

REPORT

DATE ISSUED: February 13, 2009

REPORT NO: HCR 09-020

ATTENTION: Chair and Members of the Housing Commission
For the Agenda of February 20, 2009

SUBJECT: Housing Commission Approach to the Foreclosure Problem (Citywide)

REQUESTED ACTION:

Approve the Housing Commission's approach to mitigate effects of foreclosures in the City of San Diego.

STAFF RECOMMENDATION:

Approve a broad-based approach to minimize and mitigate future foreclosures by:

1. Providing web-based technical support and resources to homeowners facing foreclosure and by monitoring and reviewing proposed foreclosure prevention legislation;
2. Implementing steps to reuse foreclosed properties, and;
3. Seeking Housing Commission and Housing Authority approval of Housing Commission Policy 300.103 (Attachment) that updates the Housing Commission's real estate acquisition policy and delegates, under specific conditions, to the President and Chief Executive Officer (CEO) and the Board of Commissioners, authority to acquire single-family properties and multifamily projects for the purpose of providing additional affordable housing. The Housing Authority would retain the right to review any approval within seven days of any Housing Commission action.

BACKGROUND:

At its meeting of November 18, 2008, the Housing Authority directed the Housing Commission to report on its strategy to respond to the foreclosure problems that exist and are anticipated in the City. An approach was presented to the Housing Authority in a January 30, 2009, memorandum from the President and CEO. This report incorporates actions needed to begin implementing the foreclosure approach including updating the Housing Commission's acquisition policy.

I. Foreclosure Prevention

Working with local community and business groups, the Housing Commission has developed a web-based resource guide for financial counseling, communicating with lenders, and identifying other resources for homeowners faced with potential foreclosure. This resource will be expanded with related information and technical assistance as these become available.

Legislation contained within the Housing and Economic Recovery Act of 2008 (HERA), approved in July 2008, provided resources for foreclosure activities. The activities include modernizing and expanding the reach of the Federal Housing Administration; tax credits for homebuyers; providing

funds for pre-foreclosure counseling; simplifying disclosures on mortgage documents; using mortgage revenue bonds to refinance subprime loans, and; funding for property re-use initiatives.

Additional federal funding to address the foreclosure crisis may be provided in the American Recovery and Reinvestment Act of 2009 (the “economic stimulus” bill), currently under consideration by Congress. The bill includes approximately \$5.5 billion in additional funding for the Neighborhood Stabilization Program (NSP), and the HOME and Community Development Block Grant (CDBG) programs. The Housing Commission will continue to monitor and review proposed legislation and advocate for greater attention to foreclosure prevention activities through its membership in national housing and professional organizations.

Also, in recent months, lenders are more interested in canceling foreclosures and providing “work outs,” but modifying the loans by involving unsustainably low interest rates may merely postpone rather than avoid foreclosures. Lastly, the Federal National Mortgage Association’s (Fannie Mae) Real Estate Owned rental policy allows renters in Fannie Mae-owned, single-family foreclosed properties the opportunity to stay in their homes by signing a new month-to-month lease with Fannie Mae.

II. Reuse of Foreclosed Properties

The Housing Commission’s foreclosure response activities have been fueled by the Housing & Economic Recovery Act and the NSP. The City will receive approximately \$9.4 million for a range of actions primarily benefiting buyers of foreclosed homes. Preliminary plans call for financial assistance to homebuyers under the Housing Commission’s ongoing homebuyer programs and for issuance of a Request for Proposals (RFP) inviting affordable housing providers, community organizations, and social service agencies to submit proposals for acquisition, rehabilitation, rental uses and property management using NSP funds to provide housing for households earning 50 percent or less of Area Median Income (currently \$39,500 for a family of four). This RFP will be issued within 30 days of fund availability and will require respondents to present proposals which meet the strict criteria of the NSP program while addressing the greatest number of properties within reasonable costs.

To enhance available funding and maximize potential results, the Housing Commission will seek additional funds dedicated to foreclosure activities. Recently, the Housing Commission was awarded approximately \$16 million in mortgage credit certificates for purchasers of foreclosed homes; this represents significant additional help for homebuyers of these properties.

Also, discussions have been held with the City’s Redevelopment Agency to assure that a coordinated effort can be made to use Redevelopment funding that is dedicated for housing rehabilitation and leverage Housing Commission funds from the Lead Hazard Mitigation grants to improve and “right size” obsolete or deteriorated homes. In the 2010 Fiscal Year Budget, the Housing Commission will include recommendations to dedicate CDBG funding to activities that alleviate foreclosure impacts.

Additional relief activities are being explored. Funding for short term rental assistance, housing relocation, and stabilization services may become available to the City through the American Recovery and Reinvestment Act discussed above. It should be noted that there is some concern about restrictions imposed on these funding sources and many in the affordable housing community are working with advocacy groups to identify and correct unintended programmatic barriers.

