

§ 970.25

§ 970.25 Required and permitted actions prior to approval.

(a) A PHA may not take any action to demolish or dispose of a public housing development or a portion of a public housing development without obtaining HUD approval under this part. HUD funds may not be used to pay for the cost to demolish or dispose of a public housing development or a portion of a public housing development, unless HUD approval has been obtained under this part. Until the PHA receives HUD approval, the PHA shall continue to meet its ACC obligations to maintain and operate the property as housing for low-income families. However, the PHA may engage in planning activities, analysis, or consultations without seeking HUD approval. Planning activities may include project viability studies, capital planning, or comprehensive occupancy planning. The PHA must continue to provide full housing services to all residents that remain in the development. A PHA should not re-rent these units at turnover while HUD is considering its application for demolition or disposition. However, the PHA's operating subsidy eligibility will continue to be calculated as stated in 24 CFR part 990.

(b) A PHA may consolidate occupancy within or among buildings of a development, or among developments, or with other housing for the purposes of improving living conditions of, or providing more efficient services to residents, without submitting a demolition or disposition application.

§ 970.27 De minimis exception to demolition requirements.

(a) A PHA may demolish units without submitting an application if the PHA is proposing to demolish not more than the lesser of:

(1) five dwelling units; or

(2) 5 percent of the total dwelling units owned by the PHA over any 5-year period.

(c) The 5-year period referred to in paragraph (a)(2) of this section is the 5 years counting backward from the date of the proposed de minimis demolition, except that any demolition performed prior to October 21, 1998, will not be counted against the five units or 5 percent of the total, as applicable. For ex-

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ample, if a PHA that owns 1,000 housing units wishes to demolish units under this de minimis provision on July 1, 2004, and previously demolished two units under this provision on September 1, 2000, and two more units on July 1, 2001, the PHA would be able to demolish one additional unit for a total of five in the preceding 5 years. As another example, if a PHA that owns 60 housing units as of July 1, 2004, had demolished two units on September 1, 2000, and one unit on July 1, 2001, that PHA would not be able to demolish any further units under this "de minimis" provision until after September 1, 2005, because it would have already demolished 5 percent of its total.

(1) In order to qualify for this exemption, the space occupied by the demolished unit must be used for meeting the service or other needs of public housing residents (use of space to construct a laundry facility, community center, child care facility, office space for a general provider; or for use as open space or garden); or

(2) The unit being demolished must be beyond repair.

(d) PHAs utilizing this section will comply with environmental review requirements at 24 CFR 970.13 and, if applicable, the requirements of 24 CFR 8.23.

(e) For recordkeeping purposes, PHAs that wish to demolish units under this section shall submit the information required in § 970.7(a)(1), (2), (12), (13), and (14). HUD will accept a certification from the PHA that one of the two conditions in paragraph (c) of this section apply unless HUD has independent information that requirements for "de minimis" demolition have not been met.

[71 FR 62362, Oct. 24, 2006, as amended at 73 FR 3868, Jan. 23, 2008]

§ 970.29 Criteria for disapproval of demolition or disposition applications.

HUD will disapprove an application if HUD determines that:

(a) Any certification made by the PHA under this part is clearly inconsistent with:

(1) The PHA Plan;