

# OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

## POLICY GUIDELINES FOR FORECLOSED PROPERTIES ASSISTED WITH OHCD MORTGAGES PROGRAM

### I. Program Description

OHCD provides purchase assistance as well as home repairs and home rehabilitation assistance to income eligible families. The assistance provided is secured by a deferred mortgage. In most cases, these mortgages are subordinate to a loan from a private lender. Occasionally, a family will default on its primary mortgage, resulting in the property being foreclosed upon by the first mortgage holder. In these instances the primary mortgage holder sells the property. In order to protect affordable housing as a community asset, OHCD will use these guidelines to determine if public funds should be used to acquire the home and resell it to another income eligible family.

### II. Definitions

**Estimated Value-** the estimated sales price for the home after all repairs are made. The Estimated Value will be the greater of:

1. The last sales price of the home.
2. The value of the home as determined by the Sarasota County Property Appraiser increased by 10%.

**Estimated Acquisition Costs-** All costs associated with acquiring the property including legal fees and all staff time. The Estimated Acquisition Costs will be the total of the following:

1. The total amount of the superior liens, including plaintiffs costs and all interest charges.
2. The estimated costs of the City Attorney to acquire and dispose of the property.
3. The estimated OHCD staff costs as provided by the Director of OHCD.
4. The estimated cost of needed repairs provided by the Director of OHCD determined by a "windshield" estimate prepared by an OHCD inspector.
5. The cost to sell the property by a non-profit agency as outlined in the SHIP Local Housing Assistance Plan.
6. All other costs necessary to purchase and dispose of the property including, but not limited to; costs, lock changing, property removal, property cleanup, recording fees and other miscellaneous costs.

### **III. Foreclosure Decision Process**

OHCD will purchase a foreclosed property if the Estimated Value exceeds the Estimated Acquisition Costs of the property. The amount of OHCD's mortgage will not be considered as a part of the Estimated Acquisition Costs.

### **IV. Disposition Process**

Properties acquired by OHCD will be offered to non-profit housing developers who have received funding from the OHCD for affordable housing programs. First priority will be given to Community Housing Development Organizations (CHDOs) that have received funding from OHCD. Second priority will be given to other non-profit housing providers participating in the Housing Partnership Program. Properties that are not desired by non-profit housing providers will be sold to for profit developers using the same process as the Property Acquisition Program.

After the property has been acquired and is ready for resale by OHCD the office will provide an "invitation to buy" in writing to the CHDOs serving the geographic area where the property is located. The notice will contain:

1. The physical address of the property.
2. A map showing the location of the property.
3. Any reports prepared by the OHCD showing the work write-up or rehabilitation that may be required on the residence.

The CHDOs will have 10 business days in which to inspect the property and notify OHCD if they are interested in acquiring the property. In the event a CHDO is not interested in the property, OHCD will notify all non-profit agencies that have received Housing Partnership funds during the past 24 months that the property is available. The process for notifying non-profit agencies will be the same as for CHDOs. Non-profit agencies will have 10 business days to notify OHCD if they are interested.

In the event more than one non-profit agency is interested in the property, the Director of OHCD will determine which non-profit agency will receive the property. The Director shall use the capacity of the non-profit, the performance history of the non-profit and the geographic areas served by the non-profit in making this decision.

If there is no interest in the property by CHDO's or other non-profit partnership organizations the property will be made available to for-profit entities. The office will advertise the availability of the property a local newspaper. The property will be sold by bid, with the minimum bid being

the cost of OHCD to acquire the property plus any liens and costs incurred. Before transfer of title to the for-profit entity, that entity will certify that the property will be sold to an eligible beneficiary with an income at or below 120% of the County Median Income.

The property will be transferred to the selected non-profit agency. The purchase price will be the amount of the outstanding lien and the cost to acquire the property. Should the property need rehabilitation, OHCD will loan Housing Rehabilitation funds to the non-profit agency in an amount necessary to properly rehabilitate the property. Non-profit agencies will be eligible to receive all financing as a 0% loan with all payments deferred until the property is sold, transferred or no longer used to house eligible persons.

#### **V. Development fee**

Successful non-profit applicants will be permitted to receive a developer's fee for the resale of the awarded property. The developer's fee will be awarded as provided in the Partnership Program Housing Guidelines.

#### **VI. Beneficiaries**

All non-profit housing providers that acquire this foreclosed property must sell the property to an eligible beneficiary with an income at or below 80% of the County Median Income. All properties must be sold to eligible buyers, for the appraised cost or the cost to develop the unit whichever is less. The eligible buyer may receive Down Payment Assistance in accordance with adopted Program Policy Guidelines.

In the event the sales price to a beneficiary is less than the cost to acquire and renovate the property, OHCD will forgive the difference.

#### **VII. Appeal Process**

Applicants may appeal the results of the allocation process to the City / County Management Staff. The formal appeal must be submitted in writing and received no later than seven calendar days from the date of the award to a non-profit applicant. The formal appeal must contain the following information:

1. The name, address, and telephone number of the person and agency requesting the appeal.
2. A detailed statement of the alleged factual or legal errors in the disposition process.
3. The form of relief requested.

