DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 970

[Docket No. R-95-1407; FR-2463-F-06]

RIN 2577-AA58

Public Housing Program; Demolition or Disposition of Public Housing Projects

AGENCY: Office of the Assistant Secretary for Public and Indian

Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final the interim rule which implemented section 121 of the Housing and Community Development Act of 1987. Section 121 amended section 18 of the United States Housing Act of 1937, which governs the demolition and disposition of public and Indian housing. Section 12: combined two of the previous demolition criteria, so that demolition may be approved if the project is obsolete due to its physical condition, location, or other factors which make it unusable for housing, and no reasonable program of modifications, such as rehabilitation, is feasible to return the project to useful life. Section 121 also provided that projects may not be demolished or disposed of unless the public housing agency (PHA) has developed a plan for the provision of a replacement unit for each unit involved. The plan must include a schedule for its completion (not to exceed six years); and HUD must agree, upon approving the plan, to commit the funds necessary to carry out the plan over the approved schedule, to the extent such funding is not provided from other sources (e.g., State or local programs or proceeds of disposition), and HUD's commitment is subject to the availability of future appropriations. Section 121 repealed a previous statutory provision which made section 18 inapplicable to conveyance of units under homeownership programs. This rule continues that inapplicability to units under certain established homeownership programs, including 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 provided by section 412(b) of the National Affordable Housing Act 'NAHA'')

Section 412(a) of NAHA amended section 18 of the U.S. Housing Act of

1937 to require that tenant councils, resident management corporation, and tenant cooperative, if any, be given appropriate opportunities to purchase the project or portion of the project covered by the demolition or disposition application. Therefore, a separate Federal Register document was published on October 6, 1992, at 57 FR 46074, that set forth the procedures and requirements for providing the opportunity to purchase to tenant councils, resident management corporations, and tenant cooperatives. This document was open to public comment and is being made final by this

This rule also contains a provision that states that in the case of scatteredsite housing of a public housing agency, the net proceeds of a disposition that is less than the full disposition shall be used for the payment of development cost for the project and for the retirement of outstanding obligations issued to finance original development or modernization of the project, in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition. This is a direct statutory requirement in compliance with section 512 of NAHA and, therefore, is contained in this final rule.

Section 116 of the Housing and Community Development Act of 1992 modified section 412(a) and provided for the use of 5-year project-based and tenant-based assistance in certain instances. It also provided that a very limited number of units could be demolished before the replacement requirements must be met. The section 116 provisions are considered self-executing and, therefore, are contained in this final rule.

FOR FURTHER INFORMATION CONTACT: William J. Flood, Acting Director, Office of Construction, Rehabilitation and Management, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh

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and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–1800. A telecommunications device for deaf persons (TDD) is available at (202) 472–6725. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2577–0075.

Background

Section 121 of the Housing and Community Development Act of 1987 (Pub. L. 100–242) ("1987 Act") amended section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) ("1937 Act")—the statutory provision governing the demolition and disposition of public and Indian housing. On August 17, 1988, the Department published an interim rule (53 FR 30984) which implemented the 1987 Act amendments and became effective on October 6, 1988.

Below is a discussion of the public comments received on the interim rule, as well as the changes made by the interim rule as a result of the public comments.

Following that is a discussion of the remaining provisions of the final rule that were not discussed in the interim rule section of this preamble. This section also includes a discussion of the statutory changes made by section 412(a) of the National Affordable Housing Act (Pub.L. 101–625) ("NAHA"), as amended by section 116(a) of the 1992 Act, and the public comments received on the October 6, 1992 **Federal Register** notice which implemented section 412(a).

Interim Rule

Section 121 of the 1987 Act combined two of the criteria for demolition of public housing units, by requiring both that the project or portion of the project be obsolete as to physical condition, location, or other factors, making it unusable for housing purposes, and that no reasonable program of modifications is feasible to return the project or portion of the project to useful life. One factor that the Department will take into consideration in determining whether the program of modifications is reasonable is where the costs of such program exceed 90 percent of total development cost (TDC). (The use of a percentage of TDC to establish the reasonable cost for demolition was set forth previously in HUD Handbook 7486.1.) Before this statutory change, either criterion could be the basis for demolition of a project or portion of a project. The regulatory amendment for implementation of this statutory requirement can be found in § 970.6 of both the interim rule and this final rule.

The 1987 Act made no change in the alternative demolition criterion applicable to demolition of only a portion of a project; *i.e.*, where demolition will help to assure the useful life of the remaining portion of the project. An example of this would be selective demolition of units to reduce