

EXECUTIVE SUMMARY**DATE ISSUED:** March 4, 2010**REPORT NO:** HCR10-117**ATTENTION:** Chair and Members of the Housing Commission
For the Agenda of March 19, 2010**SUBJECT:** Proposed San Diego Housing Commission Real Estate Disposition
Policy**SUMMARY:**

At its meeting on February 13, 2009, the Board of Commissioners approved a revision to the Housing Commission's Real Estate Acquisition Policy, wherein the CEO of the Housing Commission was vested with the authority to purchase and/or otherwise acquire single family homes or condominium units without prior approval from the Board of Commissioners or the Housing Authority.

The Housing Commission now seeks a similar ability to sell or otherwise dispose of single family residential properties including homes, condominium units and other single family real estate through the NSP or acquired through foreclosure, without prior Board of Commissioners or Housing Authority approval. To achieve this end, the Housing Commission's proposed Policy 300.104, authorizes the CEO to sell or otherwise dispose of single family residential units, including homes and individual condominium units, when the CEO deems such a sale as beneficial to the interests of the Housing Commission, in accordance with the terms of the proposed policy.

FISCAL CONSIDERATIONS:

There is no net fiscal impact from this action. The homes and condominiums will be sold at prices that are affordable to low and moderate income households and families.

Respectfully submitted,



Larry Clemens
Senior Vice President
Real Estate Department

Approved by,



Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

REPORT

DATE ISSUED: March 2, 2010

REPORT NO: HCR10-117

ATTENTION: Chair and Members of the Housing Commission
For the Agenda of March 19, 2010

SUBJECT: Proposed San Diego Housing Commission Real Estate Disposition
Policy

REQUESTED ACTION:

Approve the Housing Commission Policy 300.104 (the "Disposition Policy"), in order to expedite the disposition and/or sale of single family home and condominium units acquired for use in the Neighborhood Stabilization Program ("NSP") or through foreclosure ("Real Estate Owned" or "REO").

STAFF RECOMMENDATION:

That the Board of Commissioners of the San Diego Housing Commission (the "Board of Commissioners") recommend approval to both the City Council and the Housing Authority of a new Housing Commission Disposition Policy. The proposed policy will expedite the sale and/or disposition of single family homes and condominium units acquired for use in the NSP or through foreclosure by vesting the President and Chief Executive Officer (CEO) of the Housing Commission with the authority to sell or otherwise dispose of single family homes or condominium units without waiting for approval from the Commission's Board of Commissioners or the Housing Authority. These actions by the CEO are subject to review by both the Board of Commissioners and the Housing Authority of the City of San Diego (the "Housing Authority").

BACKGROUND:

At its meeting on February 13, 2009, the Board of Commissioners approved a revision to the Housing Commission's Real Estate Acquisition Policy, wherein the CEO of the Housing Commission was vested with the authority to purchase and/or otherwise acquire single family homes or condominium units without prior approval from the Board of Commissioners or the Housing Authority. The Housing Authority and City Council approved this revision on March 24, 2009.

The Housing Commission now seeks a similar ability to sell or otherwise dispose of single family residential properties including homes, condominium units and other single family real estate through the NSP or acquired through foreclosure, without prior Board of Commissioners or Housing Authority approval. To achieve this end, the Housing Commission's proposed Policy 300.104 authorizes the CEO to sell or otherwise dispose of single family residential units, including homes and individual condominium units, when the CEO deems such a sale as beneficial to the interests of the Housing Commission, in accordance with the terms of the proposed policy.

Discussion

In order to alleviate or mitigate the housing crisis that is affecting the City of San Diego, the Housing Commission requires the power to expeditiously dispose of residential housing projects. Under the current structure, the Housing Commission may wait upwards of six (6) weeks to obtain Housing Authority approval to sell or otherwise dispose of single family homes or condominium units. If approved, the Policy would significantly increase the Housing Commission's ability to dispose of single family residential units, thereby expediting the Housing Commission's participation in the NSP. Any sale under the NSP must comply with all NSP rules, laws and regulations. Any sale or disposition under the policy must be at a price that is no lower than the Commission's or Housing Authority's original purchase price of the property to be sold, unless it is determined by an appraisal that the market value of the property has decreased, in which case, the property may be sold at the reduced price as determined by appraisal. Any sale or disposition that does not meet these requirements must be approved by the Housing Authority. All sales and dispositions shall comply with any and all federal, state, local and Housing Commission conflict of interest provisions in a fashion to make sure that no person or entity purchasing the property has any conflicts under any applicable law and to insure that there are no sweetheart deals made with insiders.

