

§ 971.1 Purpose.

Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub.L. 104-134, approved April 26, 1996) ("OCRA") requires PHAs to identify certain distressed public housing developments that cost more than Section 8 rental assistance and cannot be reasonably revitalized. Households in occupancy that will be affected by the activities will be offered tenant-based or project-based assistance (that can include other public housing units) and will be relocated, to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. After residents are relocated, the distressed developments (or affected buildings) for which no reasonable means of revitalization exists will be removed from the public housing inventory.

§ 971.3 Standards for identifying developments.

(a) PHAs shall use the following standards for identifying developments or portions thereof which are subject to section 202's requirement that PHAs develop and carry out plans for the removal over time from the public housing inventory. These standards track section 202(a) of OCRA. The development, or portions thereof, must:

(1) *Be on the same or contiguous sites.* (OCRA Sec. 202(a)(1)). This standard and the standard set forth in paragraph (a)(2) of this section refer to the actual number and location of units, irrespective of HUD development project numbers.

(2) *Total more than 300 dwelling units.* (OCRA Sec. 202(a)(2)).

(3) *Have a vacancy rate of at least ten percent for dwelling units not in funded, on-schedule modernization.* (OCRA Sec. 202(a)(3)). For this determination, PHAs and HUD shall use the data the PHA relied upon for its last Public Housing Management Assessment Program (PHMAP) certification, as reported on the Form HUD-51234 (Report on Occupancy), or more recent data which demonstrates improvement in occupancy rates. Units in the following categories shall not be included in this calculation:

(i) Vacant units in an approved demolition or disposition program;

(ii) Vacant units in which resident property has been abandoned, but only if State law requires the property to be left in the unit for some period of time, and only for the period stated in the law;

(iii) Vacant units that have sustained casualty damage, but only until the insurance claim is adjusted; and

(iv) Units that are occupied by employees of the PHA and units that are utilized for resident services.

(4) *Have an estimated cost of continued operation and modernization of the developments as public housing in excess of the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).* (OCRA Sec. 202(a)(5)).

(i) For purposes of this determination, the costs used for public housing shall be those necessary to produce a revitalized development as described in the paragraph (a)(5) of this section.

(ii) These costs, including estimated operating costs, modernization costs and accrual needs must be used to develop a per unit monthly cost of continuing the development as public housing.

(iii) That per unit monthly cost of public housing must be compared to the per unit monthly Section 8 cost.

(iv) Both the method to be used and an example are included in the Appendix to this part.

(5) *Be identified as distressed housing that the PHA cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income.* (OCRA Sec. 202(a)(4)). [See § 971.5.]

(b) Properties meeting the standards set forth in paragraphs (a)(1) through (3) of this section will be assumed to be "distressed" unless the PHA can show that the property fails the standard set forth in paragraph (a)(3) of this section for reasons that are temporary in duration and are unlikely to recur.

(c) Where the PHA will demolish all of the units in a development, or the

portion thereof, that is subject to section 202, section 202 requirements will be satisfied once the demolition occurs and its standards will not be applied further to the use of the site.

(d) PHAs will meet the test for assuring long-term viability of identified housing only if it is probable that, after reasonable investment, for at least twenty years (or at least 30 years for rehabilitation equivalent to new construction) the development can sustain structural/system soundness and full occupancy; will not be excessively densely configured relative to standards for similar (typically family) housing in the community; will not constitute an excessive concentration of very low-income families; and has no other site impairments which clearly should disqualify the site from continuation as public housing.

§ 971.5 Long-term viability.

(a) *Reasonable investment.* (1) Proposed revitalization costs for viability must be reasonable. Such costs must not exceed, and ordinarily would be substantially less than, 90 percent of HUD's total development cost limit for the units proposed to be revitalized (100 percent of the total development cost limit for any "infill" new construction subject to this regulation). The revitalization cost estimate used in the PHA's most recent comprehensive plan for modernization is to be used for this purpose, unless a PHA demonstrates or HUD determines that another cost estimate is clearly more realistic to ensure viability and to sustain the operating costs that are described in paragraph (a)(2) of this section.

(2) The overall projected cost of the revitalized development must not exceed the Section 8 cost under the method contained in the Appendix to this part, even if the cost of revitalization is a lower percentage of the TDC than the limits stated in paragraph (a)(1) of this section.

(3) The source of funding for such a revitalization program must be identified and already available. In addition to other resources already available to the PHA, a PHA may assume that future formula funds provided through the Comprehensive Grant Program are available for this purpose, provided

that they are sufficient to permit completion of the revitalization within the statutory five year time frame. (Comprehensive plans must be amended accordingly.)

(b) *Density.* Density reduction measures would have to result in a public housing community with a density approaching that which prevails in the community for similar types of housing (typically family), or a lower density. If the development's density already meets this description, further reduction in density is not a requirement.

(c) *Income mix.* (1) Measures generally will be required to broaden the range of resident incomes to include over time a significant mix of households with at least one full-time worker (for example, at least 20 percent with an income at least 30 percent of median area income). Measures to achieve a broader range of household incomes must be realistic in view of the site's location. Evidence of such realism typically would include some mix of incomes of other households located in the same census tract or neighborhood, or unique advantages of the public housing site.

(2) For purposes of judging appropriateness of density reduction and broader range of income measures, overall size of the public housing site and its number of dwelling units will be considered. The concerns these measures would address generally are greater as the site's size and number of dwelling units increase.

§ 971.7 Plan for removal of units from public housing inventories.

(a) *Time frames.* Section 202 is a continuing requirement, and the Secretary will establish time frames for submission of necessary information annually through publication of a FEDERAL REGISTER notice.

(b) *Plan for removal.* With respect to any development that meets all of the standards listed, the PHA shall develop a plan for removal of the affected public housing units from the inventory. The plan should consider relocation alternatives for households in occupancy, including other public housing and Section 8 tenant-based assistance, and shall provide for relocation from the