



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 9, 2014

TO: Mayor and Councilmembers

FROM: Administration, Housing and Human Services Division, Community Development

SUBJECT: Affordable Housing Policies And Procedures

RECOMMENDATION:

That Council consider and approve recommended changes to the Affordable Housing Policies and Procedures Manual.

EXECUTIVE SUMMARY:

This report summarizes the recommended changes to the City's Affordable Housing Policies and Procedures Manual (AHPP). The AHPP was last revised in 2007 and updated in 2010 as part of the Housing Element. Proposed changes to the existing policy are grouped into the following three general categories:

- A. Incorporation of Multi-family Housing Rehab Loan Program (HRLP)
- B. Incorporation of Tenant Based Rental Assistance (TBRA)
- C. Affordable Requirements for Ownership Units

The changes are outlined in the attached "summary matrix" which is provided to help the reader keep track of the recommended changes. For purposes of comparison, the most recent AHPP (without the proposed changes) can be accessed at the City's site <http://www.santabarbaraca.gov/services/hhs/housing/reports.asp>.

DISCUSSION:

Several new State statutes have been enacted since the preparation of the last AHHP. Of greatest importance, is the dissolution of the City's Redevelopment Agency. This AHHP policy update will be the first since the dissolution of the City's Redevelopment Agency. In accordance with the Assembly Bill 1X 26 (the Redevelopment Agency Dissolution Act), on January 10, 2012, the Santa Barbara City Council designated the City of Santa Barbara as the Successor Housing Entity to the Redevelopment Agency of the City of Santa Barbara

and on November 20, 2012, the City adopted Resolution No. 12-083 and assumed all right, title, and interest in all housing assets of the former Redevelopment Agency.

State Senate Bill 341 became effective in January 2014. This bill applies primarily to the unencumbered Housing Asset Funds (HAF) and provides that these funds must be used as was previously required for monies in the Low and Moderate Income Housing Fund established under Community Redevelopment Law. Assembly Bill 471 became effective in February 2014. This Bill implements new reporting requirements for housing successors. The updated AHPP implements the new state statutory requirements.

A. Incorporation of Multi-family Housing Rehab Loan Program (HRLP)

Historically, HRLP program funding was primarily used for single-family housing units and a separate policy manual covered that program's policies and procedures. Due to a reduction of owners' participation, funding, and staff, the single-family program is in the process of being phased out. During the past several years, the program has been limited to emergency rehabilitation of substandard low to moderate-income single-family units on an as-needed basis. There have been no emergency requests during this time, and the program will be completely phased out beginning in Fiscal Year 2016. The City does however continue to utilize HRLP loan repayment funds for multi-family low income rental unit rehabilitation, which ensures the preservation of safe, attractive, and affordable rental housing.

Recommended change: The AHPP manual would incorporate relevant HRLP policies and procedures for multi-family low income rental unit rehabilitation.

B. Incorporation of Tenant Based Rental Assistance (TBRA)

The City has been utilizing a portion of its federal Home Investment Partnership program funds for a Tenant Based Rental Assistance program since 2010 in accordance with Housing and Urban Development (HUD) regulations. This program is nearly identical to Section 8 assistance in that participants receive a rental subsidy that is used to rent apartments that tenants select that meet specified requirements.

HUD regulations governing TBRA allow jurisdictions to define the service area covered to facilitate participants leasing more affordable units and sustaining their housing after assistance has ended. On June 10, 2014, Council approved a housing provider with a TBRA program that allowed tenants to rent units throughout the South Coast region of Santa Barbara County (from Gaviota to the Ventura County line).

Recommended changes: The geographic expansion would be included in the City's TBRA general policy and the TBRA policy would be attached as an appendix to the AHPP.

C. Affordability Requirements for Ownership Units

Affordability requirements for ownership units begin during predevelopment of a project and compliance monitoring and enforcement continues until the end of the affordable period. Projects providing affordable ownership units go through the same planning process as market-rate units. Every potential purchaser of a City affordable unit must meet the City's income and occupancy requirements; obtain approved financing and execute City-required documentation including the City's "Affordable Covenant and Option to Purchase" (ACOP). To more effectively administer the City's ownership program, staff is recommending the following changes which, if approved, will be incorporated into AHHP and its governing document, the Affordable Covenant and Option to Purchase.

1. Initial Price Calculation for Affordable Units

a. The initial maximum sale price for affordable sale units is determined according to the previously approved formula. The initial sale price calculation is very sensitive to changes in mortgage interest. The higher the interest rate, the lower the mortgage a given monthly loan payment will support. If the initial sale price is calculated at a time that interest rates are unusually low, subsequent buyers will have difficulty affording the unit if interest rates have increased substantially in the interim.

