



OFFICE OF PUBLIC AND INDIAN HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Special Applications Center
77 W. Jackson Blvd., Room 2401
Chicago, Illinois 60604-3507
Phone: (312) 353-6236 Fax: (312) 886-6413

November 4, 2022

Mr. Matthew Wachter
Executive Director
Madison Community Development Authority
215 Martin Luther King Jr. Boulevard, Suite 161
Madison, WI 53703

Dear Mr. Wachter:

The Special Applications Center (SAC) of the U.S. Department of Housing and Urban Development (HUD) has reviewed the Madison Community Development Authority (MCDA) application for the disposition of 2 dwelling buildings containing 4 dwelling units and 0.48 acres of underlying land (the property). This property was developed, acquired, or assisted by MCDA with funds under the U.S. Housing Act of 1937 (the Act) and is under Bjarnes Romnes Apartments, WI003000300, in HUD's Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) system. HUD received this application as DDA0011879 on February 28, 2022, via the IMS/PIC system. In accordance with 24 CFR 970.7(a)(17), supplemental information was received through March 28, 2022 .

Environmental Review

The Environmental Review (ER) was performed by the local Responsible Entity (RE) City of Madison in accordance with 24 CFR part 58 on November 23, 2021. The RE made a determination that the project or activity converted to exempt under 24 CFR 58.34(a)(12), because the project or activity is categorically excluded under 24 CFR 58.35(a) and there are no circumstances requiring compliance with any of the related federal environmental laws and authorities at Part 58.5. The HUD Milwaukee Field Office of Public Housing (Field Office) accepts this determination.

Civil Rights Compliance Review

HUD's Office of Fair Housing and Equal Opportunity (FHCO) monitors PHA compliance with civil rights requirements through or in connection with HUD programs, including Section 18 disposition. Civil rights requirements include, but are not limited to, those outlined at 24 CFR 5.105(a), Title VI of the Civil Rights Act of 1964 and its implementing regulations at 24 CFR part 1, Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR part 8, as well as Titles II and III of the Americans with Disabilities Act, and Executive Order 11063 and its implementing regulations at 24 CFR part 107. On March 28, 2022, the Columbus HUD Office of FHCO provided a memorandum to the SAC indicating it had reviewed this application and had no objection to SAC approving this application.

PHA Plan

Public Housing Authorities (PHAs) must include proposed dispositions in a PHA Annual Plan, Significant Amendment or MTW Annual Plan. Qualified PHAs, as defined by the Housing and Economic Recovery Act of 2008 (HERA), must discuss the disposition at a public hearing, as required by 24 CFR 903.7. MCDA submitted an Annual Plan to the Milwaukee Field Office on March 27, 2020, which includes a description of the proposed disposition at the property. The Field Office approved the Annual Plan on January 30, 2021. MCDA (through a completed and signed HUD 52860 form) and the Milwaukee Program Center Field Office (through the Field Office Certification), both certify that the proposed removal action is included the PHA Annual Plan.

Previous Removals at the Development

MCDA has received the following previous HUD approvals for removing property from the development:

PIC Application	Removal Type	Units Approved	Acres Approved	Date of Approval
DDA0007572	Disposition	1	.011	9/13/2016
DDA0011024	Disposition	32	3.11	4/02/2021

Description of Proposed Disposition

MCDA proposes the disposition of 2 dwelling buildings containing 4 dwelling units and 0.48 acres of underlying land. Details of the proposed disposition are as follows:

Bjarnes Romnes Apartments, WI003000300						
DOFA:12/29/1973						
Bedroom Size	0-BR	1-BR	2-BR	3-BR	4+BR	Total
Existing Units	1	171	52	34	11	269
Proposed Units	0	0	0	0	4	4
Number of Dwelling Buildings Existing						40
Number of Dwelling Buildings Proposed						2
Number of (Dwelling and Non-Dwelling) ACC Units in PHA's Total Housing Inventory for All Developments						742
Existing Land				16.96 Acres		
Proposed Land				0.48 Acres		
Proposed Building Number Per PIC: 313O, 313P						

Disposition Justification

MCDA has determined the disposition to be appropriate for reasons that are in the best interests of the residents and the PHA; consistent with the PHA goals and plans; and otherwise consistent with the 1937 Act. Specifically, PHA proposes the disposition of these units which

meet the definition of scattered sites as set forth in PIH Notice 2020-23. MCDA included a statement and supporting evidence that supported its certification and statement as follows:

The proposed disposition is consistent with the goals of the MCDA and the MCDA's PHA Plan; and in accordance with 24 CFR 970.17(c), the MCDA has determined the disposition to be appropriate for reasons that are in the best interest of the residents, the MCDA, and the City of Madison. These small, multifamily properties are an important part of the City of Madison's housing stock in need of preservation.

