

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning & Community Development

Urgent _____ Routine X

CEO Concurs with Recommendation YES _____ NO _____
(Information Attached)

BOARD AGENDA # _____ *D-1

AGENDA DATE: April 10, 2001

4/5 Vote Required YES _____ NO X

SUBJECT:

APPROVAL OF FIRST TIME HOME BUYER PARTICIPATION GUIDELINES TO THE STANISLAUS COUNTY PROGRAM INCOME REUSE PLAN

STAFF RECOMMENDATION:

APPROVE THE FIRST TIME HOME BUYER PARTICIPATION GUIDELINES TO THE STANISLAUS COUNTY PROGRAM INCOME REUSE PLAN.

FISCAL IMPACT:

The implementation of the guidelines will not cause a fiscal impact to the Program Income budget.

BOARD ACTION AS FOLLOWS:

No. 2001-263

On motion of Supervisor Blom, Seconded by Supervisor Caruso

and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

Motion:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Christine Ferraro Deputy

File No.

SUBJECT: APPROVAL OF FIRST TIME HOME BUYER PARTICIPATION GUIDELINES TO THE STANISLAUS COUNTY PROGRAM INCOME REUSE PLAN

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DISCUSSION: BOARD GOAL: Safe Healthy Communities

The First Time Home Buyer Program is an eligible use of Program Income funds. It is part of the Stanislaus County Program Income Reuse Plan and is approved by the State Housing and Community Development (HCD) department.

The HCD requires Participation Guidelines be established and adopted for the First Time Home Buyer Program. The guidelines prepared for use by Stanislaus County are attached as Exhibit A and have been prepared using the Community Development Block Grant Management Manual as a guide.

The Guidelines are used to ensure that each First Time Home Buyer transaction is evaluated with the same criteria and that the resulting file includes the necessary documentation required by the Program. Criteria includes:

- Income eligibility (does not exceed 80% of median income)
- Participant has not owned a residence during the previous three years
- Program is not displacing tenants
- Maximum assistance is \$3,000
- Debt to income ratio shall not exceed 42%
- Unit shall be structurally sound and meet local building code standards
- Term of loan is thirty (30) years

POLICY ISSUES:

The Stanislaus County General Plan Housing Element recognizes the importance of and promotes the provision for affordable housing opportunities to lower income households. This First Time Homebuyer Program implements that goal.

STAFFING IMPACT:

No additional staff is necessary. The amendment to the Program Income Reuse Plan can be administered by present staff.

ATTACHMENTS: Homebuyer Assistant Program Guidelines

HOMEBUYER ASSISTANCE PROGRAM GUIDELINES

I. APPLICANT ELIGIBILITY

A. Conflict of Interest

No member of the governing body of the locality and no other official, employee, or agent of County government who exercises policy, decision-making functions, or responsibilities in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program, unless the application for assistance has been reviewed and approved according to applicable California Department of Housing and Community Development (HCD) guidelines. This ineligibility shall continue for one year after an individual's relationship with the County ends.

B. Income

Applicant must be low income, defined as having an income that does not exceed 80 percent of the area median income, adjusted for household size. This income figure is established by the Department of Housing and Urban Development (HUD) and periodically adjusted. A "household" means all persons occupying a housing unit as the place of residence. Owner will be required to provide income documentation. (See attached Annual Household Income Definition/Income Limits).

C. Applicant Qualifications

1. Applicant must not have been owner for at least the last three years, or is a displaced homemaker or single parent who owned a home with a spouse.
2. Loans underwritten by FHA, USDA Rural Development, Fannie Mae, Freddie Mac, or CHFA will be acceptable to establish creditworthiness, repayment ability, and dependability of income. If none of these programs are used, ratios for PITI (principal, interest, taxes and insurance) to income shall not exceed 35%, and the ratio for all debts shall not exceed 42%.
3. Applicant must need assistance of the Program to obtain home ownership. Need will be determined by the County contract administrator, Stanislaus County Affordable Housing Corporation (STANCO), and based upon Program procedures, requirements of the primary lender and ability of household to meet such requirements.

