NATIONAL LOW INCOME
HOUSING COALITION

DEMOLITION AND DISPOSITION

Ed Gramlich

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Section 18 of the "Housing Act" allows public housing agencies (PHAs) to apply to HUD's Office of Public and Indian Housing (PIH) for permission to demolish or dispose of (sell) public housing.

HUD Approval of Demolition and/or Disposition Applications

The demolition/disposition law and regulations require a PHA to apply to HUD to demolish or dispose of (sell) public housing/and or vacant land.

[Regulations at 24 CFR 970.7]
[Notice PIH 2024-40 added vacant land]

A special HUD office is in charge, the Special Applications Center (SAC).

A PHA can't take any action to demolish or dispose of public housing without HUD approval.

- No "material changes" may be made once SAC approves an application. Material changes require a new application. [PIH 2024-40]
  Material changes include:
  - Modification of the method of a disposition
  - A public bid sale for less than 80% of the appraised fair market value (FMV)
  - Revised terms of "commensurate public benefit" for dispositions less than FMV

- PHA should not re-rent units when they turn over while SAC is considering an application. [24 CFR 970.25]

The application must certify (promise) that the PHA has described the demolition or disposition in its Annual PHA Plan, that the action is consistent with the PHA Plan, and that the description in the application is identical. (See page 6 about the PHA Plan.)
[24 CFR 970.7(a)(1)]

The application must also certify that the application was developed in consultation with residents, resident groups, and local government officials.

A PHA must comply with the resident consultation requirements of the PHA Plan, including discussing with its Resident Advisory Board (RAB) the proposed repositioning or redevelopment. (See page 10 about the RAB.) [PIH 2024-40]

SAC will not approve an application that is not consistent with a PHA Plan or that was not developed in consultation with residents, resident groups, and officials.
[PIH 2024-40]

⇒ Advocates should challenge an application that is significantly different.

RESIDENT CONSULTATION AND PARTICIPATION

A PHA must prepare an application "in consultation" with tenants and any tenant organization at the project to be demolished or sold, as well as with any PHA-wide tenant organization and the Resident Advisory Board (RAB). (See page 10 about the RAB)

Consultation must also include public housing residents living in units not proposed for removal at the same project as the property proposed for removal (units or vacant land) and/or residents living in any of a PHA's other public housing units. [PIH 2024-40]

A PHA must discuss the demolition or disposition at a public hearing as required by the PHA Plan regulations. [PIH 2024-40]

A PHA must allow residents and their representatives to submit written comments regarding the PHA's proposed demolition/disposition and must consider these comments. [PIH 2024-40]

Communications and materials must be accessible to people with disabilities, and PHAs must take reasonable steps to provide meaningful access to people with Limited English Proficiency (LEP). [PIH 2024-40]

A PHA must include with an application, any written comments made by residents, resident organizations, or the RAB. A PHA must also indicate in writing how it addressed those comments. [24 CFR 970.9(a)]

Along with a narrative of its resident consultation process, a PHA must attach to its application, evidence of consultation, such as sign-in sheets, dates, and meeting agendas. [PIH 2024-40]

SAC suggests PHAs conduct two meetings with residents before submitting an application, two meetings with residents after SAC accepts the demolition/disposition, and one meeting before finally removing a property. [PIH 2024-40]

⇒ HUD can deny an application if tenants, resident councils, and RABs were not consulted, so be sure to challenge a demolition or disposition application if residents were not consulted or if the "consultation" was grossly inadequate. [24 CFR 970.29(b)]

⇒ Did the PHA submit any written comments from residents and provide the PHA's response to those comments?

⇒ Advocates who might not be residents of the public housing to be demolished or sold should still attend any meetings about the proposed application; or, if an application has already been submitted, get a copy of it (form HUD-52860).