The 4 units of public housing are located in 2 buildings within the MCDA's West Site AMP WI003000300. These units all have four-bedrooms, and these units are located in a neighborhood with concentrations of poverty where there is a need for quality, affordable housing for low-income families. In addition to the challenges of managing scattered site public housing, significant issues currently affect the long-term sustainability of these units. The units have not been occupied since 2019 because they have significant mold damage. MCDA intends to transfer ownership of these units through a sale, at less than fair market value (FMV) to the Madison Revitalization and Community Development Corporation (MRCDC), which is a nonprofit instrumentality of the MCDA. The sale will be below FMV and the MCDA intends to keep the property affordable, the MRCDC will accept affordability deed restrictions and ensure that future uses meet these restrictions. MRCDC will renovate the units and market the completed units to voucher holders or other income qualified households. The proposed disposition will contribute to community revitalization, as disposition to the MCDA's nonprofit instrumentality, MRCDC, will allow the subject units to be rehabilitated and preserved as attractive, well-maintained, sustainable low-income housing in the community.

Property Valuation

In accordance with 24 CFR 970.19, MCDA submitted an estimate of the FMV for the proposed properties. The FMV of \$532,000.00 was estimated by the City of Madison Real Estate Manager as of October 26, 2021. A copy of the valuation was included in the application. HUD accepts this method as a reasonable valuation of the property.

Method of Disposition

MCDA proposed the disposition via Negotiated sale at below FMV to (Madison Revitalization and Community Development Corporation (MRCDC) for \$4.00.

Commensurate Public Benefits

In accordance with 24 CFR 970.19(d), HUD may authorize a PHA to dispose of property at less than FMV (where permitted by state law) based on a commensurate public benefit to the community, the PHA, or the federal government. HUD determines commensurate public benefit on a case-by-case basis. In its application, MCDA requested that HUD find a commensurate public benefit based on the proposed future use of the property as the disposition will result in the preservation of an affordable housing resource that would not continue to be viable as public housing. Once disposition has been completed, transformation through redevelopment will allow

for affordable housing at the property as owned and managed by MRDC, a nonprofit whose mission is to serve the housing needs of low-income residents. The benefits arising from the negotiated sale are in the best interest of the public housing residents, the Community Development Authority, the City of Madison, and HUD, which results in a commensurate public benefit, as required in 24 CFR 970.19.

Relocation

When MCDA submitted the application, all units were vacant. Therefore, MCDA does not need to relocate any residents as a result of this disposition action.

Resident Consultation

1. Project(s) Specific Resident Organization(s): N/A
2. PHA-wide Resident Organization: N/A
3. Resident Advisory Board (RAB) in accordance with 24 CFR 903.13: RAB

24 CFR 970.9(a) requires that an application for disposition be developed in consultation with residents who will be affected by the proposed action, any resident organizations for the development, PHA-wide resident organizations that will be affected by the disposition, and the Resident Advisory Board (RAB). The PHA must also submit copies of any written comments submitted to the PHA and any evaluation that the PHA has made of the comments. For the proposed disposition, there is no resident council at the subject units; and the MCDA does not have a PHA-wide Resident Council. The MCDA organized and officially served notice to the MCDA's Resident Advisory Board (RAB) members of a separate meeting to discuss the proposed Scattered Site disposition application, which was held on March 10, 2020. Three RAB members attended the meeting. MCDA Staff provided an overview of the disposition process, timeline, and impact to residents. RAB comments and MCDA responses, agenda, and sign in sheet were included with the application.

Offer for Sale to the Resident Organization

24 CFR 970.9(b) (1) of the regulation requires that a public housing agency offer the opportunity to purchase the property proposed for disposition to any eligible resident organization, eligible resident management corporation as defined in 24 CFR part 964, or to a nonprofit organization acting on behalf of the residents if the resident entity has expressed an interest in purchasing the property for continued use as low-income housing. MCDA has chosen not to provide an opportunity based on the exception found in 24 CFR 970.9(b)(3) (ii): "A PHA seeks disposition outside the public housing program to privately finance or otherwise develop a facility to benefit low-income families (e.g., day care center, administrative building, mixed-finance housing under 24 CFR part 905 subpart F, or other types of low-income housing)." HUD concurs with MCDA's determination that it has complied with the requirements of 24 CFR 970.9.

Mayor/Local Government Consultation and Board Resolution

As part of the consultation process, MCDA met with Consultation with the City of Madison Mayor and City Department staff began in September of 2019. Milwaukee Program Center staff met with the City of Madison Mayor and Deputy Mayor to discuss the overall MCDA housing portfolio and repositioning options on September 27, 2020. As required by 24 CFR 970.7(a)(14), the application package includes a letter of support from the Honorable Satya Rhodes-Conway, Mayor of the City of Madison, dated September 22, 2020. The last resident consultation was on March 10, 2020. As required by 24 CFR 970.7(a)(13), MCDA's Board of Commissioners approved the submission of the disposition application for the proposed property on October 8, 2020, via Resolution Number 4414.

