COMMUNITY LAND TRUST - HOMEBUYER ACTIVITY

Applicability

HOME Program

Eligible Activities

- Homebuyer Activity- Community Land Trust - Owner-developer must be a qualified non-profit or unit of local government

DEFINITIONS & GENERAL REQUIREMENTS

All homebuyer eligibility and owner/developer requirements in Chapter 2-B apply to CLT activities. *Additionally,* the following also applies to CLT:

As approved by HUD, IHFA follows the HOME program's *Resale Provisions* when a homeowner holds title to a HOME-assisted unit developed by a community land trust and situated on land owned by a community land trust. The land under the unit is leased to the homeowner during their ownership utilizing a long-term ground lease. The homeowner will own improvements on the leased land.

Developer Fee – 15% of eligible costs for new construction or moderate rehab

10% of eligible costs for minor rehab (defined in Chapter 2-B)

Primary Residency Requirement

The HOME program's primary residency requirements are enforced during the period of affordability (POA) through the land trust's covenants on the land, a ground lease with the homeowner, a Note and Deed of Trust with the homeowner, and Memorandum of Restrictive Covenants and a Deed of Trust with the land trust.

Period of Affordability (POA)

The period of affordability is a specified amount of time the unit must be a housing unit serving income eligible households. Once the POA has concluded, the use of property and on-going requirements are between the CLT and homeowner, The CLT POA is based on the total amount of HOME funds expended on the activity, which includes rehabilitation/construction costs, developer fee, and HOME Department project costs.

- 15 years (based on total amount of funds invested in the project)

The homeowner POA matches the CLT POA, and is based on amount of funds invested into the project

Ground Lease

Land trust will use a long-term ground lease provided by the HOME Department of at least 99 years.

In addition to the ground lease, HOME will provide an "Addendum" to the Ground Lease, which must be attached to the lease agreement and executed with the ground lease. The HOME Addendum details HOME requirements during the POA including, but limited to: income limits, primary occupancy, sales price restrictions, and corrective actions the land trust or HOME will take if the homeowner violates the restrictions.

CLT may execute additional agreements with the buyer for provisions not found in the ground lease or Addendum the CLT would like to enforce. CLT must obtain HOME's approval before executing any such agreement. HOME will not withhold approval unless the presented agreement conflicts with HOME regulations during the POA, or creates undue burden or limitation for CLT homeowners.

The HOME Addendum, Ground Lease, and other legal instruments will include additional restrictions. These may include, but are not limited to: the CLTs use of a purchase option, right of first refusal, other legal means to intervene and preserve the affordability of an assisted unit. Under this activity, the CLT can choose to provide a homebuyer preference to education, medical, fire fighters, law enforcement, or others deemed essential to the local community. Preferences may not violate Fair Housing Laws and need to be approved by the HOME Department prior to sale of the first unit.

Resale Option (HOME Only)

Used only when a nonprofit entity develops a homebuyer unit on land that will remain under the ownership and control of the CLT. The CLT enters into a ground lease with the homeowner for at least 99 years. Under the HOME Department's Resale Option, HOME will reduce repayment of the development loan by $20,000. This becomes the "Development Subsidy" that will remain with the CLT. The CLT will repay the development subsidy during the POA if:

- The unit is sold to a non-HOME qualified household;
- The land on which the unit sits is no longer part of an affordable community land trust;
- The title to the land under the unit or the unit itself is otherwise transferred without HOME's approval during the Period of Affordability; and/or
- The HOME Department otherwise determines default has occurred

Please note the Development Subsidy does NOT determine the sales price to the buyer and is not tied to the down payment assistance received by the qualified household.

Through the land-lease, HOME Addendum, Note/Deed of Trust with the homebuyer, and the Deed of Trust and MORC between HOME and CLT; the land trust is required to use the "first right of refusal" option and/or other resale restrictions in order to keep the unit affordable in perpetuity.

IHFA will provide a direct Down Payment Assistance (DPA) to the initial homebuyer of a CLT unit, based on individual need. The DPA ***must*** be assumed by a subsequent income eligible (80% AMI or less) household each time the unit is sold during the POA.

