

REPORT

DATE ISSUED: February 22, 2007

REPORT NO: HCR 07-23

ATTENTION: Chair and Members of the Housing Commission  
For the Agenda of March 23, 2007

SUBJECT: Request for Modification of Shared Equity Loan for  
3238 Island Avenue (Council District 8)

REQUESTED ACTION:

Modify the shared equity loan terms and conditions to allow Alejandrina and Andres Manjarrez Osuna to purchase a replacement home.

STAFF RECOMMENDATION:

Recommend the San Diego Housing Commission: (1) allow repayment of shared equity loan funds and equity share from the sale of 3238 Island Avenue to Nativity Prep Academy to be reinvested into a replacement home; and (2) modify loan terms and conditions for the replacement loan to have a 30 year loan term, a 15 year equity sharing provision and to forgive \$140,577 of loan funds if the borrower occupies the replacement home for 15 years.

BACKGROUND:

In May 1999, the Housing Commission provided a HOME funded \$14,000 shared equity loan to Alejandrina and Andres Manjarrez Osuna to help with the purchase of their home at 3238 Island Avenue. The Housing Commission loan has a 30 year term (principal is due in 30 years) and a 15 year equity sharing provision (Housing Commission shares in the appreciation if home is sold within 15 years).

In 2006, the Housing Commission received an inquiry from David Rivera, J.D., the founder of Nativity Prep Academy, regarding the Housing Commission's lien that was recorded against the property owned by Mr. and Mrs. Osuna. Mr. Rivera wanted to know if the shared equity loan could be transferred to another property if Mr. and Mrs. Osuna were to move.

Nativity Prep Academy is an all scholarship college preparatory middle school for at-risk children who face significant barriers and daily challenges living in an environment of high crime. Nativity Prep, in partnership with University of San Diego, counters these conditions through higher standards, higher expectations, and a rigorous program that includes a 10-hour school day, summer school and a teacher for every eight students. Due to the success of Nativity Prep, leaders of the school want to expand their middle school which requires them to purchase three adjacent properties. They have already purchased one of the properties and are in the process of acquiring the second property. The third property is owned by Mr. and Mrs. Osuna.

At the present time, Mr. and Mrs. Osuna have occupied the Island Avenue property for 7 years; therefore, if they were to sell their home they would owe the Housing Commission 43 percent of the net equity plus the loan amount of \$14,000. Based on a market value of \$400,000 the amount due the Housing Commission would be \$154,977. Because the Housing Commission's financing requires the owners to pay the amount due when they sell their home at 3238 Island Avenue, they would not have

sufficient funds to buy another home. Therefore, Nativity Prep Academy and our borrowers are asking the Housing Commission to transfer the shared equity loan to another residence to be purchased by Mr. and Mrs. Osuna.

Housing Commission staff has only encountered one other similar situation; however, at that time the property was being purchased by the school district through eminent domain. Due to the legal process by which the school district purchased that property, the Housing Commission was able to accommodate the owner's request to transfer our existing shared equity loan to another property. However, Mr. and Mrs. Osuna's circumstance is different. Nativity Prep Academy is not purchasing the property through eminent domain; this is an entirely voluntary sale on behalf of the owners.

Housing Commission staff would like to accommodate the needs of the school and have consulted with legal counsel regarding a solution. Staff is recommending the \$14,000 loan funds along with the equity share proceeds of \$140,977 be reinvested towards the purchase of a replacement home. Because this is a voluntary sale of the Island Avenue property to Nativity Prep, staff is also recommending the equity sharing provision and loan term start over from the date of funding the new loan. This would result in a new 30 year loan of \$154,977 and a full 15 year equity sharing provision.

At the time the Island Avenue property is sold, the owners will be required to pay off the existing HOME funded loan (\$14,000) and pay the equity share due the Housing Commission (\$140,977). Mr. and Mrs. Osuna will then have 9 months to purchase another home. HOME regulations would not allow the funding of another loan to the same borrowers; therefore, it is proposed the new shared equity loan be funded using other homebuyer funds. Mr. and Mrs. Osuna will lose their mortgage credit certificate because the IRS regulations will not allow it to be transferred to another property.

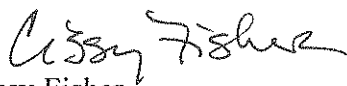
FISCAL CONSIDERATIONS:

The Housing Commission will be repaid the \$14,000 HOME funds, plus an equity share of \$140,977 will be reported as HOME Program Income. Homebuyer funds, in the amount of \$154,977, will be used to fund the shared equity loan to help Mr. and Mrs. Osuna purchase a replacement home. If the borrowers remain in the property for 15 years, \$140,977 of the loan funds will be forgiven.

ENVIRONMENTAL REVIEW:

This activity is not a project within the meaning of California Environmental Quality Act and is categorically exempt and/or excluded under the provisions of National Environmental Policy Act; see 24 CFR 58.35(a).

Respectfully submitted,



Cissy Fisher  
Director of Housing Finance and Development

Approved by,



Elizabeth C. Morris  
President & Chief Executive Officer