



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600



September 12, 1996

MEMORANDUM FOR DIRECTOR, HOUSING REVITALIZATION SUPPORT OFFICE

SUBJECT: Demolition of Existing Housing Under the Military Housing Privatization Initiative

This is in response to the following questions forwarded by your memorandum of August 29, 1996, concerning the funding of the demolition of existing housing units in connection with the acquisition or construction of military family housing units under the Military Housing Privatization Initiative.

1. When appropriated amounts are transferred [from a Family Housing appropriation to the Family Housing Improvement Fund], are the services still *required* to demolish the number of units identified to Congress in the DD Form 1391? On the other hand, could the entire transferred amount be used to construct new housing with no continuing requirement to demolish the units identified in the 1391?

2. When appropriated amounts are transferred, are the services still *authorized* to demolish units which were identified to Congress for demolition? For example, may a service transfer funds into the housing fund in whole or in part and still use the amount programmed for demolition of existing units? Further, may the service demolish existing units even though those units are unrelated to a privatization project and it would not be necessary to demolish them to clear the way for the new privatized housing?

In response to the first question, if a decision is made to acquire family housing using the new Privatization authorities rather than carrying out an authorized Family Housing MILCON project, and demolition of the housing units previously included as part of the authorized project is not required in order to acquire the housing under the Privatization authorities, all of the funds appropriated for that project are available for transfer to the Family Housing Improvement Fund (FHIF) and the military service is not required to demolish the existing housing units.

In response to the second question, if, in conjunction with the acquisition of housing under the Privatization authorities, the



military service wishes to proceed with the programmed demolition of existing units, funds sufficient to cover such demolition may be retained in the Family Housing appropriation (not transferred to the FHIF) for such purpose. Even though the demolition is technically no longer part of a Family Housing MILCON project, use of the Family Housing construction funds in this manner is fully consistent with the object for which such funds were appropriated by the Congress. Because the established practice within the Department permits the inclusion of demolition costs for existing housing as part of a Family Housing MILCON project even though such demolition is not required for construction of the replacement housing (e.g., where replacement housing is being sited at a different location), the same principle may be applied when using the Privatization authorities to acquire the replacement housing. Accordingly, the funds necessary to carry out the programmed demolition of existing units (as included in the DD Form 1391), and retained within the Family Housing appropriation, may be used for such demolition even though not required to carry out the Privatization project.

I have coordinated this response to your questions with the Deputy General Counsel (Environment and Installations) and with the Office of the Comptroller, Directorate for Military Construction. Please let me know if you have any further questions.



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(Fiscal)