

but without approved HOPE VI revitalization plans, are fully subject to section 202 standards and requirements.

§ 971.13 HUD enforcement authority.

Section 202 provides HUD authority to ensure that certain distressed developments are properly identified and removed from PHA inventories. Specifically, HUD may:

(a) Direct a PHA to cease additional spending in connection with a development which meets or is likely to meet the statutory criteria, except as necessary to ensure decent, safe and sanitary housing until an appropriate course of action is approved;

(b) Identify developments which fall within the statutory criteria where a PHA has failed to do so properly;

(c) Take appropriate actions to ensure the removal of developments from the inventory where the PHA has failed to adequately develop or implement a plan to do so; and

(d) Authorize or direct the transfer of capital funds committed to or on behalf of the development (including comprehensive improvement assistance, comprehensive grant amounts attributable to the development's share of funds under the formula, and major reconstruction of obsolete projects funds) to tenant-based assistance or appropriate site revitalization for the agency.

APPENDIX TO PART 971—METHODOLOGY OF COMPARING COST OF PUBLIC HOUSING WITH COST OF TENANT-BASED ASSISTANCE

I. PUBLIC HOUSING

The costs used for public housing shall be those necessary to produce a revitalized development as described in the next paragraph. These costs, including estimated operating costs, modernization costs and costs to address accrual needs must be used to develop a per unit monthly cost of continuing the development as public housing. That per unit monthly cost of public housing must be compared to the per unit monthly Section 8 cost. The estimated cost of the continued operation and modernization as public housing shall be calculated as the sum of total operating, modernization, and accrual costs, expressed on a monthly per occupied unit basis. The costs shall be expressed in current dollar terms for the period for which the most recent Section 8 costs are available.

A. OPERATING COSTS

1. The proposed revitalization plan must indicate how unusually high current operating expenses (e.g. security, supportive services, maintenance, utilities) will be reduced as a result of post-revitalization changes in occupancy, density and building configuration, income mix and management. The plan must make a realistic projection of overall operating costs per occupied unit in the revitalized development, by relating those operating costs to the expected occupancy rate, tenant composition, physical configuration and management structure of the revitalized development. The projected costs should also address the comparable costs of buildings or developments whose siting, configuration, and tenant mix is similar to that of the revitalized public housing development.

2. The development's operating cost (including all overhead costs pro-rated to the development—including a Payment in Lieu of Taxes (PILOT) or some other comparable payment, and including utilities and utility allowances) shall be expressed as total operating costs per month, divided by the number of units occupied by households. For example, if a development will have 1,000 units occupied by households and will have \$300,000 monthly in non-utility costs (including pro-rated overhead costs and appropriate P.I.L.O.T.) and \$100,000 monthly in utility costs paid by the authority and \$50,000 monthly in utility allowances that are deducted from tenant rental payments to the authority because tenants paid some utility bills directly to the utility company, then the development's monthly operating cost per occupied unit is \$450—the sum of \$300 per unit in non-utility costs, \$100 per unit in direct utility costs, and \$50 per unit in utility allowance costs.

3. In justifying the operating cost estimates as realistic, the plan should link the cost estimates to its assumptions about the level and rate of occupancy, the per-unit funding of modernization, any physical re-configuration that will result from modernization, any planned changes in the surrounding neighborhood and security costs. The plan should also show whether developments or buildings in viable condition in similar neighborhoods have achieved the income mix and occupancy rate projected for the revitalized development. The plan should also show how the operating costs of the similar developments or buildings compare to the operating costs projected for the development.

4. In addition to presenting evidence that the operating costs of the revitalized development are plausible, when the per-unit operating cost of the renovated development is

more than ten percent lower than the current per-unit operating cost of the development, then the plan should detail how the revitalized development will achieve its reduction in costs. To determine the extent to which projected operating costs are lower than current operating costs, the current per-unit operating costs of the development will be estimated as follows:

a. If the development has reliable operating costs and if the overall vacancy rate is less than twenty percent, then these costs will be divided by the sum of all occupied units and vacant units fully funded under PFS plus fifty percent of all units not fully funded under PFS. For instance, if the total monthly operating costs of the current development are \$6.6 million and it has 1,000 occupied units and 200 vacant units not fully funded under PFS (or a 17 percent overall vacancy rate), then the \$6.6 million is divided by 1100—1000 plus 50 percent of 200—to give a per unit figure of \$600 per unit month. By this example, the current costs of \$600 per occupied unit are at least ten percent higher than the projected costs per occupied unit of \$450 for the revitalized development, and the reduction in costs would have to be detailed.

