



Legislation Text

File #: 15-1183, **Version:** 1

Chief Administrative Office, Economic Development Division, Housing, Community and Economic Development Program recommending the Board consider the following:

- 1) Approve a short sale settlement offer to release a County lien securing a First-Time Homebuyer Loan; and
- 2) Authorize the Acting 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 Community Development Block Grant Funds.

DEPARTMENT RECOMMENDATION

Chief Administrative Office, Economic Development Division, Housing, Community and Economic Development (HCED) Program recommending the Board approve a short sale settlement offer to release a County lien securing a First-Time Homebuyer Loan and 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.

DISCUSSION / BACKGROUND

The Chief Administrative Office, Housing, Community and Economic Development Programs (HCED), provides housing acquisition loans to eligible first-time homebuyers through State and federal grant-funded programs including the Community Development Block Grant (CDBG) program.

On September 30, 2015, 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 conditions experienced by the borrower that necessitated the short sale and verified that they meet State policy.

This is the second short sale request received by the County under the CDBG program since program inception in 1993. As determined by County Counsel in 2013, acceptance of a short sale offer requires Board approval per State policy. The previous request was approved by the Board on September 17, 2013 (Legistar item #13-1154).

In December 2006, a CDBG Housing Acquisition Loan was provided to the borrower for the purchase of a manufactured home in Rescue for their family of four. The borrower purchased the home for \$351,150 which included a down payment of \$71,690. The first mortgage amount was \$191,150 at 6.25% interest. The County CDBG Loan Program provided \$100,000 toward the purchase of the home.

The household has now grown to a family of seven. Prior attempts to sell or refinance the property through private lenders as well as through the federal HARP program have been unsuccessful due to the loss of equity in the home. The assessed value of the property by the County in 2007 was

\$358,173. The current assessed value is \$146,000. The borrowers have received a purchase offer of \$228,000 that is supported by comparable sales of similar square footage in the area.

Under the County's First-Time Homebuyer Program, loan 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 CDBG loan balance, including principal and interest, is approximately \$128,521. As a result of purchasing the home at the peak of housing market in 2006 and subsequent housing crisis, the current 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 \$228,000. The short sale settlement statement (Estimated HUD1) proposes to distribute the net proceeds of the sale to the County as full payment of the CDBG loan, after the first lien holder and customary escrow and closing costs. (Attachment A).

Current Liabilities:

First Mortgage: \$ 167,311.82(est.)

County CDBG Loan: \$128,521

Total Encumbrances: \$295,832.82

Current Assesed Value: \$146,000.00

Short Sale Offer

First Mortgage: \$167,311.82(est.)

Closing Costs: \$11,401.43 (est.)

County CDBG Loan: \$49,296.03(est.)

Current Purchase Offer: \$228,000.00 (plus tax credit of \$9.28)

Per State policy, short sales may be approved by the local jurisdiction without State approval. CDBG defers to the HOME Short Sale Policy Memo #12-01, dated April 3, 2012, for guidance (Attachment B).

According to the State 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. The County First-Time Homebuyer Loan Program Guidelines and County Loan Review Committee Guidelines impose no additional requirements regarding short sales.

HCED provided counseling and referrals to the borrower over the course of several years in compliance with State policy on the three major sets of responsibilities as outlined above:

1. Counseling: In 2011 HCED began discussion with the borrower counsel them about the alternatives to foreclosure and short sale such as loan modifications. The borrower had experienced work furloughs and disability resulting in reduced household income making mortgage payments a hardship. HCED provided referrals to HUD-approved housing counseling agencies, including the Sacramento Neighborhood Housing Services and Sacramento Home Loan Counseling Center, with hopes that the refinance programs could help their negative equity position and reduce their housing costs. The Home Affordable Refinance Program, also known as HARP, is a federal program of the United States, set up by the Federal Housing Finance Agency in March 2009 to help underwater and

near-underwater homeowners refinance their mortgages. The borrower was disqualified because the primary loan was not owned or insured under the Fannie Mae or Freddie Mac programs as required under HARP. The borrower also explored the Keep Your Home California program and was denied.

2. Prudent lender: HCED continued to encourage the borrower to seek alternative financing as property values increased rather than defaulting on the loans and face foreclosure. The borrower was continually denied refinancing in 2012, 2013 and 2014 as equity failed to increase to a sufficient amount to cover the total encumbrances. The final attempt to refinance came in 2015. Again the borrower was denied due to lack of equity. The borrower contacted HCED in August 2015 to discuss the option of a short sale. Defaulting on the primary mortgage and CDBG loan would result in foreclosure. HCED verified that the proposed sales price is approximately fair market value and has received documents pertaining to the escrow, with certified documents required at close of escrow. Acceptance of the short sale will allow the County to recover loan proceeds to the extent possible.

3. Regulatory requirements: In an effort to avoid foreclosure, federal regulatory requirements were reviewed and state CDBG program representatives were consulted by HCED staff at the borrower's request to determine if the CDBG loan could be converted to amortized payments without the property as security; however, the loan must be secured by the property. In accordance with the HOME Final Rule at 24 CFR 92.254 (a) (5) (ii) (A): " ... the participating jurisdiction is subject to the limitation that when the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing unit, and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, the participating jurisdiction can only recapture the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment (other than HOME funds) and any closing costs."

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 (County'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."

ALTERNATIVES

No alternative at this time. Per state policy, approval cannot be withheld if the State Recipient has provided the necessary counseling and has worked to recover loan proceeds to the extent possible.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

CAO RECOMMENDATION

Chief Administrative Office recommends the Board approve the short sale request.

FINANCIAL IMPACT

No change to net County cost. Loan repayments are added the County's CDBG Revolving Loan Account. 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.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

N/A

CONTACT

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