Recommended change: To further the goal of long-term affordability, in order to smooth out interest-rate fluctuations, the City would annually set the interest rate to be used in its sale price calculations by using the average rate charged by local institutional lenders on a zero point 30-year fixed rate mortgage.

b. Most buyers of affordable units cannot afford a 20% down payment. In recognition of this, the City assumes a 10% down payment in its affordable price calculations. However, if a borrower is putting less than 20% as a down payment, conventional mortgage lenders may require the borrower to either obtain private mortgage insurance (PMI) or obtain a second deed of trust loan (at a higher interest rate) for the amount of financing above 80% of value. Either of these options increases the costs to the borrower. These extra costs have not been included in the City's affordable price calculations. Staff estimates that these added costs would be equivalent to a 0.25% increase to the interest rate.

Recommended change: To offset Private Mortgage Insurance premiums, the City would include a 0.25% increase to interest rate in the calculation of initial sale prices.

c. The sales price calculation is also sensitive to changes in homeowner association (HOA) fees. Annually, local HOA fees are averaged to determine the amount to use in the sales price calculation. Since the AHPP was last updated, there have been new developments with affordable ownership units that have higher than average HOA dues. It is often difficult for households within a defined income range to actually qualify to buy a unit when the HOA fees are higher than average. The higher the HOA fees, the lower amount of the buyers' income that is available for mortgage payments.

Recommended change: Developers of new affordable ownership units would be encouraged to voluntarily include their proposed method of calculating the amount of Homeowner's Association dues applied to the designated affordable housing units. This calculation would include consideration for long-term affordability to unit owners.

2. Qualification Documents

At the time of an occupant purchaser's application to participate in the process of purchasing an affordable property, the occupant purchaser's annual gross household income (from all sources) must not exceed the maximum for the specified income category (such as moderate income, middle income, etc.). Income from all adults who will occupy the property full-time is included in the household income. All information and documentation provided to the City is subject to third-party verification. If an applicant has not purchased a home within a reasonable time frame, updated documentation should be submitted.

Recommended change: Documentation submitted to the City for qualification purposes would be valid for a 90-day period.

3. Limit on assets

Community redevelopment law requires that moderate-income purchasers' minimum housing expenses (including property taxes and HOA fees) be at least 28% of the occupant purchasers' income. This requirement helps to assure that the occupant purchasers who benefit from assistance are those who are in need of the assistance. For projects restricted to middle or upper-middle income purchasers, or for projects not subject to community redevelopment law, staff recommends that an applicant's assets should not be in an amount that would enable them to afford an entry-level market rate unit.

Recommended change: Affordable ownership applicants' non-retirement assets would not exceed three (3) times the purchase price of the affordable property.

4. Excess Down Payment or Cash Purchase

Current policy stipulates that an applicant's down payment must not be less than 5% or exceed 40% of the purchase price of the affordable property. Occasionally a purchaser has cash for a larger down payment or an all-cash purchase (perhaps from an inheritance or divorce settlement).

Recommended change: Subject to a written waiver from the Community Development Director, an applicant with a down-payment in excess of 40% would still be able to apply for a housing award. These applicants would remain subject to all other qualification requirements including verification that they have sufficient monthly income to support the required 40% housing cost-to-income ratio under a theoretical 60% LTV 30-year fully amortized mortgage.

5. Debt to Income Ratio

Current policy stipulates that an occupant purchasers' housing expenses, including mortgage loan payment, taxes, insurance and HOA fees, shall not exceed 40% of the occupant purchaser's gross household income. To ensure that the occupant purchaser can afford to buy and avoid default, it is also important that the purchaser's total debt to income be determined.

Recommended change: An occupant purchasers' total debt to income ratio would not exceed 50%.

6. Adjustable Rate Loans

Current policy stipulates that when purchasers obtain an adjustable rate mortgage to purchase an affordable unit, the mortgage loan payment is calculated using fully indexed interest rate rather than an introductory rate. To assure affordability regardless of fluctuations of interest rates, the mortgage loan payment should be calculated using the fully indexed rate or the start rate, whichever is higher.

Recommended change: In the case of an adjustable rate mortgage, the mortgage loan payment would be calculated using the fully indexed rate or the start rate, whichever is greater.

7. Resale Price Calculation

a. Upon resale during the affordability period, affordable units must remain affordable to households within the approved income level. Affordability is assured upon the sale of any affordable unit through the covenant, which provides the formula for calculating the maximum allowable price upon resale. The formula uses the current Area Median Income (AMI) in effect at the time of the calculation. Depending upon fluctuations in the AMI and the number of years the property was owned, there is a remote possibility that an owner's resale price could be less than their purchase price.

