Asst. Secry., for Public and Indian Housing, HUD § 972.118

initial review of the plan raises questions that require further discussion with the PHA. In any event, HUD will provide all PHAs with a preliminary response within 90 days following submission of a conversion plan.

(b) The PHA may not demolish or dispose of units or property until completion of the required environmental review under part 58 of this title (if a responsible entity has assumed environmental responsibility for the project) or part 50 of this title (if HUD is performing the environmental review). Further, HUD will not approve a conversion plan until completion of the required environmental review. However, before completion of the environmental review, HUD may approve the targeted units for removal from the PHA’s inventory and may authorize the PHA to undertake other activities proposed in its conversion plan that do not require environmental review (such as certain activities related to the relocation of residents), as long as the buildings in question are adequately secured and maintained.

(c) For purposes of determining operating subsidy eligibility, HUD will consider the conversion plan the PHA submits to be the equivalent of a formal request to remove dwelling units from the PHA’s inventory and ACC. HUD will notify the PHA in writing whether it has approved the conversion plan. Units that are vacant or vacated on or after the written notification date will be treated as approved for deprogramming under §990.108(b)(1) of this title and also will be provided any phase-down of subsidy to which the PHA is entitled pursuant to §990.114 of this title.

(d) The PHA may apply for tenant-based assistance in accordance with Section 8 program requirements, and HUD will give the PHA a priority for receiving tenant-based assistance to replace the public housing units. It is HUD’s policy to provide funds for one-for-one replacement housing with either public housing or tenant-based assistance, if funds are available. HUD may require that funding for the initial year be provided from the public housing Capital Fund, Operating Fund, or both.

§ 972.112 Relationship between required conversion and demolition/disposition requirements.

(a) Section 18 of the United States Housing Act of 1937 does not apply to demolition of developments removed from the inventory of the PHA under this subpart. Demolition of these developments is therefore not subject to section 18(g), which provides an exclusion from the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (URA). Accordingly, the URA will apply to the displacement of tenants as the direct result of the demolition of a development carried out pursuant to this subpart, in accordance with §972.118. With respect to any such demolition, the PHA must comply with the requirements for environmental review found at part 58 of this title.

(b) Section 18 of the United States Housing Act of 1937 does apply to any disposition of developments removed from the inventory of the PHA under this subpart. Therefore, to dispose of property, the PHA must submit a disposition application under section 18. HUD’s review of any such disposition application will take into account that the development has been required to be converted.

§ 972.115 Relationship between required conversions and HOPE VI developments.

HUD actions to approve or deny proposed HOPE VI revitalization plans must be consistent with the requirements of this subpart. Developments with HOPE VI revitalization grants, but without approved HOPE VI revitalization plans, are fully subject to required conversion standards under this subpart.

§ 972.118 Applicability of Uniform Relocation Act.

To the extent that tenants are displaced as a direct result of the demolition, acquisition, or rehabilitation of federally-assisted property converted pursuant to this subpart, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (URA), and the implementing regulations issued by the Department of


§ 972.121 Developments subject to this subpart.

(a) This subpart is applicable to any development not identified before October 21, 1998, for conversion, or for assessment of whether such conversion is required, in accordance with section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, approved April 26, 1996, 110 Stat. 1321–279–1321–281). Developments identified before October 21, 1996, continue to be subject to the requirements of section 202 and part 971 of this chapter until these requirements are satisfied. Thereafter, the provisions of this subpart apply to any remaining public housing on the sites of those developments.

(b) The developments to which this subpart is applicable are subject to the requirements of section 33 of the United States Housing Act of 1937 (42 U.S.C. 1437z–5).

(c) The provisions of this subpart cease to apply when the units in a development that are subject to the requirements of this subpart have been demolished.

§ 972.124 Standards for identifying public housing developments subject to required conversion.

The development, or portions thereof, must be converted if it is a general occupancy development of 250 or more dwelling units and it meets the following criteria:

(a) The development is on the same or contiguous sites. This refers to the actual number and location of units, irrespective of HUD development project numbers.

(b) The development has a vacancy rate of at least a specified percent for dwelling units not in funded, on-schedule modernization, for each of the last three years, and the vacancy rate has not significantly decreased in those three years. (1) For a conversion analysis performed on or before March 16, 2009, the specified vacancy rate is 15 percent. For a conversion analysis performed after that date, the specified vacancy rate is 12 percent. (2) For the determination of vacancy rates, the PHA must use the data it relied upon for the PHA’s latest Public Housing Assessment System (PHAS) certification, as reported on the Form HUD–51234 (report on Occupancy). Units in the following categories must 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 of time stated in the law;

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

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

(v) Units that HUD determines, in its sole discretion, are intentionally vacant and do not indicate continued distress.

(c) The development either is distressed housing for which the PHA cannot assure the long-term viability as public housing, or more expensive for the PHA to operate as public housing than providing tenant-based assistance. (1) The development is distressed housing for which 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. (See §972.127) (i) Properties meeting the standards set forth in paragraphs (a) and (b) of this section will be assumed to be “distressed,” unless HUD determines that the reasons a property meets such standards are temporary in duration and are unlikely to recur.

(ii) A development satisfies the long-term viability test only if it is probable that, after reasonable investment, for at least 20 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 other similar rental (typically family) housing in the community; can achieve a broader range of family income; and