D. Fair Housing

This program will be implemented in ways consistent with the County's commitment to Fair Housing. No person shall be excluded from participation in, denied benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds on the basis of his or her religion or religious affiliation, age, race, color, ancestry, national origin, sex, marital status, familial status (children), physical or mental disability, sexual orientation, or other arbitrary cause.

II. PROPERTY ELIGIBILITY

- A. Units to be purchased must be located within Stanislaus County Unincorporated limits.
- B. Units to be purchased shall be structurally sound and shall meet local building code standards. County reserves the right to determine structural soundness and code compliance.
- C. A unit is ineligible if its purchase would result in the displacement of a tenant.
- D. Unit size shall be sufficient to meet the needs of the purchasing household, without overcrowding. Generally, this means not more than two persons per bedroom and living room. Exceptions may be made to accommodate large, immediate families.
- E. Purchase price shall not exceed 95% of the FHA 203b limit for the county where the property is located.
- F. The ratio of property debt to property value shall not exceed 100%. Value to be determined by appraisal acceptable to the County.

III. PRIMARY LOAN ELIGIBILITY

- A. Loans shall be for a term not less than 30 years.
- B. Lender fees and costs shall be reasonable within the marketplace, as determined by the County.

IV. APPLICATION PROCESS

- A. Home buyer files an application with primary commercial lender. Lender verifies income and financial eligibility, and determines loan qualifications. Lender then provides documentation of such to STANCO, with analysis of applicant's need for assistance.
- B. Prior to making an offer on a property the applicant shall provide the seller with an Acquisition Notice which contains the following items:
 - 1. The purchaser has no power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
 - 2. An estimate of the fair market value of the property.

If an Acquisition Notice will not be provided prior to the purchase offer, the offer shall include a provision that the seller may withdraw from the agreement after this information is provided.

- C. STANCO verifies applicant, property and loan eligibility and amount of assistance to be provided consistent with these guidelines. Applicant is placed on 90 day priority list.
- D. STANCO staff meets with applicant to provide information relative to the program requirements, the lending process and home ownership responsibilities.
- E. Request for assistance is submitted to County for approval. Applicant is provided written notification of approval or denial with reason and the appeal procedure for denial.
- F. When primary lender requirements are met, County assistance funds are deposited in escrow, with required closing instructions and documents.

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- G. Primary lender loan funds and County assistance are provided concurrently upon close of escrow.
- H. The County shall be named as an additional loss payee on fire and extended coverage insurance for the length of the loan. Flood insurance will be required when the property is located in a 100 year flood zone hazard area.

V. FINANCING

- A. The County may provide assistance up to 50% of the minimum down payment required by the lender. The County may also provide sufficient assistance, as mortgage principal subsidy, to reduce the monthly payment for PITI to an affordable level of household income.

The down payment and/or mortgage subsidy assistance from the County will be provided as a zero interest, deferred payment loan (DPL), not to exceed \$3,000. Loans may be paid, in whole or by periodic payments, at any time without penalty.

- B. Applicant must, at a minimum, be able to provide personal funds equal to two and one-half percent of the purchase price of the house selected, plus the appraisal fee and the cost of the credit report.
 - 1. Except for the minimum requirement stated above, buyer may exempt savings equal to 20% of all annual gross income from the purchase transaction. The balance of buyer funds available shall be used in the following order:
 - 2. To the extent possible, after satisfying B. and B.I. , above, buyer's funds shall be used for the loan origination fee; discount points; customary buyer closing costs; buyer's customary portion of escrow fees; title insurance; and, the establishment of impound accounts for property taxes and insurance.
 - 3. After 1. and 2., above, are satisfied, any balance of buyer funds may be applied either to reduce the interest rate or to the down payment.
 - 4. If the items in B.2., above, cannot be satisfied with buyer funds, the County may provide a grant, to cover the remaining balance, to a maximum of \$3,000.
- C. Loan assistance shall not exceed \$3,000 per applicant.