Recommended change: For owners in good standing and not in violation of the Covenant, the City-calculated maximum resale price would not be less than the owner's purchase price; however, the City-calculated maximum resale price would not be a guarantee that the owner will be able to sell for that price due to market conditions or due to specific project requirements.

b. Occasionally, affordable housing Homeowner's Associations (HOA) must levy special assessments to preserve the project. Upon prior written approval by the City, the amount of the special assessment allocated to each affordable owner is added to that owner's resale price upon payment in full of the assessment. This increase is only applied upon resale and cannot be used for refinancing purposes. Due to the City's aging

affordable housing stock, special assessments could be assessed on a more frequent basis and therefore the AHHP should be updated to further clarify policy.

Recommended change: Under no circumstances would an affordable unit's maximum sales price be increased by the amount of monthly HOA dues/assessments or the conversion of an increase of HOA dues to a Special Assessment. Resale price increases requested due to a Special HOA assessment imposed on a City affordable housing project would be considered on a project-by-project basis, subject to prior notice to the City by the HOA Board and prior-to-assessment approval by the Community Development Director or designee.

8. Purchase Upon Default

In the event of default, the City has the option to purchase the affordable unit at a 'default' purchase price as previously approved. The default purchase price is further reduced by costs to repair and resale the unit. Previously, the policy reduced the default purchase price by six percent (6%) to cover the City's resale costs.

Recommended change: The default purchase price would be reduced by ten percent (10%) to cover the City's resale costs.

9. Owner's Improvements

Current policy provides that no price increase or other reimbursement will be allowed for property improvements made by an owner of a City-affordable unit. Exceptions to the policy are considered on a case-by-case basis by the Community Development Director or designee. Administration of the current policy has led to misunderstandings in cases where the owner has made improvements that did not conform to policy requirements.

Recommended change: Revise the affordability covenant as follows:

No price increase or other reimbursement would be allowed for property improvements made by an owner of a City-affordable unit. Exceptions to the policy would be considered on a case-by-case basis by the Community Development Director or designee. The minimum cost threshold for exception consideration would be \$2,000 and the following would apply:

1. The improvements must be new, permanent and substantial (maintenance repairs would not be considered). Only new permanent and substantial improvements to the kitchen and/or bathroom(s) or upgrade of flooring would be considered.
2. Improvements that are considered decorative, luxury, nonessential, or maintenance would not be considered. Examples include, but are not limited to painting, wall coverings, window coverings, replacement of carpeting, and lighting.

3. Owners would be required to contact the City to obtain program policy regarding owner improvements prior to the commencement work.
4. Owners would be required to document that improvements would be completed with all required City permits and that the improvements would meet the requirements imposed by their Homeowners Association and recorded CC&Rs.

In order for the City to consider an Owners request for an exception to allow for a price increase for improvements made by the Owner, the Owner would be required to submit the following documentation:

- a. Before and after photos
- b. Proof of payment for the work that was completed, such as paid invoices or receipts
- c. A copy of any necessary permits, if required; and
- d. An approval letter from the HOA (if required)

The allowed price increase for approved improvements would not exceed the lower of the following:

1. Fifty percent (50%) of the actual out-of-pocket cost of approved improvements paid by owner (as verified by paid receipts and/or contractor lien releases); or
2. Ten percent (10%) of the current calculated maximum affordable sale price prior to improvements.

10. Payment of Commissions

Previous policy covering the payment of commissions was confusing and often misinterpreted by buyers and sellers of affordable units. An affordable owner may not require a qualified purchaser to pay any commissions or other costs of sale typically paid by sellers of residential real property. For various reasons, many City-affordable owners have elected to sell without listing their property with a real estate broker. If a seller does elect to list with a broker and the listing agreement provides for payment to a 'cooperating' (occupant purchaser's) broker, then the full commission is paid by the seller to their broker and their broker cooperates by paying the occupant purchaser's agent from the total commission paid.

Recommended change: The seller could not require the purchaser to pay the listing broker; likewise, the purchaser could not require the seller to pay the selling (purchaser's) agent. Absent a 'cooperating' provision in the listing agreement, an occupant purchaser of a City affordable unit may contract with a real estate broker for representation and pay the negotiated fee for this service.

11. Cash-out Refinance

Current policy states that the City will generally approve a refinancing of the first mortgage loan if no additional cash is taken out other than the loan costs, and the terms of the new loan are more favorable. If the owner wishes to take out cash, the City will consider the request on a case-by-case basis.

Recommended change: If the City approves a cash-out refinance to enable the owner to pay off installment debt, the City would require that the debt payment would occur and be documented through the refinance escrow.

12. Authority

Future updates, as warranted, would reflect changes in the indexes used for calculation of income, rents and prices, new federal and state regulations, City Council action or administrative needs. The Community Development Director, or designee, would have the authority to approve administrative revisions subject to approval by the City Attorney.