⇒ If an application has already been sent to HUD, write to HUD expressing your concerns, especially if there are errors or misstatements in the application. HUD can disapprove an application if the data and information the PHA provided is "clearly inconsistent". [24 CFR 970.29(a)]

RESIDENT RELOCATION PROVISIONS

- The demolition or disposition application must have a relocation plan. [24 CFR 970.7(a)(6)]

- Demolition or disposition can't start until all residents are relocated. [24 CFR 970.21(b) & (e)(1)(ii)]

- A PHA must give residents 90 days advance notice before being relocated. [24 CFR 970.21(e)(1)]

- A PHA must offer each household comparable housing that meets housing quality standards (HQS) and that is located in an area that is not less desirable. [24 CFR 970.21(a)]

- Comparable housing may include tenant-based or project-based rental assistance, or housing run by or assisted by the PHA that have rents comparable to the rent paid by a household at the public housing development. [24 CFR 970.21(a)]

  - Tenant Protection Vouchers (TPVs) are not automatically provided – a PHA must apply for TPVs.
  - Depending on how much Congress has appropriated for TPVs, and depending on HUD's priorities for the year (indicated in a PIH Notice), there might not be enough TPVs for residents. [PIH 2024-40]
  - PIH limited the maximum TPV awards to 25% of the units occupied in the last 24 months for disposition justified under the "efficiency or effectiveness" option. [PIH 2024-40]

- A PHA must pay for actual relocation expenses, however, the Uniform Relocation Act (URA) does not apply. [24 CFR 970.21(e)(1) & (2)]

- For people with disabilities displaced from a unit with reasonable accommodations, comparable housing should include similar accommodations. A PHA is required pay for actual and reasonable relocation expenses of residents requiring reasonable accommodations because of disabilities. [PIH 2024-40]

- If a PHA intends to build or otherwise provide affordable replacement housing for the public housing units proposed for removal, PIH recommends the PHA give the residents who are relocated from the public housing units the first right to occupy the new replacements units. [PIH 2024-40]

A PHA must provide any necessary counseling for residents who are displaced. When a PHA is relocating families with Housing Choice Vouchers (HCVs), including TPVs, PIH encourages the PHA to provide households with mobility counseling.

DEMOLTION APPLICATIONS

Is the Public Housing Development "Obsolete"?

For demolition applications, PHAs must certify that a development is "obsolete," either physically or in terms of location, and therefore no longer suitable as housing, and there is no cost-effective way to correct the obsolescence. [24 CFR 970.15(a)]

- **Physically obsolete** means that there are structural deficiencies that can't be corrected at a reasonable cost. Structural deficiencies include faulty structural design, settlement of floors, and severe erosion. [24 CFR 970.15(b)(1)(i)]

  - To show that a development is physically obsolete, a PHA can submit a Physical Needs Assessment (PNA), government inspection, and/or an independent architect's or engineer's report. A PHA must submit HUD forms and a detailed scope of work that should describe major systems needing repair or replacement, need to remove lead-based paint and asbestos hazards, and need to make accessibility improvements for people with mobility, vision, hearing, other impairments. [PIH 2024-40]

    "Reasonable" cost is defined as less than 62.5% of total development costs for buildings with elevators and 57.14% for other buildings. If a project's rehab costs are between the 62.5% or 57.14% thresholds and 90% of total development cost (TDC), a PHA can apply to demolish or dispose of public housing. If rehab costs exceed 90% TDC, the public housing must be demolished or disposed. [24 CFR 970.15(b)(2)]

  ⇒ Is a project really "structurally" obsolete?

  An obsolete location means the surrounding neighborhood is too deteriorated, or has shifted from residential uses to commercial or industrial uses. It can also mean environmental conditions make it unsuitable for residents to live at. If the cost to address the harmful conditions exceed the 62.5%/57.14% thresholds, a location makes the public housing obsolete. [24 CFR 970.15(b)(1)(ii)]

- **"Other factors"** can also be considered, things that "seriously affect the marketability or usefulness" of the development. If the cost to address the harmful conditions exceed the 62.5%/57.14% thresholds, the "other factor" makes the public housing obsolete [24 CFR 970.15(b)(1)(iii)]

  ⇒ Be ready to challenge the "location" factors and "other" factors because they are vague and open to abuse by PHAs.

