

demolished or disposed, will be the same families that benefit from the replacement housing. In addition to the Cooperation Agreement for public housing, and in the case of Section 8 replacement housing or other replacement housing, other agreements may be necessary in order to assure that this and other program requirements are satisfied.

Section 970.11(c) is revised to reflect the requirement that when demolition or disposition of dwelling units is proposed, the PHA application for HUD approval must contain documentation of approval by the unit of general local government in which the project proposed for demolition or disposition is located, which approval shall be provided by the chief executive officer of the jurisdiction in which the project is located (e.g., the mayor or county executive). Section 970.3 has been revised to add to the list of definitions, a definition for "chief executive officer of a State or unit of general local government."

Since October 1988 when the interim rule became effective, the Department has interpreted the phrase "unit of general local government" to mean the local governing body, e.g., the City Council or the Board of Aldermen. Consequently, in order to comply with this requirement, a PHA requesting permission to demolish or dispose of one or more dwelling units was required to provide the Department with a copy of a resolution from the City Council or the appropriate local governing body approving the replacement housing plan. However, experience has demonstrated that obtaining the approval of the local governing body has proven to be an extremely time consuming and difficult process, particularly when the replacement housing is public housing development. In some communities the local governing body has strenuously objected to putting public housing in the community. The effect of local governing body opposition to a replacement housing plan has been to delay approval of demolition or disposition applications for extended periods of time. After a review of the problem and research of the legislative history on this point, the Department has determined that it is permissible to allow the chief executive officer, e.g., the mayor or the county executive, to approve the replacement housing plan.

Section 970.11(h) of the interim rule is revised by the final rule for technical and clarifying reasons. The purpose of this provision is to assure that the replacement sites will satisfy standards related to nondiscrimination and

housing opportunities. In some instances the time for compliance with the site and neighborhood standards is during the demolition or disposition application and review process, and in other instances compliance is deferred. The requirements regarding site and neighborhood standards will be as follows:

(1) If funds have been committed to provide replacement units under the Public Housing Development Program or the Section 8 project-based assistance program, except when the PHA plans to build back on the same site, the site and neighborhood standards applicable for those programs will apply and be assessed at the appropriate time as required by that program rule or handbook and not at the time of the demolition or disposition application. The PHA must certify to HUD at the time of the demolition or disposition application, that once the site is identified, the PHA will comply with the site and neighborhood standards applicable for those programs.

(2) If funds have been committed to provide replacement units under the Public Housing Development Program or the Section 8 project-based assistance program and the PHA plans to build back on the same site, the PHA shall comply with the site and neighborhood standards applicable for those programs when the demolition or disposition application is submitted to HUD. A complete site and neighborhood standards review shall be done by HUD subsequent to the submission of the demolition or disposition application but prior to approval.

(3) If the replacement housing units are to be provided under a State or local program, and the site is known (including building back on the same site), the PHA is required to comply with site and neighborhood standards comparable to 24 CFR part 882 when the demolition or disposition application is submitted to HUD. A complete site and neighborhood standards review shall be done by HUD subsequent to the submission of the demolition or disposition application but prior to approval.

However, if the site is not known, the PHA shall include in the application for demolition or disposition a certification that it will comply with site and neighborhood standards comparable to 24 CFR part 882 once the site is known.

In the case of replacement housing funded by State or local government funds, the PHA must demonstrate in the application that it has a commitment for funding the replacement housing.

(4) If the replacement housing units are to be provided out of the proceeds

of the disposition of public housing property, and the site is known (including building back on the same site), the PHA is required to comply with site and neighborhood standards comparable to 24 part 941 (or under 24 CFR part 882 in the case of use of Section 8 assistance) when the demolition or disposition application is submitted to HUD. A complete site and neighborhood standards review shall be done by HUD subsequent to the submission of the demolition or disposition application but prior to approval.

However, if the site is not known, the PHA shall include in the application for demolition or disposition a certification that it will comply with site and neighborhood standards comparable to 24 CFR part 941 or under 24 CFR part 882 once the site is known.

Section 970.12 of the August 1988 interim rule is *not* made final by this final rule. Comments received on § 970.12 will be considered in the development of a separate *proposed* rulemaking on the issue of required and permitted actions prior to approval of an application for demolition or disposition. Until a *final* rule is issued on § 970.12, the provisions of the August 1988 interim rule remain effective.

Changes Required by Section 412(a) of the National Affordable Housing Act—Resident Organization Opportunity to Purchase

Section 412(a) of the National Affordable Housing Act ("NAHA"), Pub.L. 101-625, 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.

Section 116(a) of the Housing and Community Development Act of 1992 (the "1992 Act") amended section 18 of the U.S. Housing Act of 1937 to require PHAs to limit the opportunity to purchase the development or portion of the development proposed for demolition or disposition only to the resident organization(s) at the affected development. This provision clarifies an ambiguity regarding the breadth of the offer (as discussed below in the public comments to the October 6, 1992 Notice) and is considered self-executing. Accordingly, the Department issued Notice PIH 93-17 (PHA) on April 2, 1993 to inform program administrators and participants of this clarification and its immediate effect. This final rule