CONCLUSION:

Council is requested to review the recommended changes to the City's Affordable Housing Policies and Procedures and adopt the changes that Council deems appropriate. A draft of the revised document is available for review by members of the public at the Community Development Department located at 630 Garden Street and the City Clerk's Office and by the Mayor and Council members in the Council reading file. The AHPP is also posted on the City's web site at <http://www.santabarbaraca.gov/services/hhs/housing/reports.asp>.

ATTACHMENT: Summary Matrix

PREPARED BY: Deirdre Randolph, Community Development Programs
Supervisor/SLG

SUBMITTED BY: George Buell, Community Development Director

APPROVED BY: City Administrator's Office

SUMMARY MATRIX:

Recommended Changes to the Affordable Housing Policy and Procedures Manual

A. Incorporation of Multi-family Housing Rehabilitation Loan Program (HRLP)
The AHPP manual would incorporate relevant HRLP policies and procedures for multi-family low income rental unit rehabilitation
B. Incorporation of Tenant Based Rental Assistance (TBRA)
The geographic expansion would be included in the City's TBRA general policy and the TBRA policy would be attached as an appendix to the AHPP.
C. Affordable Requirements for Ownership Units
1. Initial Price Calculation for Affordable Units
<p>a. To further the goal of long-term affordability, in order to smooth out interest-rate fluctuations, the City would annually set the interest rate to be used in its sale price calculations using the average rate charged by local institutional lenders on a zero point 30-year fixed rate mortgage.</p> <p>b. To offset Private Mortgage Insurance premiums, the City would include .25% increase to interest rate in the calculation of initial sale prices.</p> <p>c. Developers of new affordable ownership units would be encouraged to voluntarily include their proposed method of calculating the amount of Homeowner's Association dues applied to the designated affordable housing units. This calculation would include consideration for long-term affordability to unit owners.</p>
2. Qualification Documents
Documentation submitted to the City for qualification purposes would be valid for a 90-day period.
3. Limit On Assets
Affordable ownership applicants' non-retirement assets would not exceed three (3) times the purchase price of the affordable property.
4. Excess Down Payment or Cash Purchase
Subject to a written waiver from the Community Development Director, an applicant with a down-payment in excess of 40% would still be able to apply for a housing award. These applicants would remain subject to all other qualification requirements including verification that they have sufficient monthly income to support the required 40% housing cost-to-income ratio under a theoretical 60% LTV 30-year fully amortized mortgage.
5. Total Debt-to-Income Ratio
An occupant purchasers' total debt to income ratio would not exceed 50%.
6. Adjustable Rate Loans
In the case of an adjustable rate mortgage, the mortgage loan payment would be calculated using the fully indexed rate or the start rate, whichever is greater.

SUMMARY MATRIX:

Recommended Affordable Policy Changes

Page 2

<p>7. Resale Price Calculation</p> <p>a. For owners in good standing and not in violation of the Covenant, the City-calculated maximum resale price would not be less than the owner's purchase price; however, the City-calculated maximum resale price would not be a guarantee that the owner will be able to sell for that price due to market conditions or due to specific project requirements.</p> <p>b. Under no circumstances would an affordable unit's maximum sales price be increased by the amount of monthly HOA dues/assessments or the conversion of an increase of HOA dues to a Special Assessment. Resale price increases requested due to a Special HOA assessment imposed on a City affordable housing project would be considered on a project-by-project basis, subject to prior notice to the City by the HOA Board and prior-to-assessment approval by the Community Development Director or designee.</p>
<p>8. Purchase Upon Default</p> <p>The default purchase price would be reduced by ten percent (10%) to cover the City's resale costs.</p>
<p>9. Owner's Improvements</p> <p>Minimum threshold for consideration for exception would be \$2,000; improvements would be permanent and substantial to kitchen, bath, or upgrade of flooring; with prior approval by City; HOA and City Bldg requirements met; documentation would be submitted; Price increase, if approved, would be the lower of fifty percent (50%) of actual cost or ten percent (10%) of maximum sale price as calculated by City prior to improvements.</p>
<p>10. Payment of Commissions</p> <p>The seller could not require the purchaser to pay the listing broker; likewise, the purchaser could not require the seller to pay the selling (purchaser's) agent. Absent a 'cooperating' provision in the listing agreement, an occupant purchaser of a City affordable unit may contract with a real estate broker for representation and pay the negotiated fee for this service.</p>
<p>11. Cash-out Refinance</p> <p>If the City approves a cash-out refinance to enable the owner to pay off installment debt, the City would require that the debt payment would occur and be documented through the refinance escrow.</p>
<p>12. Authority</p> <p>Future updates, as warranted, would reflect changes in the indexes used for calculation of income, rents and prices, new federal and state regulations, City Council action or administrative needs. The Community Development Director, or their designee, would have the authority to approve administrative revisions subject to approval as to form by the City Attorney.</p>