Locally, the Housing Commission will recommend that the City Council consider focusing funds from the CDBG program for the next two years on eligible activities that address the foreclosure issue.

III. Acquisition of Property

The Housing Commission has reviewed its internal policies and processes to identify those which could expedite and expand foreclosure strategies. In this regard, Policy 300.103, which has governed Housing Commission acquisition policy since 1978, has been updated to 1) reflect a greater need for flexibility in efforts to minimize the destabilizing impacts on neighborhoods by foreclosures; and, 2) allow for more vigorous implementation of the Public Housing Disposition program, which commits the Housing Commission to acquire and/or produce 350 housing units.

The updated Policy seeks Housing Authority approval to delegate to the President and CEO and the Board of Commissioners authority to acquire foreclosed properties without waiting for Housing Authority review and approval of each proposed purchase. If approved, the updated Policy would significantly expedite development efforts with regard to the Public Housing Disposition program and provide for accelerated reuse of vacant or blighted properties. The revised policy includes the following requirements:

- The Housing Commission will only acquire properties at or below the appraised value;
- Properties acquired by the Housing Commission will be used for low or moderate income housing, either as rental properties or for resale to qualified purchasers;
- The Housing Commission will comply with state relocation law;
- The Housing Commission will endeavor to balance acquisitions of properties among neighborhoods so as to not overly concentrate the acquisitions;
- The Housing Commission will submit a report to the Housing Authority and City Council twice a year on the acquisitions completed in the prior six month period.

As always, the Housing Authority has the right to review any action taken by the Housing Commission within seven days of the action. To ensure complete disclosure of actions of the CEO and/or the Board of Commissioners, the following process will be implemented:

- Each Council office will receive a copy of every Housing Commission meeting agenda one week in advance of the scheduled meeting;
- Should acquisition of property be recommended for approval, the appropriate Council office will be contacted regarding the property under consideration;

- Following each Housing Commission meeting, each Council office will receive an email synopsis of actions taken at the meeting so that if a Council office wants to review an action, it will have opportunity to do so.

Conclusion

The Housing Commission is engaging many partners in the planning and implementation of the comprehensive approach to the foreclosure crisis. This effort will harness local knowledge and expertise to alleviate the problems that exist in the local community. The ideas emerging nationwide will be explored to ensure that best practices are implemented in a way that maximizes benefits to San Diegans. At the same time, a realistic view will be needed of the scope of the problem and the limited resources that have been made available for this activity to determine the most effective course of action.

If approved by the Board, this approach will be forwarded to the City Council's Land Use and Housing Committee for review and ultimately to the Housing Authority for final approval.

FISCAL CONSIDERATIONS:

There is no net fiscal impact from this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Public Housing Disposition program was approved on October 31 and November 18, 2008 by the Housing Commission and the Housing Authority, respectively. The NSP Plan was approved by the Land Use and Housing Committee on October 29, 2008, the Housing Commission on October 31, 2008, and by the City Council on November 18, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public hearings on the NSP program, including discussions on the foreclosure problem, were held in October and November 2008. To ensure that the Housing Commission's foreclosure efforts address a broad spectrum of interests and concerns, a Stakeholder Advisory Committee has been convened from people who have expressed interest in the foreclosure issue. This group will provide valuable feedback on community needs and resources; it will also allow the Housing Commission to disseminate information to interested parties as federal programs evolve and other proposals and resources are identified.

ENVIRONMENTAL REVIEW:

This proposed approach to the foreclosure problem is not a project pursuant to the California Environmental Quality Act (CEQA); therefore, no CEQA environmental review is required. This activity is also exempt from the National Environmental Policy Act pursuant to 24 CFR 58.34(a)(1 and 3).

KEY STAKEHOLDERS & PROJECTED IMPACTS:

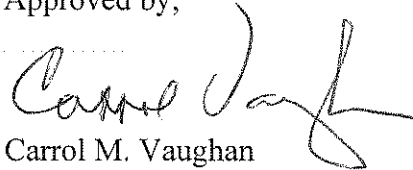
Residents of low and moderate income neighborhoods, particularly those areas most affected by foreclosures (focused in Council Districts 3, 4, 7 and 8), community based organizations, planning groups, and community based service providers.

Respectfully submitted by,



D. Lawrence Clemens
Senior Vice President
Housing Development and Finance

Approved by,



Carrol M. Vaughan
Executive Vice and President & Chief
Operating Officer

Attachment: Updated Policy PO300.103 – Real Estate Acquisition

San Diego Housing Commission
POLICY

Subject: Real Estate Acquisition Policy

Number: P 300.103

Effective Date: 2/06/2009

Page 1

Purpose

To obtain dwelling units through acquisition of existing dwelling units/homes and/or projects.