"De Minimus" Demolition

PHAs don't have to apply to HUD to demolish fewer than 5 units or 5% of all units over a five-year period. The units being demolished must either be beyond repair or make room for services such as a child care facility, laundry, or community center. HUD calls this "de minimus" demolition. [24 CFR 970.27]

DISPOSTION APPLICATIONS

[Note: This paper does not discuss Rental Assistance Demonstration (RAD)/Section 18 Disposition Blend projects. See RAD: Key Features for Public Housing Residents (September 2025) (.PDF), on NLIHC's Public Housing website, https://nlihc.org/explore-issues/housing-programs/public-housing.]

For disposition applications, a PHA must certify that keeping the development is not in the best interests of residents or the PHA for any one of three reasons:

1. Conditions in the area surrounding the development (such as commercial or industrial activity) have a negative impact on the health and safety of residents, or have a negative impact on the PHA's operation of the project. [24 CFR 970.17(a)]

   - A negative impact on a PHA's operation of a project could mean a lack of demand for the units. The PHA would have to show high long-term vacancy rates due to factors such as declining population in the area or due to the property being located in an isolated area cut off from transportation and access to community amenities such as stores and schools. [PIH 2024-40]

   ⇒ Challenge the accuracy of any of claims that commercial or industrial activities cause significant harm to residents.

2. Sale or transfer of the property will allow the PHA to buy, develop, or rehab other properties that can be more efficiently operated as low-income housing. [24 CFR 970.17(b)]

   - Low-income housing is limited to other public housing, project-based voucher (PBV), or Section 8 project-based rental assistance (PBRA) units.
   - A PHA must demonstrate that sufficient replacement low-income housing units will be provided. [PIH 2024-40]

3. Sale of the property is "appropriate" for reasons consistent with the PHA's goals, the PHA Plan, and the purpose of the public housing act. [24 CFR 970.17(c)]

   - Four examples of situations for which disposition might be appropriate are:
     - Public housing is physically "obsolete" (see definition above on page 4).
     - Very small PHAs with 50 or fewer public housing units that no longer want to operate public housing.
     - A PHA demonstrates ha it can redevelop low-income housing on-site to better meet the affordable housing needs of the community.
     - For scattered site units, a PHA demonstrates that the distance between units and lack of uniformity of systems (e.g., utilities, HVAC) makes it challenging to operate and maintain units.

[PIH 2024-40]

DISPOSTION APPLICATIONS, *continues next page*

When a PHA disposes of public housing property it must receive fair market value (FMV). However, it is possible to dispose property at less than FMV if there is a "commensurate public benefit." [24 CFR 970.19(a)]

Commensurate public benefit generally means the disposed property is to be used or redeveloped as "low-income housing," which is public housing and project-based Section 8 housing (including through a Faircloth to RAD transaction). If low-income housing is not feasible, disposition proceeds can be used for other "affordable" housing serving low-income households, those with income equal to or less than 80% of the area median income (AMI).

PIH encourages PHAs to give public housing residents priority for occupying "affordable housing."

PIH also requires a "use restriction" to ensure compliance with the commensurate benefit obligation and provides criteria a use restriction must meet.

[PIH 2024-40]

DEMOLITION AND DISPOSITION and THE PHA PLAN REGULATION

HUD approval of an Annual PHA Plan does not mean HUD has approved a demolition or disposition application.

Remember, the process for applying for and obtaining HUD approval for demolition or disposition is separate from and in addition to the Annual PHA Plan process.

What Is the PHA Plan? [24 CFR 903.7(h)]

The PHA Plan is the gathering together of a PHA's key program intentions (such as demolition or disposition) and policies (such as the Admission and Continued Occupancy Plan). Each year, all but very small PHAs must submit an Annual PHA Plan 75 days before the beginning of the PHA's fiscal year.

