

POLICY

EFFECTIVE DATE: 7/20/87 **NO:** PO-LM-600.103
REVISION HISTORY: 8/1/89; 1/18/90; 1/15/93; 3/22/94; 11/14/94;
5/25/99; 6/18/10
SUBJECT: **HOUSING COMMISSION LOAN DEFAULTS, FORECLOSURES,
AND SHORT SALES**

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1 Purpose

To state San Diego Housing Commission policy on protecting San Diego Housing Commission loan and grant investments related to delinquencies, defaults, foreclosure proceedings and Short Sales or other related action.

2 Policy

- 2.1 San Diego Housing Commission (Commission) loans and revocable grants shall be secured by a Deed of Trust and evidenced by a Promissory Note or Revocable Grant Agreement. Such Deeds of Trust may be subordinate to senior liens.
- 2.2 The Chief Executive Officer of the San Diego Housing Commission (CEO) or designee shall monitor all loan and revocable grant terms, conditions and agreements for compliance with rent restrictions, program funding requirements, occupancy monitoring and for other mandated criteria. If loans or revocable grants are not in compliance, they are in a technical default and the CEO is authorized to initiate foreclosure proceedings against the property in accordance with the laws governing such transactions.
- 2.3 The CEO is authorized to aggressively pursue collection of any loans which become delinquent. A loan shall be considered delinquent when a payment is thirty (30) days overdue. If delinquent loans are not brought current, the CEO is authorized to initiate foreclosure proceedings against the property in accordance with the laws governing such transactions. If such default is not cured within the statutory time period, the CEO shall schedule a Trustee's Sale. If the anticipated loss is less than \$ 100,000, the Trustee's Sale shall proceed; if the anticipated loss exceeds \$ 100,000, the CEO shall proceed with the Trustee's Sale only after Board approval. A public auction shall be held with an opening bid established by the Commission after consultation with General Counsel. The opening bid may be at a discounted amount if it is deemed in the best interest of the Commission. The property will be sold to the highest bidder. If there are no bids, ownership of the property passes to the Commission.
- 2.4 The CEO, upon the advice of General Counsel, is authorized to institute judicial foreclosure proceedings against a borrower when time constraints preclude consideration by the Board of Commissioners of the San Diego Housing Commission (Board of Commissioners). In such cases, the General Counsel shall report his actions to the Board

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of Commissioners, in closed session, at its next scheduled Meeting.

In addition, the CEO upon the advice of General Counsel is authorized to take such other legal actions as are necessary in the opinion of General Counsel to protect the interests of the Commission. General Counsel shall report any such actions in closed session at the Board of Commissioners next scheduled meeting.

- 2.5 If a senior lienholder files a Notice of Default on a property with a subordinate Commission loan revocable grant, the CEO is authorized to reinstate senior liens up to \$ 100,000 to forestall a foreclosure action by the senior lienholder. The CEO shall only take such action when it is determined to be in the Commission's best interest. In such cases, the Commission shall subsequently record a Notice of Default against the property on its behalf, and pursue the process as described in 2.3. If the CEO determines it is in the Commission's best interest to let the senior lienholder's foreclosure proceed, the CEO shall then determine whether the Commission should bid at the Trustee's Sale to protect the Commission's investment (this may include bidding an amount less than the full amount needed to recover all loan or revocable grant funds and expenses) or let the Trustee's Sale proceed without Housing Commission participation.

The CEO is authorized to bid up to \$ 100,000, plus the amount of the Commission's subordinate loans or revocable grants, at Trustee's Sales without Board of Commissioners authorization. Trustee's Sale bids by the CEO in excess of \$100,000 (excluding the Commission's subordinate financing), shall be authorized by the Board of Commissioners in advance, unless such approval is precluded by time constraints, in which case the CEO may proceed upon written authorization of the Chairperson or Vice Chairperson of the Board of Commissioners.

If the CEO believes it is in the best interest of the Commission for the Trustee's Sale to proceed without Commission participation, the CEO is authorized to take such action if the anticipated loss is less than \$ 100,000. If the anticipated loss exceeds \$100,000, the Board of Commissioners must authorize such action prior to the scheduled Trustee's Sale. If time constraints preclude approval by the Board of Commissioners, the CEO may take such action upon written authorization of the Chairperson or Vice Chairperson of the Board of Commissioners.

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- 2.6 When a property is acquired as authorized above, the CEO shall consider the guidelines in Attachment 1 and determine if it is advisable to retain the property in Commission ownership as an affordable housing resource, or to transfer ownership with restrictions that would achieve an affordable housing objective, or if neither action is advisable. In the event that it is determined not to retain ownership of the single family dwelling or condominium unit as an affordable housing resource, the CEO is authorized to implement the procedures as described in the Housing Commission Real Estate Disposition Policy No 300.104. In the event that the property acquired is a multifamily project, then any decision to sell the property shall be made by the Housing Authority of the City of San Diego upon advice by the Board of Commissioners.
- 2.7 If a senior lienholder files a Notice of Default on a mobile home with a subordinate Commission loan, or a mobile home park owner gives the owner a Three (3) Day Notice to Perform Covenants or Quit and Sixty (60) Day Notice to Terminate Possession of a mobile home with a Commission loan, the CEO shall analyze the potential loss to the Commission and determine whether to bid or not to bid at the senior lienholder's Trustee's Sale or the mobile home park owner's auction. The CEO's decision to bid or not to bid shall be based upon the feasibility of recouping the Commission's loss through resale of the mobile home being sold.
- In the event of the death of the owner or an unforeseen circumstance that jeopardizes the Commission loan, the CEO may, based on the value of the mobile home and circumstances, discount the Commission loan or forgive the loan in its entirety.
- 2.8 The CEO shall monitor (on a limited basis) all Unsecured Loans, No-Interest Deferred Loans (previously single family emergency grants), Conditional Grants and Revocable Grants. In the event of the death of the owner or an unforeseen circumstance that jeopardizes the Commission's loan or grant, the CEO may discount the Commission's financing or forgive it in its entirety if the loss does not exceed \$100,000.
- 2.9 The CEO or designee is authorized to negotiate or accept the terms of a short sale if the anticipated loss is less than \$100,000. A short sale with an anticipated loss exceeding \$100,000 shall be authorized by the Board of Commissioners in advance of escrow closing.

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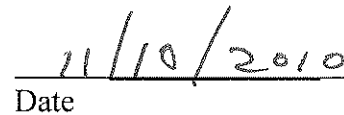
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Approved:



Carrol M. Vaughan
Executive Vice President & Chief Operating Officer



Date

ATTACHMENT

FORECLOSURE SALE GUIDELINES

Before offering a single family dwelling or condominium unit acquired through foreclosure for sale, the CEO shall determine if it is advisable to add the property to the Commission's housing stock, maintaining it as an affordable housing resource using the following guidelines.

NEIGHBORHOOD

The area immediately surrounding the structure(s) shall provide residents access to recreation, schools, shopping, public transportation, etc. Areas with adverse physical or social environmental factors should be avoided unless part of a coordinated effort to revitalize an area.

ADEQUACY

The units should be of appropriate size and design to adequately house low income residents. Units shall generally be in decent, safe and sanitary condition and shall not require a substantial investment of Commission funds to bring to public housing occupancy standards.

COST EFFECTIVE

Assumption of mortgage payments and other costs of retaining a property shall be a prudent investment of public funds.