Goal

To procure existing dwelling units/projects as expeditiously as possible to alleviate the foreclosure crisis and/or to meet the goal of acquiring a minimum of 350 units as mandated by HUD in its approval of the San Diego Housing Commission's application for the disposition of public housing.

Implementation of Acquisition

- 1) In order to allow the San Diego Housing Commission to acquire, homes, units and/or multifamily projects, and any and all other types and kinds of residential real property that are foreclosed or are in jeopardy of being foreclosed, with or without the use of real estate brokers, the Housing Authority of the City of San Diego delegates to the San Diego Housing Commission, the right, power and authority to purchase units/homes and/or projects as set forth in this policy and the resolution approving this policy:
- 2) In addition to utilizing brokers and/or dealing directly with individual developers and owners, the San Diego Housing Commission is encouraged to deal directly with lenders, to the extent feasible, including, without limitation, FNMA and FHLMC, to purchase properties acquired by such lender(s) through foreclosure, or by deeds in lieu of foreclosure, and/or to acquire properties which are the subject of a Notice of Default during the foreclosure procedure, but prior to actual foreclosure. In addition, the San Diego Housing Commission is encouraged and authorized to deal directly with lenders, to the extent feasible, to meet the goal of acquiring and/or producing a minimum of an additional 350 units.
- 3) The San Diego Housing Commission is authorized to review, approve, and execute any and all documents necessary and/or appropriate to effectuate the acquisition(s) referenced in this policy.

San Diego Housing Commission
POLICY

Subject: Real Estate Acquisition Policy

Number: P 300.103

Effective Date: 2/06/2009

Page 2

- 4) The San Diego Housing Commission is authorized to contract directly with brokers and/or to cooperate with brokers to effectuate the acquisitions.
- 5) Any acquisitions of single family homes/ condominium units may be accomplished by the President and Chief Executive Officer (CEO) of the San Diego Housing Commission, or designee, without further action from or by the Board of Commissioners of the San Diego Housing Commission, provided that the acquisition(s) is/are based upon a purchase price(s) at or below an appraised value and provided further the clear fee simple title may be acquired by the San Diego Housing Commission at the close of escrow. The CEO is authorized to execute any and all documents necessary and/or appropriate to allow for the acquisition of the single family homes and/or condominium units, as approved by the General Counsel of the San Diego Housing Commission.
- 6) Acquisitions of multifamily projects and multiple units shall be approved by the Board of Commissioners of the San Diego Housing Commission.
- 7) Any action taken by the Board of Commissioners of the San Diego Housing Commission, as authorized in this policy, may be reviewed by the Housing Authority of the City of San Diego within seven (7) days of the date of any San Diego Housing Commission approval of an acquisition, by notice from any Housing Authority Commissioner (City Councilmember) and/or the Executive Director of the Housing Authority, in accordance with the applicable provisions of San Diego Municipal Code Section 98.0301(e).
- 8) Any action of the San Diego Housing Commission concerning any acquisition shall become final if no request for review by the Housing Authority is received with such seven (7) days period, in accordance with the provisions of San Diego Municipal Code Section 98.0301(e).
- 9) The San Diego Housing Commission is delegated the power and authority to acquire lending necessary and appropriate, if any, for any acquisition approved by it.

San Diego Housing Commission
POLICY

Subject: Real Estate Acquisition Policy

Number: P 300.103

Effective Date: 2/06/2009

Page 3

- 10) The property acquired shall be utilized by the San Diego Housing Commission, either as rental properties for low or moderate income housing, and/or the homes and/or units may be resold to qualified low and/or moderate income purchasers. Any property to be resold shall be in safe, decent and sanitary condition.
- 11) No property may be acquired unless and until a certified appraisal of value has been obtained for each property to be acquired. The purchase price for the property to be acquired must be at or below the appraised value.
- 12) The San Diego Housing Commission shall comply with state relocation law, as required in connection with any acquisition.
- 13) The San Diego Housing Commission shall adopt Administrative Regulations to further implement this policy.
- 14) In addition to acquiring units that have been foreclosed and/or are in jeopardy of being foreclosed, the San Diego Housing Commission is delegated authority and power to and may acquire other units/homes and projects, to achieve the goal of acquiring and/or producing a minimum of 350 units required by HUD in its approval of the public housing disposition, without further action by the Housing Authority, but subject to review by the Housing Authority as referenced in Paragraph 7 of this policy. These acquisitions may be accomplished with or without brokers, through lenders and/or directly from private owners and developers, or any combination of the foregoing.
- 15) The San Diego Housing Commission shall report to the Housing Authority and the City Council not less frequently than twice a year on the status of the acquisition(s) by written informational report(s).
- 16) The San Diego Housing Commission shall endeavor to balance the acquisitions of housing among neighborhoods so as to not overly concentrate the areas of acquisition.