VI. LOAN APPROVAL

- A. All loans are considered on a first-come first-served basis and must be approved by the CDBG Loan Review Committee. In order to obtain CDBG financing, applicants must meet all property and eligibility guidelines in effect at the time of loan approval. Applicants will be provided written notification of approval or denial. Reason for denial will be provided to the applicant in writing.
- B. All County loans shall be secured by a promissory note and a recorded deed of trust, with notice of default, subordinate only to the loan of the primary lender.
- C. County loans are assumable, subject to the assumability of the primary loan, if the household assuming the loan meets Program eligibility requirements and the assumption is approved by the County.

VII. RESIDENCY REQUIREMENTS

- A. The unit purchased shall be the principal residence of the purchaser, hereafter referred to as owner.
- B. Owner will be required to submit to the County between January 1 and 15 of each year for the term of the loan:
 - 1. Proof of occupancy in the form of a copy of a current utility bill.
 - 2. Statement of unit's continued use as a residence.
- C. In the event that an owner sells, transfers title, or discontinues residence in the purchased property for any reason, the loan is due and payable, except:
 - 1. If the owner dies, and if the heir to the property lives in the house and is income eligible, the heir may be permitted, upon approval of the County, to assume the loan at the rate and terms the heir qualifies for under current participation guidelines.
 - 2. If the owner dies and the heir is not income eligible, the loan is due and payable.
- D. If an owner wants to convert the property to a rental unit, or any commercial or non-residential use, the loan is due and payable.

VIII. DEFAULT AND FORECLOSURE

If an owner defaults on a loan, and foreclosure procedures are instituted, they shall be carried out according to the CDBG Foreclosure Policy adopted by the County and attached to these guidelines.

IX.. INSURANCE

A. Fire Insurance

The owner shall maintain fire insurance on the property for the duration of the loan(s). This insurance must be an amount adequate to cover all encumbrances on the property. The insurer must identify the County as Loss Payee for the amount of the loan(s). A binder shall be provided to the County.

In the event the owner fails to make the fire insurance premium payments in a timely fashion, the County at its option, may make such payments for a period not to exceed 60 days. The County may, in its discretion and upon the showing of special circumstances, make such premium payments for a longer period of time. Should the County make any payments, it may, in its sole discretion, add such payments to the principal amount that the owner is obligated to repay the County under this program..

B. Flood Insurance

In areas designated by the U. S. Department of Housing and Urban Development (HUD) as flood prone, the owner is required to maintain flood insurance in an amount adequate to secure the DPL. This policy must designate the County as Loss Payee.

X. REFINANCE AND SUBORDINATION

- A. The County administrator may approve a request to subordinate a CDBG loan, in order for the owner to refinance the property, under the following conditions:

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1. The lien position of the county loan will remain the same or be advanced.
2. The new primary loan is equal to or less than the loan being refinanced.
3. The purpose of the new primary loan is to reduce the interest rate being paid and/or reduce the owner's payment.

B. A request to subordinate which does not meet the three criteria above, may be submitted to the County Board of Supervisors for consideration.

XI. PROGRAM COMPLAINT AND APPEAL PROCEDURE

Complaints concerning the CDBG Program should be made to the Project Contractor first. If unresolved in this manner, the complaint or appeal shall be made in writing and filed with the County. The County will then schedule a meeting with the CDBG Loan Review Committee. Their written response will be made within fifteen (15) working days. If the applicant is not satisfied with the Committee's decision, a request for an appeal may be filed with the Board of Supervisors. Final appeal may be filed in writing with HCD within one year after denial.

XII. AMENDMENTS

Amendments to these guidelines may be made by the County and will be submitted to HCD for approval.

XIII. EXCEPTIONS

Exceptions to these guidelines will require Board of Supervisors and HCD approval.

XIV. ATTACHMENTS

The following documents are attached to and form a part of these guidelines:

Annual Household Income Definition/Income Limits
CDBG Foreclosure Policy
Acquisition Notice to Seller
Implementation Steps

ANNUAL HOUSEHOLD INCOME DEFINITION

For the purposes of determining eligibility in accordance with HCD income guidelines, Annual Income will include, for all members of the household:

- 1) Gross wages and salary before deductions.
- 2) Net money income from self-employment.
- 3) Cash income received from such sources as real estate rental units, Social Security benefits, pensions, and periodic income from insurance policy annuities.
- 4) Periodic cash benefits from public assistance and other compensation, including AFDC, SSI, Worker's Compensation, State Disability Insurance and Unemployment benefits.
- 5) Interest earned on savings and investments.