The proposed Policy 300.104 will allow the CEO of the Commission to dispose of Property under the following two (2) scenarios:

1. When the sale and/or disposition of the single family homes or condominium units are determined by the CEO to be necessary to comply with the NSP and the sale is to a low income or moderate income buyer, in accordance with the terms of the Housing Authority/City Council approved NSP Program;
2. When single family homes or condominium units have been acquired through foreclosure (REOs) and have been determined to be surplus and not needed by the Commission for its housing stock;

In any sale or disposition completed pursuant to powers granted under the proposed Policy 300.104, preference will be given to low or moderate income buyers. Further, any sale or disposition shall be in compliance with any and all state and federal disposition laws, including relocation statutes, and the NSP. Policy 300.104 also provides the CEO of the Housing Commission with the authority to make or procure loans as may be required to effectuate the sale of a single family home or condominium unit and to make repairs to the homes and condominiums prior to the resale, if and when he deems it necessary.

Both the Board of Commissioners and the Housing Authority will have the right to review any action taken by the CEO within seven (7) days of written notice of an intended action. In addition, if the Board of Commissioners elects to review a proposed action by the CEO, the Housing Authority will have the ability to review the decision of the Board of Commissioners within seven (7) days of such action, as well. To ensure the complete disclosure of the actions of the CEO, the following process will be implemented:

1. Before the CEO takes any action to sell or otherwise dispose of a single family home or condominium unit, a seven (7) day written notice will be provided to each of the Members of both the Board of Commissioners and the Housing Authority. Within seven (7) days of the receipt of such written notice, any one (1) Member of the Housing Authority or the Board of Commissioners may elect to have the entire the Housing Authority or the Board of Commissioners, respectively, review the proposed sale or disposition. Such review shall be pursuant to the provisions of San Diego Municipal Code Section 98.0301(e), in the case of the Housing Authority. If any Member of the Board of Commissioners or the Housing Authority elects to hear the matter, the sale or disposition shall not proceed until such hearing occurs before the full Board or Boards requesting a hearing. Further, in the event that the Board of Commissioners elects to hear a matter, its action will not become final until seven (7) days have elapsed from the provision of written notice to each Member of the Housing Authority, without any Member of the Housing Authority seeking a review. If a review is sought by any Member of the Housing Authority, the action of the Board of Commissioners shall not be final and no sale may proceed until a review by the full Board of the Housing Authority has occurred.
2. Any action by the CEO to sell or dispose of any single family home or condominium unit shall not become final until seven (7) days have elapsed, so long as no election by any member of either the Board of Commissioners or the Housing Authority to hear the matter(s) has occurred.
3. The CEO will provide quarterly reports to the Board of Commissioners and the Housing Authority, in which the CEO will provide information relating to all sales or dispositions made pursuant to the power granted under Policy 300.104.

Conclusion

The Housing Commission is working with numerous non-profit organizations, local business and citizens in an effort to mitigate the effects of the foreclosure crisis. Successful mitigation requires expeditious action by the Commission, especially in capitalizing on opportunities to sell or otherwise dispose of foreclosed upon single family homes or condominium units and as necessary to comply with the NSP. Expediting the sale of homes or condominiums and rehabilitation will stimulate neighborhood revitalization.

If approved by the Board, the Policy 300.104 will be forwarded to the City Council's Land Use and Housing Committee and ultimately to the Housing Authority and the City Council, in a joint meeting, for final approval.

FISCAL CONSIDERATIONS:

There is no net fiscal impact from this action. The homes and condominiums will be sold at prices that are affordable to low and moderate income households and families.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

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. The Housing Authority and the City of San Diego approved the Housing Commission's proposed revisions to the NSP on August 17, 2009.

