

§970.6

person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that he or she would not qualify as a “displaced person” (or for assistance under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of an action covered by this section.

(j) *Definition of project.* For purposes of this section, the term “project” means one or more activities (e.g., real property acquisition, demolition or construction) paid for in whole or in part with Federal financial assistance. Two or more activities that are integrally related, each essential to the other(s), are considered one project, whether or not all of the component activities are federally assisted.

(k) *Definition of initiation of negotiations.* For purposes of providing the appropriate notices and determining the formula for computing a replacement housing payment under the URA to a tenant displaced from a dwelling as a direct result of demolition or private owner acquisition, the term “initiation of negotiations” means HUD approval of the demolition or disposition under this part.

[60 FR 3717, Jan. 18, 1995]

§970.6 Specific criteria for HUD approval of demolition requests.

In addition to other applicable requirements of this part, HUD will not approve an application for demolition unless HUD determines that one of the following criteria is met:

(a) In the case of demolition of all or a portion of a project, the project, or portion of the project, is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes *and* no reasonable program of modifications, is feasible to return the project or portion of the project to useful life. The Department generally shall not consider a program of modifications to be reasonable if the costs of such program exceed 90 percent of total development cost (TDC). Major problems indicative of obsolescence are—

(1) As to physical condition: Structural deficiencies (e.g. settlement of

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earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors), substantial deterioration (e.g., severe termite damage or damage caused by extreme weather conditions), or other design or site problems (e.g., severe erosion or flooding);

(2) As to location: physical deterioration of the neighborhood; change from residential to industrial or commercial development; or environmental conditions as determined by HUD environmental review in accord with part 50 of this title, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use;

(3) Other factors which have seriously affected the marketability, usefulness, or management of the property.

(b) In the case of demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project (e.g., to reduce project density to permit better access by emergency, fire, or rescue services).

[60 FR 3719, Jan. 18, 1995]

§970.7 Specific criteria for HUD approval of disposition requests.

(a) In addition to other applicable requirements of this part, HUD will not approve a request for disposition unless HUD determines that retention is not in the best interests of the tenants and the PHA because at least one of the following criteria is met:

(1) Developmental changes in the area surrounding the project (e.g., density, or industrial or commercial development) adversely affect the health or safety of the tenants or the feasible operation of the project by the PHA.

(2) Disposition will allow the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as lower income housing projects, and that will preserve the total amount of lower income housing stock available to the community. A PHA must be able to demonstrate to the satisfaction of HUD that the additional units are being provided in connection with the disposition of the property.

(3) There are other factors justifying disposition that HUD determines are consistent with the best interests of the tenants and the PHA and that are not inconsistent with other provisions of the Act. As an example, if the property meets any of the criteria for demolition under § 970.6, it may be disposed of under this criterion (§ 970.7(a)(3)), subject to conditions that HUD may impose (e.g., demolition to follow disposition in order to assure abatement of a threat to safety or health).

(b) In the case of disposition of property other than dwelling units, (1) the property is determined by HUD to be excess to the needs of the project (after EIOP), or (2) the disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the project.

[50 FR 50894, Dec. 13, 1985, as amended at 53 FR 30988, Aug. 17, 1988; 60 FR 3719, Jan. 18, 1995]

§ 970.8 PHA application for HUD approval.

Written approval by HUD shall be required before the PHA may undertake any transaction involving demolition or disposition. To request approval, the PHA shall submit an application to the appropriate HUD Field Office which includes the following:

(a) A description of the property involved;

(b) A description of, as well as a timetable for, the specific action proposed (including, in the case of disposition, the specific method proposed);

(c) A statement justifying the proposed demolition or disposition under one or more of the applicable criteria of § 970.6 or § 970.7;

(d) If applicable, a plan for the relocation of tenants who would be displaced by the proposed demolition or disposition (see § 970.5). The relocation plan must at least indicate:

(1) The number of tenants to be displaced;

(2) What counseling and advisory services the PHA plans to provide;

(3) What housing resources are expected to be available to provide housing for displaced tenants;

(4) An estimate of the costs for counseling and advisory services and tenant moving expenses, and the expected

source for payment of these costs (see §§ 970.9); and

(5) The minimum official notice that the PHA will give tenants before they are required to move;

(e) A description of the PHA's consultations with tenants and any tenant organizations (as required under § 970.4(a)), with copies of any written comments which may have been submitted to the PHA and the PHA's evaluation of the comments;

(f) A replacement housing plan, as required under § 970.11, and approved by the unit of general local government which approval shall be provided by the chief executive officer of the jurisdiction in which the project is located (e.g., the mayor or the county executive), indicating approval of the replacement plan.

(g) Evidence of compliance with the offering to resident organizations, as required under § 970.13.

(h) A certification regarding relocation of residents, in accordance with § 970.5(h)(1).

(i) Appropriate certifications regarding site and neighborhood assessment, in accordance with §§ 970.11(h) (2), (3), and (4).

(j) Appropriate certification regarding compliance with environmental authorities, where required in accordance with § 970.4(c).

(k) The estimated balance of project debt, under the ACC, for development and modernization;

(l) In the case of disposition, an estimate of the fair market value of the property, established on the basis of one independent appraisal unless, as determined by HUD, (1) more than one appraisal is warranted, or (2) another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data;

(m) In the case of disposition, estimates of the gross and net proceeds to be realized, with an itemization of estimated costs to be paid out of gross proceeds and the proposed use of any net proceeds in accordance with § 970.9;

(n) A copy of a resolution by the PHA's Board of Commissioners approving the application;