Approval

HUD's review of the application has determined that the proposed disposition is consistent with Section 18 of the 1937 Act the implementing regulations at 24 CFR part 970, and PIH Notice 2021-07. HUD hereby approves the application as summarized below:

Bjarnes Romanes Apartments, WI003000300				
Approved for Disposition: Buildings: 2, Units: 4, Acres: 0.48				
Total number of units to be preserved on property: 4	Less than 80% of Area Median Income			
Total number of non-dwelling buildings to be developed (or preserved) on property: 0	ACC	Non-ACC	PBV	Market Rate
Rental	0	4	0	0
Name of Acquiring Entity	Madison Revitalization and Community Development Corporation (MRCDC)			
Method of Disposition	Negotiated sale at less than Fair Market Value			
Sale Price	\$4.00			
Purpose and or summary of Commensurate Public Benefit (short description of units and non-dwelling property to be developed/preserved)	Renovation and preservation of low-income housing			

Conditions

- The Milwaukee Field Office, with concurrence from the HUD Office of the General Counsel (OGC), must approve all terms and conditions in the conveyance of real property, whether in whole or in part, described in this approval.
- MCDA shall ensure that 4 units at the property must be developed and operated as affordable housing for low-income families with incomes at or below 80 percent of AMI for not less than 30 years.
- The long-term affordability must be specifically ensured through use agreement, ground lease or seller-financing notes and other legal mechanisms as determined by the Field Office. Such use restriction documents must be recorded in a first priority position against

the properties, prior to any financing documents or other encumbrances, and remain in effect even in the event of default or foreclosure on the properties.

- Madison Revitalization and Community Development Corporation (MRCDC) shall maintain ownership and operation of the property during the use restriction period. The owner shall not convey, sublease or transfer the property approved for this disposition without prior approval from the MCDA and the Department at any point during the period of use restriction.
- The use restrictions shall be covenants that run with the land, and shall bind and inure to the benefit of the parties, their successors and assigns, and every party now or hereafter acquiring any right, title, or interest therein or in any part thereof;
- Certain involuntary transfers of the property, such as to a secured lender upon default under the security documents, or pursuant to foreclosure, may occur, with the use restrictions surviving the transfer; and
- Any subsequent transfers shall require prior written approval from MCDA and HUD.
- MCDA is responsible for monitoring and ensuring the long-term affordability of the property under the Affordability Covenant.

Operating Subsidy

Please be aware that in accordance with 24 CFR part 990 (or an MTW Agreement), the disposition of the property will affect MCDA's operating subsidy. Please contact the Field Office for additional guidance.

Capital Fund Financing Program and Energy Performance Contracting

As of February 28, 2022, did not have HUD approval of a Capital Fund Financing Program (CFFP) proposal. MCDA does not have an approved Energy Performance Contracting (EPC).

Tenant Protection Vouchers (TPVs)

As of the date of this approval, all units at the property have been vacant for more than 24 months. Therefore, in accordance with appropriations laws, MCDA is not eligible to receive any TPVs.

PIC and Monitoring - MDCA

In accordance with 24 CFR 970.7(a)(4), MCDA provided the following general timetable based on the number of days major actions will occur following approval of the application:

	Milestone	Number of Days after Approval
A	Begin relocation of residents	N/A
B	Complete relocation of residents	N/A
C	Execution of contract for removal (e.g. sales contract)	90
D	Actual Removal Action (e.g. sale closing)	90

