

would impede local decision-making and further drain HUD resources. In addition, the commenter wrote that including smaller developments is unnecessary due to the voluntary conversion provisions of section 533 of QHWA. Smaller developments would be able to convert using the voluntary procedures of section 533 and HUD's implementing regulations.

**HUD response.** HUD agrees with the commenters. Accordingly, the final rule adopts the proposed rule provisions exempting developments with less than 250 units, or that are not primarily occupied by families, from the required conversion requirements. However, a PHA may elect to voluntarily convert such a development under the voluntary conversion program established by separate final rule published elsewhere in today's **Federal Register** (so long as the development satisfies the criteria for voluntary conversion).

**Comment: Average median income comparison should not be required.** One commenter objected to requiring PHAs to compare the average median income at a development with the average median income in the development's area. The commenter recognized that the Commission found this ratio highly significant. However, the commenter wrote that the measures included in the proposed rule are "more than sufficient for a reasonable person to draw the conclusions necessary." The commenter recommended that any use of the income ratio analysis should be at the option of the PHA. In addition, the commenter recommended that a PHA should be given the flexibility to gather and present such data using the methods and formats most useful to the PHA.

**HUD response.** HUD agrees with the commenter and has not revised the proposed rule to require a comparison of average median income.

**B. Comments Regarding Standards for Determining Whether a Property is Viable in the Long Term (§ 972.105 of the Proposed Rule; § 972.127 of This Final Rule)**

The proposed rule at § 972.105 described the conditions that a development must meet in order to satisfy the long-term viability standard.

**Comment: PHAs should not be required to identify sources of funding.** A PHA must identify the sources of funding for a revitalization program. One commenter wrote that this requirement is "unreasonable" because the "revitalization may be several years down the road and the PHA cannot determine what its annual appropriations will be or how much

money will be needed." The commenter suggested that the requirement be eliminated.

**HUD response.** HUD believes that an estimate of available funding is necessary to accurately assess the probable success of a revitalization plan. In recognition that PHAs receive capital funds by formula, the final rule permits PHAs to "assume that future formula funds provided through the Capital Fund over five years are available for this purpose" (see § 972.127(a)(3)). Nothing in this final rule prevents PHAs from applying for HOPE VI or other additional funding to assist in the revitalization or replacement of a development during the 5-year phase-out period. PHAs, however, may not assume that they will be successful in discretionary grant competitions, such as for HOPE VI funding. PHAs may apply for HOPE VI and other discretionary grants during the 5-year phase-out period, provided the use of such grants will be consistent with the requirements of this final rule.

**C. Comments Regarding Conversion Plan Components (§ 972.107 of the Proposed Rule; § 972.130 of This Final Rule)**

The proposed rule at § 972.107 described the various components of a conversion plan.

**Comment: More notice of displacement should be required.** The proposed rule would have required a PHA to notify families residing in the development 90 days before displacement. Two commenters wrote that if "displacement" is synonymous with a family vacating the unit, the 90-day notice is inadequate. The commenters wrote that a family may need more than 90 days to find and relocate to other affordable housing. The commenters also wrote that, under the Section 8 rental voucher program, families generally have 120 days to locate housing. Further, for families with school-age children, relocation during the school term will seriously disrupt the children's education and jeopardize related child-care arrangements. One of the commenters recommended that the final rule require PHAs to provide families with six months advance notice of their relocation rights, wherever feasible.

**HUD response.** In accordance with URA, this final rule provides that a family will not be required to move without at least 90-days advance written notice of the earliest date by which the family may be required to move, and that the family will not be required to move permanently until the family is offered comparable housing, in

accordance with the final rule. In addition, the final rule provides that, where Section 8 voucher assistance is being used for relocation, the vouchers must be provided to the family at least 90 days before conversion. PHAs should consider all relevant factors that might affect a family's ability to relocate (such as school age children) in determining the appropriate timeframes and should ensure that families are provided with adequate time to locate new housing.

**Comment: Final rule should reference applicability of URA.** One commenter suggested that the final rule should provide that URA applies to families displaced pursuant to a required conversion.

**HUD response.** HUD has adopted the commenter's suggestion. The final rule adds a new § 972.118, which affirms that, 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 final rule, the requirements of the URA, and the implementing regulations issued by the Department of Transportation at 49 CFR part 24, apply. Further, for purposes of clarity, HUD has revised the rule to more closely conform to the notice requirements of the URA and the implementing regulations. As required by 49 CFR 24.203, if a required conversion is subject to the URA, PHAs must provide families scheduled to be displaced with a General Information Notice, a Notice of Relocation Eligibility or Notice of Non-displacement (as applicable), and a 90-day advance notice of the earliest date by which a resident may be required to move.

**Comment: Final rule should clarify what constitutes housing choice for relocated families.** Families have the right to be relocated to "other decent, safe, and sanitary and affordable housing that is, to the maximum extent possible, housing of their choice." Two commenters recommended that the final rule clarify that a family may choose "to lease any PHA rental unit of appropriate size, provided the rental unit is vacant or will be vacant before the date on which the tenant must vacate the converted rental unit."

**HUD response.** The regulatory language adequately protects a displaced family's right to relocate to comparable housing, while also providing for circumstances that may limit the availability of a particular unit. For example, a PHA may need to reserve a public housing unit for medical transfer purposes. The broad language suggested by the commenter fails to provide for such necessary exceptions.