



Legislation Text

File #: 13-1154, **Version:** 1

Chief Administrative Office recommending the Board consider the following:

- 1) Approve a short sale settlement offer and agreement to release a County lien securing a First-Time Homebuyer Loan;
- 2) Authorize the Assistant Chief Administrative Officer to negotiate subsequent short sale settlement offers for this transaction, if necessary; and
- 3) Authorize the Assistant Chief Administrative Officer to execute documents related to the short sale and, upon receipt of payment, issue a full Reconveyance and complete the necessary steps to internally discharge the remainder of the loan balance.

FUNDING: Federal CDBG Grant Funds.

Fiscal Impact/Change to Net County Cost

No change. Loan repayments are added the County's Revolving Loan Fund. Acceptance of a short sale offer would reduce the payoff amount of the loan and decrease the amount of revolving loan funds available for future loans.

Background

The Chief Administrative Office, Housing, Community and Economic Development Programs (HCED), provides housing acquisition loans to eligible borrowers through State and federal grant-funded programs.

On August 8, 2013, HCED received a request to accept a reduced payment or short sale offer to satisfy the terms of a first-time homebuyer loan. A short sale occurs when the sales price of a home is less than the total amount of liens encumbering the property. Staff reviewed the hardship conditions experienced by the borrower that necessitated the short sale and verified that they meet State policy requirements.

In December 2006, a Housing Acquisition Loan was provided to the borrower for the purchase of a home in El Dorado. The appraised value of the home at the time of purchase was \$338,000. The borrower purchased the home for \$328,193, which included a down payment of \$60,718 and closing costs. Wells Fargo Bank provided a first mortgage of \$167,475. The County Loan Program provided \$100,000 through a grant from the State Community Development Block Grant (CDBG) program.

Under the County's First-Time Homebuyer Program, loans terms are for 30-years at 3% interest with deferred payments. Interest is forgiven at a rate of 10% per year starting at the 20th year of the loan. The Borrower's current HCED loan balance, including principal and interest, is approximately \$120,616.67. The current market value of the home, based on comparable sales, is approximately \$155,524. As a result of current real estate market conditions, the market value of the home is less than the amount of liens encumbering the property.

An offer has been made to purchase the home for \$167,000. The short sale settlement statement (HUD1) proposes the following distribution: \$148,535.72 to the primary lien-holder, Wells Fargo

(original loan amount \$167,475, 12/12/06); \$5,000 to the second lien-holder, the County of El Dorado (original loan amount \$100,000, 12/12/06); \$1,000 to the third lien-holder, CalHFA Mortgage Assistance (original loan amount \$8,031.12, 3/3/11) and \$12,464.28 in settlement charges (Attachment B). The current liabilities and short sale offer are summarized on the chart below.

Current Liabilities	Approx. Amount Owed	Short Sale Offer
Wells Fargo Loan	\$167,475	\$148,536
County HCED Loan	\$120,616	\$5,000
CalHFA Mortgage Assistance	\$8,031	\$1,000
Closing Costs	n/a	\$12,464
Total Encumbrances	\$296,123	
Current Offer		\$167,000

Per State policy, short sales may be approved by the local jurisdiction without State approval. The County First-Time Homebuyer Loan Program Guidelines and County Loan Review Committee Guidelines impose no requirements regarding short sales. CDBG defers to the HOME Short Sale Policy Memo #12-01, dated April 3, 2012, for guidance. (Attachment C).

According to the HOME policy, the County, as the State Recipient, has three major sets of responsibilities. First, the State Recipient must counsel the borrower as to their best interests. Second, the State Recipient must be a prudent lender. Third, the State Recipient must follow federal regulatory requirements. The State expects the State Recipient to fulfill all three sets of responsibilities.

County HCED provided counseling to the borrower in April 2013 and supplied referrals to HUD-approved home counseling agencies. Nonetheless, due to hardships the borrower experienced, the borrower has chosen to short sale the home rather than face foreclosure.

The HOME policy further states that “In the State’s view, this language requires the State Recipient, after exhausting all reasonable efforts to counsel the borrower and recover loan proceeds, to allow a borrower to sell their home without having to repay the State Recipient any more than net proceeds. In a short sale scenario, other lenders, realtors and escrow agents will require the State Recipient’s approval for the short sale to proceed. This approval cannot be withheld if the State Recipient has provided the necessary counseling and has worked to recover loan proceeds to the extent possible.”

Reason for Recommendation

This is the first short sale request the County has received under the First-Time Homebuyer Program. The Short Sale Processing Company requires a letter from the County approving the short sale contract and accepting the offer of \$5,000 to release the County lien (Attachment D). According to the short sale agent, the primary lien holder could propose changes to the settlement offer.

The County First-Time Homebuyer Loan is in second position and the current estimated value of the property is lower than the total amount of liens encumbering the property. Without acceptance of the offer, there is no guarantee that the County will receive any funds in the event of a default.

Action(s) to be taken following Board approval

Assistant Chief Administrative Officer to execute letter accepting the short sale offer and authorizing the Short Sale Agent to proceed with the sales agreement.

Contact

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Concurrences

County Counsel