b. If the development currently lacks reliable cost data or has a vacancy rate of twenty percent or higher, then its current per unit costs will be estimated as follows. First, the per unit cost of the entire authority will be computed, with total costs divided by the sum of all occupied units and vacant units fully funded under PFS plus fifty percent of all vacant units not fully funded under PFS. Second, this amount will be multiplied by the ratio of the bedroom adjustment factor of the development to the bedroom adjustment factor of the Housing Authority. The bedroom adjustment factor, which is based on national rent averages for units grouped by the number of bedrooms and which has been used by HUD to adjust for costs of units when the number of bedrooms vary, assigns to each unit the following factors: .70 for 0-bedroom units, .85 for 1-bedroom units, 1.0 for 2-bedroom units, 1.25 for 3-bedroom units, 1.40 for 4-bedroom units, 1.61 for 5-bedroom units, and 1.82 for 6 or more bedroom units. The bedroom adjustment factor is the unit-weighted average of the distribution. For instance, if the development with one thousand occupied units had in occupancy 500 two-bedroom units and 500 three-bedroom units, then its bedroom adjustment factor would be 1.125—500 times 1.0 plus 500 times 1.25, the sum divided by 1,000. Where necessary, HUD field offices will arrange for assistance in the calculation of the bedroom adjustment factors of the Housing Authority and its affected developments.

c. As an example of estimating development operating costs from PHA operating costs, suppose that the Housing Authority had a total monthly operating cost per unit

of \$500 and a bedroom adjustment factor of .90, and suppose that the development had a bedroom adjustment factor of 1.125. Then, the development's estimated current monthly operating cost per occupied unit would be \$625—or \$500 times 1.25 (the ratio of 1.125 to .90).

B. MODERNIZATION

The cost of modernization is the initial revitalization cost to meet viability standards, that cost amortized over twenty years (which is equivalent to fifteen years at a three percent annual real capital cost for the initial outlay). Expressed in monthly terms, the modernization cost is divided by 180 (or 15 years times 12 months). Thus, if the initial modernization outlay to meet viability standards is \$60 million for 1,000 units, then the per-unit outlay is \$60,000 and the amortized modernization cost is \$333 per unit per month (or \$60,000 divided by 180). However, when revitalization would be equivalent to new construction and the PHA thus is permitted to amortize the proposed cost over thirty years (which is equivalent to twenty-two and one-half years at a three percent annual real capital cost to the initial outlay), the modernization cost will be divided by 270, the product of 22.5 and 12, to give a cost per unit month of \$222.

C. ACCRUAL

The monthly per occupied unit cost of accrual (i.e., replacement needs) will be estimated by using the latest published HUD unit total development cost limits for the area and applying them to the development's structure type and bedroom distribution after modernization, then subtracting from that figure half the per-unit cost of modernization, then multiplying that figure by .02 (representing a fifty year replacement cycle), and dividing this product by 12 to get a monthly cost. For example, if the development will remain a walkup structure containing five hundred two-bedroom occupied and five hundred three-bedroom occupied units, if HUD's Total Development Cost limit for the area is \$70,000 for two-bedroom walkup structures and \$92,000 for three-bedroom walkup structures, and if the per unit cost of modernization is \$60,000, then the estimated monthly cost of accrual per occupied unit is \$85. This is the result of multiplying the value of \$51,000—the cost guideline value of \$81,000 minus half the modernization value of \$60,000—by .02 and then dividing by 12.

D. OVERALL COST

The overall current cost for continuing the development as public housing is the sum of its monthly post-revitalization operating cost estimates, its monthly modernization cost per occupied unit, and its estimated

monthly accrual cost per occupied unit. For example, if the operating cost per occupied unit month is \$450 and the amortized modernization cost is \$333 and the accrual cost is \$85, the overall monthly cost per occupied unit is \$868.