To determine the subsequent sales price, the approved Sales Price and Resale Calculation must be utilized for each sale during the POA.

Requirements

1. Developers/CLT's must contribute a minimum of 10% of the per unit cost to the project, preferably in the form of partially subsidized land (i.e. at least 10% of the land cost paid from another non-HOME source). Donated land with a value of 10% or more of the per unit cost (per lot for multi-unit projects), meets this requirement without any additional contribution required. Developers may also contribute 10% from non-HOME sources towards construction costs if land subsidy is not a feasible option.
2. HOME funds may be used to purchase land on which the unit(s) is/will be located.
3. CLT's who have received donated land must hold title to the land **prior** to the commitment of funds to the activity. If HOME pays for any portion of the land, title may be transferred at the same time the HOME written agreements are executed and recorded. Developers who purchased land prior to closing with non-federal funds may request reimbursement via the approved draw process for any eligible portion of land costs. Land costs must have been approved as part of the project budget prior to the execution of written agreements.
4. No presumption of affordability as defined at 24 CFR 92.254(a)(5)(i)(B).

During the Period of Affordability:

- All homebuyer households must be ≤ 80% AMI at the time the purchase contract is signed;
- Sales price is equal to the current homeowner's original purchase price, plus the owner's Fair Return on Investment (See definitions and examples in the "Sales Price Determination During HOME Period of Affordability" section below);
- Homeowner/household must reside in the unit as their principal residence or have an IHFA-approved Principal Residency Temporary Exemption.
- First homeowner of the CLT unit will receive direct Down Payment Assistance (DPA) from HOME.

- Assistance is determined by buyers need and evaluated by calculating back end Debt-to-Income (DTI) and Housing Expense ratio. The HOME Department will review each buyer for assistance. It will be based on the circumstances of each household (i.e. income and debt ratio's) to improve sustained homeownership through the POA. Assistance may be adjusted to ensure buyers are within HOME's stated limits, to make the buyers mortgage payment affordable for the household, or to provide the assistance required for the first loan to be approvable for the lender.
  - HOME may approve higher DTI or Housing Expense Ratio on a case-by-case basis, and only if buyer has good credit, minimal debt, and stable employment. Meeting these minimum requirements is not a guarantee of HOME approval to exceed stated limits.
- Each new household <u>*MUST* assume the DPA funds from the current homeowner.</u>
- CLT/Lender will submit the loan file for each new potential homeowner to the HOME Department for review, income qualification, and approval to proceed with purchase.
- The land trust will repay the HOME development subsidy if:
  - The unit is rented or leased, or otherwise vacated, by the homeowner who has not received an IHFA-approved Primary Residency Exemption and refuses to return to the unit and occupy it as a primary residence;
  - Title to the unit is transferred to a homebuyer who is not low-income (≤80% AMI);
- Foreclosure, transfer in lieu of foreclosure, or assignment of an FHA insured mortgage to HUD

After the period of affordability

- After the POA is complete, the Development Subsidy balance of $20,000 with the CLT will be forgiven by $1/10^{th}$ each year beginning in year 16 and concluding in year 25, at which time the balance will be zero. *Please note the Development Subsidy does NOT factor into the sales price to the buyer.* If the CLT sells the land/project or otherwise transfers title during the forgivable period after the POA, but prior to full forgiveness of the Development Subsidy funds, the CLT must repay the current existing balance of the Development Subsidy loan.
- After the POA is met, the direct down payment assistance (DPA) to the occupying homeowner is forgiven at 1/10th per year beginning in year 16 and concluding in year 25, at which time the balance will be zero.
- If the unit is sold during the forgivable period after the POA, but prior to full forgiveness of the DPA funds, the new buyer may assume the current existing balance of the DPA loan. If the new buyer does not assume the DPA funds, the selling homeowner is responsible for repayment of current balance of the DPA loan.

Appraised Value of the Unit

Equals the *Appraised Market Value of the Land and Unit* ~~*Property*~~ (determined by appraisal completed by licensed third party appraiser) minus the Appraised Value of the Land. Appraisal *must* provide the land value (without the unit) in the report.