The Housing Commission's proposed approach to mitigate the foreclosure crisis affecting the City of San Diego, which included the aforementioned expansion of the Housing Commission's real estate acquisition policy, was approved by the Housing Commission on February 20, 2009. The Housing Commission response to the foreclosure crisis was approved by the Housing Authority on March 24, 2009.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public hearings on the NSP, 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.

ENVIRONMENTAL REVIEW:

The proposed addition of the Housing Commission's Disposition Policy 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 AND PROJECTED IMPACTS:

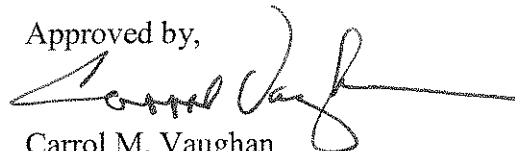
Residents of low and moderate income neighborhoods, particularly those areas most affected by foreclosures, community based organizations, planning groups, and community based service providers.

Respectfully submitted by,



D. Lawrence Clemens
Senior Vice President
Real Estate Department

Approved by,



Carrol M. Vaughan
Executive Vice President & Chief
Operating Officer

Attachment: New Policy P 300.104 – Real Estate Disposition

Policy P 300.104

Proposed San Diego Housing Commission Real Estate Disposition Policy

Purpose

To provide a comprehensive policy of the San Diego Housing Commission concerning the disposition and sale of single family homes/condominium units by the President/Chief Executive Officer of the San Diego Housing Commission [CEO].

Goal

To provide one policy and procedure to allow the CEO to expeditiously sell and dispose of single family homes/condominium units on terms set forth in this policy, as required by: (1) the NSP Program/Other Programs approved by the Housing Authority of the City of San Diego or the City of San Diego; and, (2) For single family homes or condominium units acquired through foreclosures or deeds in lieu of foreclosure by either the Housing Authority and/or the San Diego Housing Commission.

Implementation of Sale or Disposition

- 1) In order to allow for expeditious sale and disposition of single family homes and/or condominium units, without approval by the Board of Commissioners of the San Diego Housing Commission ["Board of Commissioners"] or the Housing Authority of the City of San Diego ["Housing Authority"], the Housing Authority and the City Council of the City of San Diego hereby delegates to the President and Chief Executive Officer of the San Diego Housing Commission [CEO] the power to sell and dispose of single family homes and/or condominium units without further approval by either the Housing Authority or the Board of Commissioners in the following instances:
 - (A) When the sale and/or disposition of the single family homes or condominium units are determined by the CEO to be necessary to comply with the NSP

program and the sale is to a low income or moderate income buyer in accordance with the terms of the Housing Authority approved NSP Program; and,

- (B) When single family homes or condominium units have been acquired by foreclosure (REOs) and have been determined to be surplus, within the meaning of Health and Safety Code Section 34315.7, and not needed by the Commission for its housing stock.

2) **Conditions for sale or disposition by the CEO of single family homes/condominium units:**

- A) All sales of condominium units or single family homes acquired by the Commission or the Housing Authority, under the NSP Program, for sale to subsequent low or moderate income buyers must be sold within the parameters of the Housing Authority approved NSP. The CEO is given and delegated the full authority and power to make expenditures within his or her procurement authority, as referenced within the Housing Authority approved procurement policy, to repair and rehabilitate such homes and/or condominiums, if determined necessary or advisable by the CEO, before such resale, or, in the alternative, to sell such homes or condominiums in an "AS IS-WHERE IS" condition without repair or rehabilitation. In such cases of no repair or rehabilitation, the CEO is delegated the authority and power to make rehabilitation loans to the homebuyers to make repairs or remediation within his or her authority levels, for repair by the homeowners after acquisition.
- B) All sales of condominium units or single family homes acquired as REOs, under the

terms of the Commission's foreclosure policy or otherwise, shall also be sold and disposed of by the CEO in accordance with the procedures set forth within Health and Safety Code Section 34315.7, with preference being given to low and moderate income families and/or households, to the extent feasible.

