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August 31, 1999

George L. Weidenfeller Deputy General Counsel for Housing Finance and Operations 451 Seventh Street, SW, Room 10176 Washington, D.C. 20410

OGC. RESPONSE UNIT

Re: Freedom of Information Act Request, FI-267555 (or new request) 150 Questions That Would be Included in Appraiser Tests

Dear Mr. Weidenfeller:

I have received your letter of August 19, 1999 informing us that the Department refuses to consider our FOIA appeal for FI-267555 because the appeal was not filed within 30 days of the issuance of HUD's final determination.

Although I am aware of HUD's policy that appeals should be filed within 30 days, you should also be aware that HUD routinely sends FOIA responses via regular mail with postmarks several days after the date on the letter. As such, for you to consider the date on HUD's letter the "issuance" date of the denial is incorrect. In this instance, the appeal was filed only three business days after the 30 day deadline, assuming that the date on HUD's letter was accurate.

Furthermore, while you strictly apply HUD regulations concerning the timeliness of appeal submission, I note that HUD has consistently failed to meet its own obligations in responding to appeals. The Freedom of Information Act requires that an agency shall "make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal." However, as of today's date, there are 21 appeals which Ervin has submitted to your office over twenty days ago which have not yet been responded to, dating back to April 24, 1997 (see attached list).

Considering the above, this letter is to request the following:

- 1) That HUD reconsider its prior decision and act on our appeal of FI-267555 dated July 26, 1999; and
2) That HUD respond to the twenty-one FOIA appeals identified in the attached list without further delay.

If HUD declines our request for reconsideration concerning the appeal of FI-267555, please consider this a new request for exactly the same information that was requested in

1 Unlike the 30 day deadline for submitting an appeal, which is an internal HUD policy and varies from agency to agency, the 20 day deadline for responding to appeals is a Congressionally mandated deadline which is binding upon all agencies.

FI-280710

FI-267555. We agree to pay up to \$25 for the processing of this request. This time, however, we expect that HUD will provide us with the entire multiple choice questions, including both questions and the possible answers

If you have any questions, please call me at (301) 469-3422.

Very truly yours,  
ERVIN and ASSOCIATES, INCORPORATED



David J. Ervin