Annual Income will not include:

- 1) Noncash income such as food stamps or vouchers received for the purpose of food or housing.
- 2) Capital gains or losses.
- 3) One time unearned income such as scholarship and fellowship grants; accident, health or casualty insurance proceeds; prizes or gifts; inheritances.
- 4) Payments designated specifically for medical or other costs, foster children or their nondisposable income.
- 5) Income from employment of children under the age of 18.
- 6) Payment for the care of foster children.

This is not meant to be a complete list. Grantee will make the final decision in situations where the classification of income is not clear. Any exceptions or other deviations from this definition of annual income will be considered by the County.

INCOME LIMITS

80% of Stanislaus County Median Income - 2000
(Area Median Income - 43,900)

- 1 Person - 24,600
- 2 Persons - 28,100
- 3 Persons - 31,600
- 4 Persons - 35,100
- 5 Persons - 37,950
- 6 Persons - 40,750
- 7 Persons - 43,550
- 8 Persons - 46,350

CDBG FORECLOSURE POLICY

County As Junior Lienholder

It is the County's policy to prepare and record a "Request for Notice" on all junior liens (any lien after the first position) placed on properties financed by a loan or loans through CDBG program(s).

This document requires any senior lienholder to notify the lender (county) of initiation (recondition of a "Notice of Default") of a foreclosure only. This is to alert the junior lienholder that they are to monitor the foreclosure with the senior lienholder.

The junior lienholder may cancel the foreclosure proceedings by "reinstating" the senior lienholder. The reinstatement amount must be obtained by contacting the senior lienholder. This amount will include all delinquent payments, late charges, advances (fire insurance premiums, property taxes, property protection costs, etc.), and foreclosure costs (fees for legal counsel, recordings, certified mail, etc.)

Once the County has the information on the reinstatement amount, staff must then determine if it is cost effective to protect their position by reinstating the senior lienholder, keeping them current by submitting a monthly payment thereafter, foreclosing on the property possibly resulting in owning the property at the end of the foreclosure, protecting the property against vandalism, and paying marketing costs (readying the home for marketing, paying for yard maintenance, paying a real estate broker a sales commission).

If the county decides to reinstate the senior lienholder will accept the amount to reinstate the loan up to and until five (5) days prior to the set "foreclosure sale date." This "foreclosure sale date" usually occurs about four (4) to six (6) months from the date of recording of the "Notice of Default." If the County fails to reinstate the senior lienholder before five (5) days prior to the foreclosure sale date, the senior lienholder would then require a full pay off of the balance, plus costs, to cancel foreclosure. If the County determines that the reinstatement and maintenance of the property not to be cost effective and allows the senior lienholder to complete foreclosure, the county's lien may be eliminated due to insufficient sales proceeds.

County as Senior Lienholder

When the county is in a first position, or the senior lienholder, active collection efforts will begin on any loan that is 31 or more days in arrears. Attempts will be made to assist the homeowner in bringing and keeping the loan current. These attempts will be conveyed in an increasingly urgent manner until loan payments have reached 90 days in arrears, at which time the County may consider foreclosure. County staff will consider the following factors before initiating foreclosure:

- Can the loan be cured (brought current or paid off) by the owner without foreclosure?
- Can the owner refinance with a commercial lender and pay off the county?
- Can the owner sell the property and pay off the county?
- Does the balance warrant foreclosure? (If the balance is under \$5,000, the expense to foreclose may not be worth pursuing.)

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- Will the sales price of the home “as is” cover the principal balance owing, necessary advances, (maintain fire insurance, maintain or bring current delinquent property taxes, monthly yard maintenance, periodic inspections of property to prevent vandalism, etc.) foreclosure, and marketing costs?

