BARNSTABLE COUNTY HOME CONSORTIUM

PO Box 226, 3225 MAIN STREET
BARNSTABLE, MASSACHUSETTS 02630
(508) 362-3828 • FAX (508) 362-3136
E-mail: housing@capecodcommission.org

December 4, 2012

Ms. Cleonie Mainvielle- Program Representative
U.S. Department of Housing and Urban Development- Region 1
Office of Community Planning and Development
10 Causeway Street- Fifth Floor
Boston, MA 02222-1092

RE: HOME Investment Partnerships Program
Monitoring Report- Homebuyers' Program

Dear Ms. Mainvielle:

The following are the corrective actions that have been taken regarding the findings of non-compliance identified in the monitoring report dated October 30, 2012:

Finding 1- Environmental Reviews:

Required Action 1: Enclosed are copies of the completed environmental reviews for the seven projects that were included in your monitoring review.

Required Action 2: Under the HUD environmental review regulations at 24 CFR 58.35(b)(5), HOME down payment and closing cost (DPCC) assistance programs are a categorically excluded activity not subject to an environmental review or compliance determination under the Federal laws and authorities cited in Section 58.5; however, an environmental review and compliance determination is necessary for areas subject to Section 58.6. The Consortium has provided Housing Assistance Corporation (HAC), our sub-recipient, with a memo that describes the 58.6 environmental review requirements. Attached is a copy of the HUD form for Section 58.6 issue areas that the Consortium will use, and is currently using, for the environmental reviews for the DPCC program.

Finding 2- Property Inspections:

Required Action: Enclosed are copies of the passing inspection reports for the two properties noted in the report.

With respect to the required action to ".... not proceed to closing for any property that has not been found (and documented) as being fully compliant with all

applicable State and local standards and code requirements," I would note that the Consortium has always used 92.251 (b), rather than 92.251 (a) (2) as the regulatory standard for those DPCC projects which are identified as needing rehab or repairs to meet Housing Quality Standards (HQS). Under 92.251(b), any health or safety related item needs to be fixed and documented prior to occupancy; however, we have given the owner(s) up to 6 months to address items on the report that do not fall into those two categories, e.g. a cracked outlet cover or caulking around bathtub. These standards have been incorporated into our Written Agreement

I have found 92.251 as one of the more challenging sections of the HOME regulations to interpret and understand, and that very well may be why this section has been revised in the proposed HOME rule. The following is the revised 92.251(c)(3) of the proposed rule:

> For acquisition projects that are homebuyer projects, before the transfer of the housing to the homebuyer, the participating jurisdiction must inspect the housing and notify the prospective homebuyer of the work needed to cure any defects, and the time by which defects must be cured and applicable property standards met. The housing must be free from all health and safety defects before occupancy and must meet the property standards of this section not later than 6 months after the date of transfer of ownership. The participating jurisdiction must inspect the housing to verify that the defects were corrected and the standards are met.

I realize the Rule is not yet final; however, the proposed language would seem to reflect HUD's intent and is consistent with the way we have been interpreting these situations and carrying out the program.

The procedures we will use going forward will be to have HAC, our sub-recipient, continue to inspect properties that are not newly constructed and issue a report to the Borrower of any HQS violations that need to be addressed with any health and safety related items clearly identified. If there are any health or safety related items noted on the report, the Consortium will not disburse any DPCC funds to HAC until we have received a passing inspection report for those items. If there are non health or safety HQS violations still outstanding after closing, the Borrower will have up to 6 months after closing to remedy those. The Consortium will not close out a project in IDIS and will not pay HAC its $1,500 project cost fee for the loan until it has received a passing inspection report on the outstanding HQS items.

Finding 3- Written Agreements:

Required Action: The Consortium does not contest the Finding that the five projects identified in the report were funded in IDIS prior to the date of a Written Agreement. Prior to going to the 20th Anniversary HOME conference in May 2011, I/we had always regarded the Note and Mortgage that DPCC Borrowers

executed at closing as our Written Agreement. At one of the workshops that I attended at the conference, it was made clear that these legal documents did not satisfy the Written Agreement requirement. When I returned from the conference, I developed a Written Agreement that had to be executed by the Borrower and the County prior to setting up the activity in IDIS. We instituted this practice at the end of June 2011 (copy is attached and we believe this was one of the documents that we provided you prior to your visit); therefore, we believe that we have been in compliance with this requirement since at least July 1, 2011 as all DPCC projects after that date have had Written Agreements executed prior to setting up the project in IDIS.

Finding 4- Affordability Period:

Required Action: Our DPCC loans are required to be repaid at the time of sale or transfer, and per Consortium adopted policy owner occupancy/principal residency is required as long as the Borrower has a mortgage outstanding. These requirements are included in the Written Agreement (see Section II.E of the June 2011 Written Agreement). The amount of Consortium DPCC assistance typically falls within the five year affordability period; however, as the Owner could sell or transfer their home in 2, 10, 20,..... years and as we want them to continue to use their home as their principal residence, I have had a difficult time figuring out how to set an affordability period. To respond to the required action, I have attached a copy of our revised Written Agreement with a separate affordability period section included that basically states that the affordability period is in effect as long as the mortgage is outstanding.

I trust that these responses address the Findings that you identified in the report; however, if they do not or if you have questions, do not hesitate to contact me.

Sincerely,

Paul Ruchinskas

Paul Ruchinskas
Affordable Housing Specialist

Cc: Mary Pat Flynn, Chair, Barnstable County Commissioners (w/out enclosures)