You will also hear about the "5-Year Plan" which all PHAs must send to HUD every five years. The 5-Year Plan merely states a PHA's mission, goals, and objectives.

DEMOLITION AND DISPOSITION and THE PHA PLAN REGULATION, *continues*

Does Your PHA Even Have to Send in a PHA Plan?

Congress changed the PHA Plan law in 2008, calling PHAs that administer a combination of fewer than 550 units of public housing and vouchers “Qualified PHAs”. About 70% of all PHAs are Qualified PHAs. They are not required to submit an Annual PHA Plan. However, a Qualified PHA must submit an Annual PHA Plan if it was designated as “troubled” as a result of its most recent Public Housing Assessment System (PHAS) score or had a failing Section Eight Management Assessment Program (SEMAP) score during the prior 12 months.

Qualified PHAs must still submit a 5-Year PHA Plan. They must also have a public hearing each year regarding any proposed changes to the PHA’s goals, objectives, or policies. In addition, they must have Resident Advisory Boards (RABs, see page 8) and respond to RAB recommendations at a public hearing.

The Trump Administration removed access to enable residents and advocates to learn whether a PHA is a Qualified PHA, a “troubled” or “high performer”.

For PHAs That Must Send In an Annual PHA Plan

For PHAs that do have to send in an Annual PHA Plan, there are four types of Annual PHA Plan templates to be used for different categories of PHAs:

- **Standard PHAs and Troubled PHAs**. A Standard PHA owns or manages 250 or more public housing units and any number of vouchers, for a combined total of *more* than 550; and the PHA was designated “standard” by its most recent PHAS and SEMAP assessments. A Troubled PHA has an overall PHAS or SEMAP Score less than 60%.

- **High Performer PHAs**. A High-Performer PHA owns or manages any number of public housing units and vouchers, for a combined total of *more* than 550; and the PHA was designated a “high performer” by its most recent PHAS and SEMAP assessments. They have a streamlined PHA Plan template.

- **Small PHAs**. A Small PHA owns or manages fewer than 250 public housing units and any number of vouchers, for a combined total of *more* than 550; and the PHA was not designated as troubled by the most recent PHAS or SEMAP assessments, or at risk of being designated as troubled. They have a streamlined PHA Plan template.

- **HCV Only PHAs**. A Housing Choice Voucher (HCV) Only PHA does not own or operate any public housing units, but does administer *more* than 550 vouchers; and the PHA was not designated as troubled by its most recent SEMAP assessment. They have a streamlined PHA Plan template.

DEMOLITION AND DISPOSITION and THE PHA PLAN REGULATION, *continues*

The PHA Plan Template

The current computer-based templates are much shorter and less helpful than those used before 2008. They no longer contain everything important to residents. They simply ask whether some of the PHA Plan elements have changed since the previous year. The PHA just checks a box "Yes" or "No". If the answer is "Yes" the PHA is supposed to describe the change.

⇒ It is up to you to ask your PHA for the previous year's PHA Plan and the upcoming year's PHA Plan to figure out if the description of the change is accurate.

The PHA Plan templates ask (at B.2) whether the PHA intends to undertake demolition or disposition during the PHA's current fiscal year, and for new demolition/disposition activities to describe the public housing for which the PHA has applied or will apply for approval.

The Trump Administration removed a PIH webpage that provided access to the PIH-required templates.

Resident and Public Participation with the PHA Plan

The law and regulations provide a modest public participation process. [24 CFR 903.17]

- The PHA must conduct "reasonable" outreach to encourage broad public participation.
- The PHA's governing board must invite public comment regarding a proposed PHA Plan and conduct a public hearing to discuss it. The hearing must be held at a location convenient to PHA residents.
- At least 45 days before the public hearing, the PHA must:
    - Make the proposed PHA Plan, required attachments, and other relevant information available for public inspection at the PHA's main office during normal business hours.
    - Publish a notice indicating the date, time, and location of the public hearing, as well as the availability of the proposed PHA Plan.
- The final, HUD-approved PHA Plan, along with required attachments and other related documents, must be available for review at the PHA's main office during normal business hours. [24 CFR 903.23(e)]

⇒ If any of these public participation requirements were not truly met, file a complaint with HUD, specifying the shortcomings.

