

**Eminent Domain
Addendum**

**U.S. Department of Housing
and Urban Development
Office of Public and Indian
Housing**

**OMB Approval No. 2577-0075
(exp. 07/31/2008)**

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required to as a supplement to the HUD-52860 for all inventory removal actions where a Taking Body is proposing to condemn property of a PHA through an eminent domain proceeding based on the federal government interest in the property under the Annual Contributions Contract (ACC) and Declaration of Trust. HUD will use this information to determine whether, and under what circumstances, to consent to eminent domain condemnations of PHA property. Responses to this collection of information are based on HUD Policy and are required to obtain a benefit. Please refer to the instructions for each section for additional guidance on how to complete this application. HUD approval of the proposed removal from inventory action in this application does not constitute HUD approval for funding of the proposed action. The information requested does not lend itself to confidentiality.

This HUD-52860-F (Eminent Domain Addendum) ("EDA") shall serve as this PHA's official notice to HUD that _____ ("Taking Body") has proposed to condemn, by an eminent domain proceeding, property owned by this PHA ("PHA Property").

(1) Attach a description (i.e. letter or a Board Resolution) from the PHA describing the proposed eminent domain proceeding. At a minimum, the description should include: (a) the name of the Taking Body; (b) whether the PHA supports/has agreed to the eminent domain proceeding; and (c) the proposed compensation (e.g. money or replacement property) for the PHA property and (d) evidence that the proposed compensation was established in compliance with Notice PIH 2007-XX, including any extensions, and reference it s EDA-Item #1.

(2) Has the PHA entered into any agreement with the Taking Body about the terms of the taking of the PHA property (e.g. compensation to be provided to the PHA, terms of relocation for residents of the affected Development, etc.)? Yes No

***If Yes, attach the agreement and reference it as EDA-Item #2.**

(3) Has the PHA received evidence that the Taking Body has the eminent domain authority to take the PHA-Property and has taken the "first step" of this taking, as articulated in the State statutes?
 Yes No

***If Yes, attach documentation (preferably a letter or certification from the Taking Body) that the Taking Body has the authority to condemn the PHA property, and has taken the "first step" of this taking, as articulated in the applicable State statutes.**

Instructions for completing HUD-52860-F:

Eminent domain is an exercise of the power of a government or “quasi-government” body (“Taking Body”) to take private property for a public use upon “just compensation” to the owner of that property. Based on HUD’s third party beneficiary interest in PHA Property under the Annual Contributions Contract (ACC) and the Declaration of Trust (DOT), a PHA must obtain HUD consent to any proposed eminent domain action by a Taking Body. For guidance on HUD policy related to the takings of PHA Property by eminent domain, including the criteria pursuant to which HUD will determine, on a case-by-case basis, if it will consent to an eminent domain proceeding, see Notice PIH 2007-XX, including any extensions.

Item #1: If the PHA submitted a Board Resolution at Section 3 of the HUD-52860 which addresses all of these issues, no additional Board Resolution or letter is necessary.

Item #2: Pursuant to Notice PIH 2007-XX, including any extensions, evidence must be provided that the Taking Body will provide sufficient compensation for the PHA property. Compensation may be either monetary compensation or replacement housing. If the Taking Body is providing monetary compensation, the compensation should be the cost of replacement housing for any units taken, which amount (unless otherwise approved by HUD) shall be the larger of (i) at least the one-for-one value, paid for by the Taking Body, (ii) or the Fair Market Value (FMV) of the property. The cost of replacement units must be based on comparable size and unit configuration to those taken, except where the Taking Body or PHA can demonstrate, and HUD concurs, that there is a lack of need for the unit configuration or size or configuration of units taken, or there is a greater need for another size unit.

If the Taking Body is providing replacement housing, the Taking Body or the PHA must provide additional documentation to support such requests. Replacement housing must meet HUD’s construction/acquisition standards for public housing development. The replacement housing may be provided either through direct replacement of units, construction/acquisition or transfer to the PHA under the turnkey method. The cost of replacement of non-dwelling facilities, such as community buildings, office space, basketball courts and maintenance facilities, shall be considered, as well as any similar non-dwelling space which is lost to the PHA and its residents through the taking, in determining damages. Replacement property or facilities may be provided through either replacement by the condemning agency, or sufficient funds provided to the PHA to allow it to develop or acquire a replacement structure itself or receive FMV of the facilities taken, whichever is higher, unless otherwise approved by the HUD.

Item #3: For additional guidance on what constitutes a “first step”, see Notice PIH 2007-XX, including any extensions.