

§ 969.107

resolution shall certify that no Operating Subsidy shall be utilized with respect to the project after the effective date of this rule and that all financial records and accounts for such a project shall be kept separately. If the PHA does desire to maintain a basis for such Operating Subsidy payments, the resolution shall include the PHA's request for extension of the term of the ACC provisions related to project operation, for a period of not less than one nor more than 10 years. Upon HUD's receipt of the request, HUD and the PHA shall enter into an ACC amendment effecting the extension for the period requested by the PHA, unless HUD finds that continued operation of the project cannot be justified under the standards set forth in 24 CFR part 970 (HUD's regulation on demolition or disposition of public housing).

§ 969.107 HUD approval of demolition or disposition before ACC expiration.

This part is not intended to preclude or restrict the demolition or disposition of a project pursuant to HUD approval in accordance with 24 CFR part 970. Subject to the requirements of 24 CFR part 970, HUD may authorize a PHA to demolish or dispose of public housing at any time before the ACC Expiration Date.

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

- Sec.
- 970.1 Purpose.
- 970.2 Applicability.
- 970.3 Definitions.
- 970.4 General requirements for HUD approval of applications for demolition or disposition.
- 970.5 Displacement and relocation.
- 970.6 Specific criteria for HUD approval of demolition requests.
- 970.7 Specific criteria for HUD approval of disposition requests.
- 970.8 PHA application for HUD approval.
- 970.9 Disposition of property; use of proceeds.
- 970.10 Costs of demolition and relocation of displaced tenants.
- 970.11 Replacement Housing Plan.
- 970.12 Required and permitted actions prior to approval.

24 CFR Ch. IX (4-1-03 Edition)

- 970.13 Resident organization opportunity to purchase.
- 970.14 Reports and records.

AUTHORITY: 42 U.S.C. 1437p and 3535(d).

SOURCE: 50 FR 50894, Dec. 13, 1985, unless otherwise noted.

§ 970.1 Purpose.

This part sets forth requirements for HUD approval of a public housing agency's application for demolition or disposition (in whole or in part) of public housing projects assisted under Title I of the U.S. Housing Act of 1937 (the "Act"). The rules and procedures contained in 24 CFR part 85 are inapplicable.

[53 FR 8067, Mar. 11, 1988, as amended at 56 FR 923, Jan. 9, 1991]

§ 970.2 Applicability.

(a) This part applies to public housing projects that are owned by public housing agencies (PHAs) and that are subject to Annual Contributions Contracts (ACCs) under the Act. It also applies to Section 23 bond-financed projects that have received modernization (i.e., Comprehensive Improvement Assistance Program (CIAP) or Comprehensive Grant funds (CGP)). This part does not apply to the following:

- (1) PHA-owned Section 8 housing, or housing leased under section 10(c) or section 23 of the Act, except for section 23 bond-financed projects that have received modernization funding under the CIAP or the Comprehensive Grant Programs;
- (2) Demolition or disposition before the End of the Initial Operating Period (EIOP), as determined under the ACC, of property acquired incident to the development of a public housing project; (however, this exception shall not apply to dwelling units);
- (3) The conveyance of public housing for the purpose of providing homeownership opportunities for lower income families under section 21 of the Act, the Turnkey III/IV or Mutual Help Homeownership Opportunity Programs, or other homeownership programs established under sections 5(h) or 6(c)(4)(D) of the Act and in existence before February 5, 1988, the date of enactment of the 1987 Act. (Where a plan

submitted by the PHA for homeownership includes a component of demolition, the plan must meet the requirements of section 18 and this part.);

(4) The leasing of dwelling or non-dwelling space incident to the normal operation of the project for public housing purposes, as permitted by the ACC;

(5) The reconfiguration of the interior space of buildings (e.g., moving or removing interior walls to change the design, sizes, or number of units) without “demolition”, as defined in §970.3. (This includes the conversion of bedroom size, occupancy type, changing the status of unit from dwelling to nondwelling.);

(6) Easements, rights-of-way and transfers of utility systems incident to the normal operation of the development for public housing purposes, as permitted by the ACC;

(7) A whole or partial taking by a public or quasi-public entity through the exercise of its power of eminent domain; however, HUD requirements with respect to the replacement housing requirement for one-for-one dwelling units shall be followed (see HUD Handbook 7486.1, Demolition, Disposition and Conversion);

(8) Disposition of a public housing project in accordance with an approved homeownership program under title III of the United States Housing Act of 1937 (42 U.S.C. 1437p) (Hope 1);¹

(9) Demolition after conveyance of a public housing project to a non-PHA entity in accordance with an approved homeownership program under title III

¹In keeping with section 412(b) of the National Affordable Housing Act (Pub.L. 101-625), the provisions of this part do not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of the United States Housing Act of 1937, as added by section 411 of that legislation, (HOPE 1 for Public and Indian Housing Homeownership). In the case of a HOPE 1 proposal from a PHA involving partial or total demolition of units, this part does apply. HOPE 3 proposals involving public housing units approved prior to the 1992 Act are likewise covered by the requirements of section 18. [The 1992 Act took scattered-site single family public housing from under the requirements of HOPE 3 and moved it to HOPE 1.]

of the United States Housing Act of 1937 (42 U.S.C. 1437p) (HOPE 1);

(10) Units leased for non-dwelling purposes for one year or less;

(11) A public housing development that is conveyed by a PHA to an owner entity pursuant to an approved proposal under 24 CFR part 941, subpart F and prior to the determination of the Actual Development Cost to enable an owner entity to develop the project using the mixed-finance development method; and

(12) Public housing units that are developed pursuant to the mixed-finance development method at 24 CFR part 941, subpart F, and that are reconveyed by the owner entity to the PHA.

(b) Demolition or disposition that was approved by HUD before February 5, 1988, but not carried out by that date, may be carried out according to the terms of such approval, without reference to subsequent amendments to this part and without obtaining any further HUD approval.

[60 FR 3716, Jan. 18, 1995; as amended at 61 FR 19719, May 2, 1996]

§970.3 Definitions.

Act means the United States Housing Act of 1937.

Chief Executive Officer of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the “chief executive officer of a unit of general local government” are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

Demolition means the razing, in whole or in part, of one or more permanent buildings of a public housing project.

Disposition means the conveyance or other transfer by the PHA, by sale or other transaction, of any interest in the real estate of a public housing