Send Complaints to HUD

There are four places in the regulations indicating that writing and calling HUD to complain about the PHA Plan might secure attention and relief from HUD.

1. If a RAB (see page 10) claims in writing that the PHA failed to provide adequate notice and opportunity for comment, HUD may make a "finding" and hold up approval of a PHA Plan until this failure is remedied. [24 CFR 903.13(c)(2)]

2. The regulations declare that before approving a PHA Plan, HUD will review "any…element of the PHA's Annual Plan that is challenged." [24 CFR 903.23(b)]

3. HUD can decide not to approve a PHA Plan if it or one of its components:
   - Does not provide all of the required information.
   - Is not consistent with information and data available to HUD.
   - Is not consistent with the jurisdiction's Consolidated Plan.

   [24 CFR 903.23(c)]

4. To ensure that a PHA complies with all of the policies adopted in its HUD-approved PHA Plan, "HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with the plan…HUD will take whatever action it deems necessary and appropriate." [24 CFR 903.25]

Mid-Year Changes to the PHA Plan

"Significant" amendments (such as an application to demolish or dispose of public housing units) can only take place after formal adoption by the PHA board of directors at a meeting open to the public, and after subsequent approval by HUD. "Significant" amendments are subject to all of the RAB and public participation requirements. [24CFR903.21]

The PHA Plan must identify the basic criteria for determining what constitutes a "significant" amendment to either an Annual PHA Plan or a 5-year PHA Plan. [24 CFR 903.7(r)(2)]

⇒ Residents and advocates should be alert to changes to the PHA Plan at any time of the year because any policy or program in it can be modified.

⇒ Advocates and residents should review the PHA Plan's criteria defining "significant" amendments, and work to change them if they are written so that few modifications would be judged "significant" and therefore escape the RAB and public participation requirements.

Resident Advisory Boards (RABs) and Drafting the PHA Plan

- Each PHA must establish at least one "Resident Advisory Board" (RAB) to make recommendations and assist in other ways in the drafting of the PHA Plan and any "significant" amendment or modification to it.
  - RAB membership must reflect and represent residents served by the PHA.

[24 CFR 903.13(a)]

- If there is a jurisdiction-wide resident council, then the PHA must appoint it or its representatives as the RAB.
  - If there is not a jurisdiction-wide resident council, but there are project-based resident councils, then they or their representatives must be appointed to serve on one or more RABs.
  - Where Section 8 residents make up at least 20% of all assisted households, the PHA must make sure that they have reasonable representation on the RAB(s).

[24 CFR 903.13(b)]

- To ensure that RABs can be as effective as possible, the PHA must allocate "reasonable" resources to provide "reasonable" means for the RAB to:
  - Become informed about programs covered by the PHA Plan;
  - Communicate with residents in writing and by telephone;
  - Hold meetings with residents; and,
  - Access information through the internet.

[24 CFR 903.13(a)(2)]

⇒ Does the RAB truly reflect and represent the residents?

⇒ Was the RAB truly involved in drafting the PHA Plan?

⇒ Did the PHA provide the RAB with adequate resources to participate effectively?

- The PHA must "consider" RAB recommendations when preparing a final PHA Plan or any significant amendment or modification to it. A copy of the RAB's recommendations and a description of whether those recommendations were addressed must be included with the final PHA Plan. [24 CFR 903.13(c)]

- "Small" PHAs submitting "streamlined" Annual PHA Plans must certify that the RAB had an opportunity to review and comment on any policy or program changes over the course of the year, including those relating to demolition/disposition.

[24 CFR 903.12(c)(3)]