- C) The CEO is authorized to review, approve and execute any and all documents and to perform such acts as are necessary and/or appropriate and/or convenient to effectuate the sales and dispositions referenced in this policy.
- D) The CEO is authorized to contract directly with brokers and/or cooperate with brokers to effectuate the sales and dispositions and to pay commissions as appropriate.
- E) All sales and dispositions shall be accomplished in a manner that shall provide for low and moderate income ownership opportunities to the qualified persons, households and families, to the greatest extent possible. All sales and dispositions shall be at prices no lower than the purchase price paid by the Commission and/or the Housing Authority, except to the extent that the fair market value of the property acquired, as determined by an appraisal at the time of sale, has decreased from said purchase price(s), in which case the sales or dispositions may be made at the appraised value at the time of sale. All sales involving the NSP Program shall be made in accordance with all laws, rules and regulations affecting the NSP Program. To the extent that any proposed sale or disposition does not meet all of the requirements set forth within this policy, it must be forwarded to the Housing Authority

for approval prior to the consummation of the proposed sale or disposition.

- F) Any action taken by the CEO to sell or dispose of any single family home/condominium unit shall be preceded by a seven (7) day written notice to each of the Members of the Board of Commissioners and each of the Members of the Housing Authority. Within seven (7) days of the receipt of such written notice, any one (1) Member of the Board of Commissioners or any one (1) Member of the Housing Authority may elect to have the entire Board of Commissioners, or the entire Housing Authority, respectively, review a proposed sale or disposition. Such review shall be pursuant to the provisions of San Diego Municipal Code Section 98.0301(e), in the case of the review by the Housing Authority of the City of San Diego. If any Member of the Housing Authority or the Board of Commissioners elects to hear the matter, the sale or disposition shall not proceed until such hearing occurs before the full Board of the body seeking the review. In the event that the Board of Commissioners elects to hear a matter, the Board of Commissioners shall give seven (7) days written notice of its action to each Member of the Housing Authority, and any action of the Board of Commissioners shall not become final until seven (7) days have elapsed from the written notice to the Housing Authority Members, without any Member of the Housing Authority seeking review of the decision. If a review is sought of a decision of the Board of Commissioners, by any Member of the Housing Authority, any action of the Board of Commissioners shall not be

final until it is reviewed by the Members of the Housing Authority.

- G) Any action by the CEO to sell or dispose of any single family home or condominium unit shall not become final until seven (7) days have elapsed, with no election by any Member of either the Board of Commissioners or the Members of the Housing Authority to hear the matter(s).
- H) The CEO is delegated the power and authority to acquire and/or provide such lending as is required to allow the property to be disposed of and/or sold.
- I) The CEO shall comply with any and all relocation laws, if any, to the extent applicable, in connection with a sale or disposition of the single family homes and/or condominium units.
- J) The CEO shall report to the Board of Commissioners and the Housing Authority, quarterly, concerning all sales and dispositions pursuant to this policy.
- K) The CEO shall adopt Administrative Regulations to implement this policy as necessary.
- L) The CEO shall, as necessary or appropriate, acquire real estate appraisals of the single family homes or condominium units, before sale or disposition, but only to the extent necessary to comply with any applicable laws or regulations concerning the sale or disposition of single family homes and/or units in accordance with the approved NSP Program and/or Health and Safety Code Section 34315.7.
- M) This policy is adopted pursuant to the provisions of Health and Safety Code Section 34320 affecting the disposition of real property.

- N) This delegation by the City Council of the City of San Diego is made pursuant to the provision of San Diego Municipal Code Section 98.0301(d).
- O) All sales and dispositions shall comply with any and all federal, state, local and Housing Commission conflict of interest provisions and shall preclude the sale of property to any person or entity that would have a conflict of interest under any applicable law. No sales shall be made to insiders at preferential rates and each sale shall be an arms length bona fide transaction.
- P) This policy does not authorize the sale or disposition of any multifamily housing project(s) without the approval of the Housing Authority of the City of San Diego, as required by San Diego Municipal Code Section 98.0301.