

demonstrably changing the economic character of the area (a "revitalizing area"). An "overriding housing need," however, may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

(4) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(5) The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(7) Except for new construction housing designed for elderly persons, travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

**§ 983.7 Eligible and ineligible properties and HA-owned units.**

(a) Section 982.352 of this chapter, *Eligible Housing*, does not apply. Newly constructed and existing structures of various types may be appropriate for attaching assistance to the units under this part 983, including single-family housing and multifamily structures.

(b) An HA may not attach or pay PBC assistance to units in the following types of housing:

(1) Housing for which the construction is started before Agreement execution;

(2) Housing for which the rehabilitation is started before Agreement execution;

(3) Shared housing; nursing homes; and facilities providing continual psychiatric, medical, nursing services, board and care or intermediate care;

(4) Units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions;

(5) Housing located in the Coastal Barrier Resources System designated under the Coastal Barrier Resources Act;

(6) Housing located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i)(A) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79); or

(B) Less than a year has passed since FEMA notification regarding such hazards; and

(ii) The HA will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 *et seq.*);

(7) College or other school dormitories; or

(8) A manufactured home.

(c) An HA may not attach or pay PBC assistance to units in any of the following types of subsidized housing:

(1) Public housing;

(2) A unit subsidized by any other form of Section 8 assistance (tenant-based or project-based);

(3) A unit subsidized with any local or State rent subsidy;

(4) A Section 236 project (insured or noninsured); or a unit subsidized with Section 236 rental assistance payments;

(5) A Rural Development Administration Section 515 project;

(6) A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949 (a Rural Development Administration Program);

(7) Housing assisted under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);

(8) A Section 221(d)(3) project;

(9) A project with a Section 202 loan;

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(10) A Section 202 project for non-elderly persons with disabilities (Section 162 assistance);

(11) Section 202 supportive housing for the elderly;

(12) Section 811 supportive housing for persons with disabilities;

(13) A Section 101 rent supplement project;

(14) A unit subsidized with tenant-based assistance under the HOME program; or

(15) Any unit with any other duplicative Federal State, or local housing subsidy, as determined by HUD. For this purpose, "housing subsidy" does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

(d) An HA may attach assistance under this part 983 to a highrise elevator project for families with children only if HUD determines there is no practical alternative. HUD may make this determination for an HA's project-based assistance, in whole or in part, and need not review each project on a case-by-case basis.

(e) Assistance may not be attached to a unit that is occupied by an owner; however, cooperatives are considered to be rental housing for purposes of this part 983.

(f)(1) *HA-owned unit* means a unit (other than public housing) that is owned by the HA which administers the assistance under this part 983 pursuant to an ACC between HUD and the HA (including a unit owned by an entity substantially controlled by the HA).

(2) An HA-owned unit may only be assisted under the project-based certificate program if:

(i) The HA-owned unit is not ineligible housing under this section.

(ii) The HUD field office selects the HA-owned unit pursuant to the competitive ranking and rating process specified in the HA's HUD-approved unit selection policy (see §983.51).

(iii) The HUD field office establishes the initial contract rents.

(iv) The HUD field office has conducted all HA reviews required under this part before execution of the Agreement.

(3) Any adjustment of the contract rent for an HA-owned unit must be ap-

proved in advance by the HUD field office.

(4) As owner of an HA-owned unit, the HA is subject to all of the same program requirements that apply to other owners in the program.

(5) HUD headquarters establishes the amount of the administrative fee for an HA-owned unit. The HA will earn a lower ongoing administrative fee for an HA-owned unit than for a unit not owned by the HA, and no fee for the cost to help a family experiencing difficulty in renting appropriate housing.

(6) HA-owned units are subject to the same requirements as units that are not HA-owned, including the ineligibility of units that are currently public or Indian housing and units constructed or rehabilitated with other assistance under the U.S. Housing Act of 1937.

[60 FR 34717, July 3, 1995, as amended at 63 FR 23870, Apr. 30, 1998]

### § 983.8 Rehabilitation: Minimum expenditure requirement.

(a) To qualify as rehabilitation under this part 983, existing structures must require a minimum expenditure of \$1000 per assisted unit, including the unit's prorated share of work to be accomplished on common areas or systems, in order to:

(1) Upgrade the property to decent, safe, and sanitary condition to comply with the housing quality standards or other standards approved by HUD, from a condition below those standards;

(2) Repair or replace major building systems or components in danger of failure within two years from the date of the initial HA inspection;

(3) Convert or merge units to provide housing for large families; or

(4) For up to seven percent of the units to be assisted, make accessibility improvements to the property necessary to meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments Act of 1988.

(b) In determining the minimum expenditure of \$1000 per assisted unit, the HA must include the prorated cost of common improvements in the costs of the individual units.