If the balance is substantial and all of the above factors have been considered, the County may opt to initiate foreclosure. The owner must receive, by certified mail, a thirty-day notification of foreclosure initiation. This notification must include the exact amount of funds to be remitted to the County to prevent foreclosure (such as, funds to bring a delinquent BMIR current or pay off a DPL).

At the end of thirty days, the County should contact a reputable foreclosure service or local title company to prepare and record foreclosure documents and make all necessary notifications to the owner and junior lienholders. The service will advise the County of all required documentation to initiate foreclosure (Note and Deed of Trust usually) and funds required from the owner to cancel foreclosure proceedings. The service will keep the County informed of the progress of the foreclosure proceedings.

When the process is completed, and the property has “reverted to the beneficiary” at the foreclosure sale, the County would then contact a real estate broker to market the home.

ACQUISITION NOTICE TO SELLER

DECLARATION

Inasmuch as the purchaser of this property may be assisted with federal funds through the Community Development Block Grant Program, prior to making an offer to purchase, purchaser shall provide seller with a statement of the following provisions:

1. Purchaser has no power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
2. Purchaser's offer is an estimate of the fair market value of the property, to be finally determined by professional appraisal; and
3. If the seller is not provided with a statement of the above two provisions prior to the purchase offer, the seller may withdraw from the agreement after this information is provided.

Buyer

Date

Buyer

Date

ACKNOWLEDGMENT

I (We) acknowledge receipt of this declaration () prior to; () after presentation of the purchase offer. If received after presentation of the purchase offer, I (We) choose () not to withdraw () to withdraw, from the agreement.

Seller

Date

Seller

Date

**STANISLAUS COUNTY
HOME BUYER ASSISTANCE PROGRAM**

IMPLEMENTATION STEPS

- A. Participant works with lender of choice to qualify for real estate loan.
- B. Participant works with real estate agent to select home. Preference will be given to vacant or owner occupied homes rather than tenant occupied.
- C. Participant selects home and enters into a purchase contract. Lender provides STANCO with a copy of:
 - real estate sales contract
 - residential loan application
 - proof of personal funds for participation in program
 - credit report
 - verified income documentation
 - disclosure statement
 - breakdown of closing costs
 - structural pest control clearance
 - appraisal with photos
 - escrow instructions
 - preliminary title report
- D. STANCO reviews paper work to determine program eligibility and financing affordability for participant, etc.
- E. STANCO staff meets with qualified applicant to provide information relative to the program requirements, the lending process, and home ownership responsibilities.
- F. STANCO has home inspected (if necessary) to meet Section 8 Housing Conditions. Notice of any deficiencies or needed corrections is given to participant's real estate agent with recommended course of action.
- G. STANCO requests loan approval from County Administrator. Following loan approval, STANCO prepares Deed of Trust, Promissory Note, Notice of Default, Grant Agreement, Owner Occupant Agreement with County, and requests checks and deposits same into escrow.
- H. Escrow company furnishes STANCO with proof of documents to be recorded, and any escrow closeout information. After receipt of recorded documents, STANCO closes out County file.

Housing Acquisition - Homebuyer Program

For each homebuyer:

- _____ Completed loan application
- _____ Credit report
- _____ Copies of first lender's loan documents
- _____ Income verification
- _____ Preliminary title report or lot book report
- _____ Appraisal
- _____ Hazard insurance binder
- _____ Floodplain insurance (if in floodplain)
- _____ Jurisdiction's Loan Documents:
 - _____ Deed of trust
 - _____ Promissory note
 - _____ Truth in lending disclosure statement
 - _____ Notice of right to rescind transaction
 - _____ Notice of default for all loans listed on title report
 - _____ Loan agreement
 - _____ Fair lending notice
- _____ Documentation of any special circumstances that were considered when approving a loan/grant that do not comply with program guidelines or grant agreement (outside target area, etc.)
- _____ Inspection forms used to report deficiencies in unit
- _____ Signed lead based paint notice

* This document may be filed in a master contractor file rather than a copy filed in each loan/grant file.