II. TENANT-BASED ASSISTANCE

The estimated cost of providing tenant-based assistance under Section 8 for all households in occupancy shall be calculated as the unit-weighted averaging of the monthly Fair Market Rents for units of the applicable bedroom size; plus the administrative fee applicable to newly funded Section 8 rental assistance during the year used for calculating public housing operating costs (e.g., the administrative fee for units funded from 10/1/95 through 9/30/96 is based on column C of the January 24, 1995 FEDERAL REGISTER, at 60 FR 4764, and the administrative fee for units funded from 10/1/96 through 9/30/97 is based on column B of the March 12, 1997 FEDERAL REGISTER, at 62 FR 11526); plus the amortized cost of demolishing the occupied public housing units, where the cost per unit is not to exceed ten percent of the TDC prior to amortization. For example, if the development has five hundred occupied two-bedroom units and five hundred occupied three-bedroom units and if the Fair Market Rent in the area is \$600 for two bedroom units and is \$800 for three bedroom units and if the administrative fee comes to \$46 per unit, and if the cost of demolishing 1000 occupied units is \$5 million, then the per unit monthly cost of tenant based assistance is \$774 (\$700 for the unit-weighted average of Fair Market Rents, or 500 times \$600 plus 500 times \$800 with the sum divided by 1,000; plus \$46 for the administrative fee; plus \$28 for the amortized cost of demolition and tenant relocation (including any necessary counseling), or \$5000 per unit divided by 180 in this example). This Section 8 cost would then be compared to the cost of revitalized public housing development—in the example of this section, the revitalized public housing cost of \$868 monthly per occupied unit would exceed the Section 8 cost of \$774 monthly per occupied unit by 12 percent. The PHA would have to prepare a conversion plan for the property.

III. DETAILING THE SECTION-8 COST COMPARISON: A SUMMARY TABLE

The Section 8 cost comparison methods are summarized, using the example provided in this section III.

A. Key Data, Development: The revitalized development has 1000 occupied units. All of the units are in walkup buildings. The 1000 occupied units will consist of 500 two-bedroom units and 500 three-bedroom units. The total current operating costs attributable to the development are \$300,000 per month in non-utility costs, \$100,000 in utility costs

paid by the PHA, and \$50,000 in utility allowance expenses for utilities paid directly by the tenants to the utility company. Also, the modernization cost for revitalization is \$60,000,000, or \$60,000 per occupied unit. This will provide standards for viability but not standards for new construction. The cost of demolition and relocation of the 1000 occupied units is \$5 million, or \$5000 per unit, based on recent experience.

B. Key Data, Area: The unit total development cost limit is \$70,000 for two-bedroom walkups and \$92,000 for three-bedroom walkups. The two-bedroom Fair Market Rent is \$600 and the three-bedroom Fair Market Rent is \$800. The applicable monthly administrative fee amount, in column B of the March 12, 1997 FEDERAL REGISTER Notice, at 62 FR 11526, is \$46.

C. Preliminary Computation of the Per-Unit Average Total Development Cost of the Development: This results from applying the location's unit total development cost by structure type and number of bedrooms to the occupied units of the development. In this example, five hundred units are valued at \$70,000 and five hundred units are valued at \$92,000 and the unit-weighted average is \$81,000.

D. Current Per Unit Monthly Occupied Costs of Public Housing:

1. Operating Cost—\$450 (total monthly costs divided by occupied units: in this example, the sum of \$300,000 and \$100,000 and \$50,000—divided by 1,000 units).

2. Amortized Modernization Cost—\$333 (\$60,000 per unit divided by 180 for standards less than those of new construction).

3. Estimated Accrual Cost—\$85 (the per-unit average total development cost minus half of the modernization cost per unit, times .02 divided by 12 months: in this example, \$51,000 times .02 and then divided by 12).

4. Total per unit public housing costs—\$868.

E. Current per unit monthly occupied costs of section 8:

1. Unit-weighted Fair Market Rents—\$700 (the unit-weighted average of the Fair Market Rents of occupied bedrooms: in this example, 500 times \$600 plus 500 times \$800, divided by 1000).

2. Administrative Fee—\$46.

3. Amortized Demolition and Relocation Cost—\$28 (\$5000 per unit divided by 180).

4. Total per unit section 8 costs—\$774.

F. Result: In this example, because revitalized public housing costs exceed current Section 8 costs, a conversion plan for the property would be required.