

Short Sale Policy

Non-Owner Occupied Housing – Housing Acquisition & Rehabilitation

Effective Date:

July 28, 2010

Applicable Programs:

HOME, CDBG, LCAHP, ADDI

Approved by:

Community Development Commission – July 28, 2010

Background

This policy concerns the recapture of previously awarded housing acquisition and rehabilitation loan funds when the borrower has requested a “short sale” of the assisted housing unit. A formal policy is necessary due to the increased frequency of short sales in the current housing market.

Short Sales typically occur when a borrower(s) cannot pay their mortgage and the lender(s) agree to allow the sale of the home at a loss (i.e. the sale proceeds are less than the balance owed on the loan).

This helps to avoid foreclosure which involves heavy costs for the lender(s) and damage to the credit of the borrower(s). In these instances the primary lender’s investment is often significantly greater than that of the County so they consume much if not all of the proceeds from the sale.

This policy will increase the likelihood that Lake County can recapture at least a portion of previously awarded funds for future program use.

An important consideration in these situations is the effect of the short sale or foreclosure on the current tenants of the property, who are not in any way responsible for the situation the borrower faces.

Policy

In the event that the property is unable to be sold for a sufficient amount in order to pay off the first mortgage with a private lender and the second mortgage with Lake County, the County of Lake may negotiate a short sale if:

1. The buyer agrees to a mechanism to guarantee the property remains affordable for the amount of time remaining on the original buyer’s agreement (ie, the amount of time left on the Land Use Restriction Agreement).
2. The buyer agrees to submit Annual Income Certification Forms to the Community Development Division for each tenant in assisted units for the remainder of the affordability period.
3. The buyer agrees to accept Housing Choice Vouchers (Section 8) for tenants for the remaining affordability period.
4. The buyer agrees to honor the leases of all current tenants.

Lake County shall also seek to recapture a percentage of the remaining balance owed (in lieu of the total amount owed) based on the amount of initial investment as follows:

- Less than \$50,000 investment – 40%
- \$50,000 - \$200,000 investment – 50%
- More than \$200,000 investment – 60%

This acceptance is condition upon all Federal Housing Administration (FHA) pre-foreclosure sale requirements being met, and the submission of a formal written request from the borrower including the following supporting documentation:

- Preliminary HUD-1
- Title Report
- Sales Contract
- Proof that any outstanding liens have been paid
- Copy of property appraisal

In no situation shall any proceeds from the short sale go back to the mortgagee.