

WALTER

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December 22, 1972

Leonard Gordon, Director  
Application Review Division  
Office of New Communities Development  
Room 7132  
Department of Housing and Urban Development  
Washington, D.C. 20410

Dear Leonard:

Enclosed are ten sets of the fifth installment of the New Communities Handbook. This installment responds to item G of the Scope of Work for the Handbook Contract: evaluation, reorganization and original new material for Section 3-7 on the financial component.

In fact, as is evident from the enclosed master, the draft of Section 3-7 consists entirely of new material and should be reviewed by your staff on that basis.

I have drawn the description of financial covenants from a review of the Woodlands Project Agreement which you furnished me, and changes may therefore be required based on policy evolution reflected in the more recent Gananda Project Agreement which I have not seen.

There will be many issues to discuss with your staff in the course of reviewing the financial component draft, but I think three questions deserve special attention.

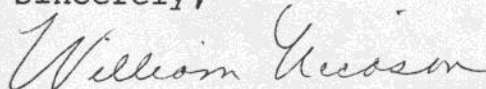
1. I do not understand the Woodlands prohibition on issuance and sale of capital stock (Section 6.17 (b) of the Project Agreement). Since new equity not altering control could only benefit creditors, including the government, and since the Woodlands prohibition is inconsistent with NCDC Board policy (minutes of February 15, 1972), I have not reflected a flat prohibition in the handbook draft.
2. In the net current assets test (Section 6.01 of the Project Agreement), the inclusion of "finished inventories of real properties marketable within one year" renders

the test meaningless in my opinion, at least without a much more detailed standard for determining when properties are "finished" and when they are "marketable" within a year. This is not an issue for the handbook, however, where the test is described only in general terms, but of legal drafting for Project Agreements.

3. As I understand the operation of the test for variations of revenues and costs (Section 6.02 of the Project Agreement), it is open to flagrant abuse through manipulation of revised cash flow projections by the developer and, in addition, threatens the integrity of the application review process. These objections are so obvious, however, that I assume they have been thoroughly considered in policy reviews, and I have described the test in the draft handbook as it appears in the Woodlands Agreement.

I look forward to a discussion of these and other issues at your convenience.

Sincerely,



William Nicoson

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Encl.