**The decision of the City / County Management Staff is final and may not be further appealed.**

**The request for a property, the process by which the foreclosed property is awarded and the decision of the City / County Management Staff do not give rise to any entitlement to an award of properties. The awarding of the property is a discretionary matter solely within the auspices of the City of Sarasota and Sarasota County. Applicants shall have no cause of action seeking to compel an award of property for negotiation for said properties or otherwise challenge the decision of the City / County Management Staff.**

A letter notifying the applicant of the award of the property will be sent by U.S. mail. The sale/transfer of ownership of the property will initiate with a sales agreement and be carried out with a closing. A mortgage and promissory note will be executed at the closing. The terms and conditions upon which the property will be sold shall be set forth in the purchase and sale agreement, as well as the mortgage and promissory note.

### **VIII. Recapture of Properties**

It is the desire of the Office of Housing and Community Development to insure that each agency is successful in meeting the needs of the residents of Sarasota County. However, if the non-profit agency is unable to meet the timeline for the purchase of this housing or uses this property for ineligible activities, the City / County Management Staff may recapture the property awarded to the non-profit agency. Prior to recapturing any property, written notice must be provided to the agency and the agency given a period of time to correct the problem. In addition, the Director of the Office of Housing and Community Development must attempt to meet with the Director of the non-profit agency and offer technical assistance to assist the agency in meeting the requirements of the program.

### **IX. Administration of the Program**

The Director of the Office of Housing and Community Development will administer the Disposition of OHCD Properties Program consistent with these policies. In the event an affected party believes that the Office of Housing and Community Development is not interpreting these policies correctly, the affected party must request a meeting with the Director to discuss and seek resolution of the conflict.

If, following a meeting with the Director, the issue remains unresolved, the affected party will have the ability to appeal the Director's decision to the

City / County Management Staff. The written appeal must be filed with the Director within 15 days of the meeting with the Director. The affected party must, in writing, describe the issue and the reason they believe the interpretation is not accurate. The City / County Management Staff will consider the request, within 45 days, and make a final decision. **The decision of the City/County Management Staff is final and may not be further appealed.**

**X. Conflicts with State or Federal Law**

In the event these policies are found to conflict with State law or the rules of the Florida Housing Finance Corporation or Federal regulation if Federal funds are used, now or in the future, the State law, rules of the Florida Housing Finance Corporation, or Federal law will take precedence. The Director of the Office of Housing and Community Development is delegated to amend these policies to the extent necessary to make these policies consistent with State law, or the rules of the Florida Housing Finance Corporation, or Federal laws if Federal funds are used, if applicable. Within five working days of making any changes to these policies, the Director must notify the City / County Management Staff with a description of the changes made to these policies and the reason for any changes.

# OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

## SATISFACTION OF LIENS

### **I. Background**

The Office of Housing and Community Development (OHCD) provides loans to assist residents buy or repair a home. To secure the loan, OHCD records liens against the applicant's home. The Director of OHCD has the authority to satisfy and release liens when the full amount of the loan is repaid. These guidelines establish when the Director of OHCD may accept a reduced payment and satisfy a mortgage lien.

### **II. Policy**

The general policy is that the borrower must repay the full amount of the loan before the lien is satisfied by OHCD. There are situations where it may be advantageous for OHCD to accept less than the full amount of the loan and still satisfy the lien. These guidelines outline when the Director of OHCD is authorized to satisfy a lien for less than full payment.

### **III. Short Sales**

The Director of OHCD is authorized to approve a short sale, accept less than the full amount of the loan and satisfy the lien under the following conditions:

1. The value of the property as determined by an appraisal is less than the total amount of the mortgages on the property; and
2. If OHCD is in a 1<sup>st</sup> mortgage position, the sales price is equal to or greater than the value of the property as determined by an appraisal after reasonable closing costs, or
3. If OHCD is in a subordinate mortgage position, the superior mortgage holder is also accepting a reasonable amount of loss.

### **IV. Reduction in Payment**

The Director of OHCD is authorized to accept less than full payment and satisfy the lien under the following conditions:

1. The reduction of the lien will allow the family to participate in the refinancing of a mortgage or mortgages under the Housing and Recovery Act of 2008 or other similar state or federal housing bill.
2. The value of the property as determined by an appraisal is less than the total amount of the mortgages on the property; and

3. The property is in foreclosure or threat of foreclosure and the amount of loan funds repaid to OHCD will be greater than if the property is foreclosed upon.

#### **IV. Administration of Program**

The Director of OHCD will administer this policy. In the event an affected party believes that the Director is not interpreting these policies correctly, the affected party will have the ability to appeal the Director's decision to the City/County Management Staff. A written appeal must be filed with the Director within 15 days of the action to be appealed. The affected party must describe in writing the issue and the reason they believe the interpretation is not accurate.

The City/County Management Staff will consider the request and make a final decision. The decision of the City/County Management Staff is final and may not be further appealed.

#### **V. City / County Management Staff Approval Authority**

The City/ County Management Staff is authorized to evaluate and approve any request that deviates from these guidelines if such a request demonstrates that it is in the best financial interest of the OHCD program.

#### **VI. Conflicts with State and Federal Law**

In the event these policies are found to conflict with state or federal law, now or in the future, the state law or federal law will take precedence. The Director of OHCD is delegated to amend these policies to the extent necessary to make these policies consistent with state and federal law. Within five working days of making any changes to these policies, the Director must notify the City/County Management Staff with a description of the changes made to these policies and the reason for any changes.

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