

## § 970.2

## 24 CFR Ch. IX (4-1-06 Edition)

### § 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 develop-

ment 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);<sup>1</sup>

(9) Demolition after conveyance of a public housing project to a non-PHA entity 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);

(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

<sup>1</sup>In 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.]

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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 project, subject to the exceptions stated in § 970.2.

[50 FR 50894, Dec. 13, 1985, as amended at 60 FR 3716, Jan. 18, 1995]

### § 970.4 General requirements for HUD approval of applications for demolition or disposition.

HUD will not approve an application for demolition or disposition unless:

(a) The application has been developed in consultation with tenants of the project involved, any tenant organizations for the project, and any PHA-wide tenant organizations that will be affected by the demolition or disposition;

(b) *Environmental review.* Activities under this part are subject to HUD environmental regulations in part 58 of this title. However, HUD may make a finding in accordance with § 58.11(d) and may itself perform the environmental review under the provisions of part 50 of this title if a PHA objects in writing

to the responsible entity's performing the review under part 58.

(c) [Reserved]

(d) The public housing agency has developed a replacement housing plan, in accordance with § 970.11, and has obtained a commitment for the funds necessary to carry out the plan over the approved schedule of the plan. To the extent such funding is not provided from other sources (*e.g.*, State or local programs or proceeds of disposition), HUD approval of the application for demolition or disposition is conditioned on HUD's agreement to commit the necessary funds (subject to availability of future appropriations).

(e) The PHA has complied with the offering to resident organizations, as required under § 970.13.

(f) The PHA has prepared a certification regarding relocation of residents, in accordance with § 970.5(h)(1). If relocation is required, the PHA must submit a relocation plan in accordance with § 970.5.

(g) The PHA has made the appropriate certifications regarding site and neighborhood standards, in accordance with § 970.11(h) (2) and (4).

[50 FR 50894, Dec. 13, 1985, as amended at 53 FR 30987, Aug. 17, 1988; 60 FR 3717, Jan. 18, 1995; 68 FR 56131, Sept. 29, 2003]

### § 970.5 Displacement and relocation.

(a) *Relocation of displaced tenants on a nondiscriminatory basis.* Tenants who are to be displaced as a result of demolition or disposition must be offered opportunities to relocate to other comparable/suitable (see HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition) decent, safe, sanitary, and affordable housing (at rents no higher than permitted under the Act,) which is, to the maximum extent practicable, housing of their choice, on a nondiscriminatory basis, without regard to race, color, religion (creed), national origin, handicap, age, familial status, or sex, in compliance with applicable Federal and State laws.

(b) *Relocation resources.* Relocation may be to other publicly assisted housing. Housing assisted under Section 8 of the Act, including housing available for lease under the Section 8 Housing Voucher Program, may also be used for