- In accordance with 24 CFR 970.35 of the regulation, your agency is required to inform the Field Office of the status of the project (i.e., delays, actual disposition, modification requests or other problems). Within seven days of disposition completion, MCDA must enter the “actual” dates of disposition, directly into the IMS/PIC data system, Inventory Removals sub-module under “Removed from Inventory” tab for the Field Office approval, using the following procedure:
 - On the screen, select the appropriate "Development Number", then select "Add Transaction". On the next screen, select the appropriate "Application Number" from the drop-down menu. In the "Action/Closing Date" box, enter the removal date. If the properties in an application were removed on multiple dates, a separate transaction is needed for each action date. The remaining steps are as applicable. If removal is by building(s), use “Remove Residential Inventory By Building” section, select the appropriate building(s) available in the "Complete Buildings Available" box and transfer them to the "Proposed Buildings" box.
 - For removal of some units in a building, use “Remove Residential Inventory By Unit” section. To select the appropriate unit(s) available, use the drop-down "Select the building number" box which populates the "Units Available" box. Transfer the appropriate units to the "Proposed Units" box.
 - For removal of land and non-dwelling buildings without PIC building numbers, use “Remove Non-Residential Inventory” section. Fill in the number of acres and non-dwelling buildings without PIC building numbers.
 - Save the information using the "Save" button. The status of this information is then displayed as "Draft."
 - MCDA supervisory staff submits the information to MCDA Executive Director, or the designated final reviewer at MCDA, using the Submission sub tab. The status becomes "Submitted for Review".
 - MCDA Executive Director or designee uses the Review sub tab to reject the transaction, which places it in a "Rejected" status, or approves, which places it in a "Submitted for Approval" status.
 - If the submission is rejected by the HUD Milwaukee Field Office, MCDA may modify the information by repeating the previous procedure. If the transaction is rejected, the status becomes "Rejected." If the HUD Milwaukee Field Office approves the transaction, the status in IMS/PIC permanently changes to "Removed from Inventory (RMI)".

- When the disposition is completed in its entirety, please submit a report to the HUD Milwaukee Field Office confirming the action and certifying compliance with all applicable requirements. Auditable financial statements, expenditures, and files for each transaction

relative to the action must be maintained, available upon request and forwarded with the final MCDA report.

- MCDA must retain records of the SAC application and its implementing actions of HUD's approval of this SAC application for a period of not less than three years following the last required action of HUD's approval.
- MCDA is responsible for monitoring and enforcing use restrictions identified under "Conditions" section during the period they are in effect.

PIC and Monitoring – Field Office

In accordance with 24 CFR 970.35 of the regulation, MCDA is required to inform the Field Office of the status of the project (i.e., delays, actual disposition, modification requests or other problems). It is the HUD Milwaukee Field Office's responsibility to monitor this activity based on its latest risk assessment.

- The HUD Milwaukee Field Office must verify that the actual removal data is entered in IMS/PIC by MCDA within seven days of disposition to ensure the Department is not overpaying operating subsidy and the Capital Fund formula data is correct.
 - When MCDA submits an Inventory Removal action in IMS/PIC, the Field Office will be notified seeking inventory removal approval via a PIC system generated email to the HUD Milwaukee Field Office designated PIC coach or another person. Below is a sample notification email: "*Subject: Inventory Removal Submittal Notification (HA code) Inventory removals have been submitted for approval by your office on [submission date] by [HA Code].*"
 - When the above email is received, the Field Office is responsible for the review and approval or rejection of MCDA Inventory Removal submission within seven days.
- The HUD Milwaukee Field Office, with concurrence from the HUD Milwaukee Office of the General Counsel (OGC) must approve the evidentiary documents, terms and conditions in the conveyance of real property, whether in whole or in part, described in this approval. If there are previous land and/or use agreements or encumbrances, other than the Declaration of Trust (DOT), disposition approval and release of the DOT does not circumvent or supersede those obligations.
- This action may generate proceeds in the form of cash sales proceeds received at time of transfer or seller-financing payments). The proceeds, until expended, need to be deposited into an interest-bearing account subject to form HUD 51999 (GDA).
 - The HUD Milwaukee Field Office is responsible to verify the funds were used as approved, and MCDA's records are adequately documented to support this assertion. Refer to use of proceeds conditions in Approval section

When an amendment to this approval is needed, MCDA must comply with all material terms of the SAC application. If after receiving HUD approval, a MCDA's plan changes on material terms, SAC approval of the change is required. Material terms include (i) method of disposition; (ii) public bid sale where offer is less than 80 percent of FMV appraisal submitted in the SAC application. MCDA's request for change in FMV, must include narratives on its due diligence in offering the public housing property for sale on the open and competitive market and its rationale for accepting an offer that is less than 80 percent of appraised FMV. Alternatively, the MCDA may submit an updated appraisal); and (iii) terms of commensurate public benefit disposition (the PHA must describe the revised future use of the property so HUD can confirm the commensurate public benefit). PHAs request amendments by sending an email to SACTA@hud.gov with the information noted above and a board resolution approving the change. On a case-by-case basis, SAC may require additional supporting documentation to support an amendment (e.g., evidence of local government and/or resident consultation; confirmation of environmental clearance etc.).

The HUD Milwaukee Program Center Field Office has been informed of this approval. Its staff is available to provide any technical assistance necessary for your agency to proceed with the disposition. As MCDA starts the process of implementation, I urge you to continue to maintain an open dialogue with your residents and local officials. If you have to modify your plans, please contact the SAC at SACTA@hud.gov. As always, my staff and I are available to assist you in any way possible.

Sincerely,

Jane B. Hornstein
Director

cc: HUD Milwaukee Field Office