. Paquin and Mr. Barnes in their statements that there were no further appeals within HUD and their conclusions about the validity of Mr. Welch's claim. Ms. Kolesar raised form over substance to find that what was in reality a single renovation project at the Cambridge YMCA, done in conjunction with the Cambridge Housing Authority, should be deemed to be two separate projects because more than one source of federal funding was used for it, and because Mr. Welch made a move within the Y for a short period, before being relocated out of it. She determined that what she considered to be two projects required separate waivers of relocation benefits, that the one waiver signed by Mr. Welch was not enough.

If HUD had ruled that Mr. Welch was due relocation benefits when he made his claim, the ultimate recipients of the HUD grant money, the YMCA and the Cambridge Housing Authority, would probably have simply paid the benefits out of the grant money at that time. However, at this late date, the grant money is long since spent. If HUD is going to insist that Mr. Welch be paid relocation benefits at this late date, I request that federal funds be made available to cover whatever that cost may be.

Thank you for your anticipated cooperation.

Very truly yours,



Robert W. Healy

cc. Mary Kolesar, HUD
James Barnes, HUD
Ann Arata, Cambridge Housing Authority
Beth Rubenstein, Cambridge Community Development Dept.
George Welch



10.

CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager

Richard C. Rossi, Deputy City Manager

October 16, 2000

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 00-54, regarding a report on the relocation claim of George Welch, received from City Solicitor Russell B. Higley.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy".

Robert W. Healy
City Manager

RWH/mec
Attachment



2000 Things 2 Do in 2000

S 329

Consent Agenda # 10

Relative to Awaiting Report Item Number
00-54, regarding a report on the relocation
claim of George Welsh

In the City Council October 16, 2000

PLACED ON FILE