Other Mortgages and Notes

The HOME Department may allow the use of other notes and mortgages in addition to, but not in lieu of, the HOME covenants and deed restrictions.

Fair Return on Investment (Homebuyer)

See Homeowner's Investment- Defined

HOME Development Subsidy

$20,000 in "Development Subsidy" is left with the CLT at the time of the initial sale of the unit to a qualified low-income homebuyer. HOME reduces repayment by the development subsidy amount upon sale to the initial buyer, and it becomes a zero percent interest loan. The loan is solely between HOME and the CLT. The Development Subsidy loan is due on sale, default or unauthorized transfer of title during the POA. After the POA, the loan is forgiven by $1/10^{th}$ for each year until the balance in zero. ***The CLT Development Subsidy does not factor into the sales price calculation to the buyer.*** No additional HOME subsidy is available to the land trust for the assisted unit during the Period of Affordability.

IHFA's Deed of Trust and Restrictive Covenants

A deed of trust is used to secure IHFA's right to recover the HOME development subsidy from the land trust in the event the land trust does not utilize its purchase option rights, right of first refusal, or other means to intervene and preserve the affordability of the unit. The Memorandum of Restrictive Covenants (MORC) is released when the Period of Affordability has been met. The Deed of Trust is released when the development subsidy loan balance is repaid, or the loan is fully forgiven at the end of year 25.

Homeowner's Investment- Defined

At the time of subsequent sale, the homeowner's investment is the total of the following:

1) Original Sales Price (Captures Seller's equity from mortgage pay down);
2) 25% of total increase in value (determined by new appraisal) as defined in the HOME Ground Lease Addendum, and homeowners loan documents for the HOME DPA funds;

Foreclosure, Transfer In Lieu Of Foreclosure, Or Assignment of an FHA Mortgage

As described at 92.254(a)(5)(i)(A), the HOME resale restrictions may be extinguished by a senior lender in the event of foreclosure, transfer in lieu of foreclosure, or the assignment of an FHA mortgage in order to clear title. The land trust shall use purchase option, right of first refusal, and other approved means to intervene and preserve the affordability of the unit.

Homebuyer Preference Populations

The HOME Department may allow a homebuyer preference whenever the population is deemed essential to the local community, and does not violate Federal Fair Housing and Equal Opportunity laws, executive orders, or regulations. The HOME Department must approve any preference populations at the time funds are committed to the project. Examples of an essential populations would be education, first responders, and medical personnel. A homebuyer preference may be allowed only when identified in the land trust's HOME written agreement and the Memorandum of Restrictive Covenants.

Homebuyer Income Limit

At the time a homebuyer application is received, homebuyer household income must be at or below 80% AMI as defined at 24 CFR 5.609. The HOME Department annually publishes an asset limitation, maximum PITI and other requirements, which are reviewed along with the monthly budget prior to approval. Current limits and requirements are available on the IHFA website in the Annual Administrative Plan, found at https://www.idahohousing.com/federal-programs/home-program/

Maximum PITI (Principal, Interest, Taxes, Insurance)

During the period of affordability, the typical PITI at the time of purchase is no more than 35% of household's gross monthly income. However, under certain circumstances, the HOME Department may allow a higher PITI when the homebuyer has good credit/history, a stable work history, minimal debt, and approval from an IHFA-approved lender.

Primary Residency Requirement

During the period of affordability, the homeowner is required to reside in the assisted unit as their primary residence. The HOME Department allows two temporary exemptions from the HOME primary residence requirement: (1) Active military deployment or transfer (homeowner and/or spouse), and (2) Full-time post-secondary education. The homeowner must submit a plan in writing that includes a date the homeowner intends to return and reside in the unit as their primary residence, and other supporting documentation such as class schedule, or proof of deployment. Without written approval from the HOME Department, the homeowner is considered out of compliance with this requirement and must return to the unit or transfer title to the land trust or another eligible homebuyer.

Reasonable Range of Low-Income Homebuyers

An assisted unit is to remain affordable to a reasonable range of low-income homebuyers during the period of affordability typically defined as 50%-80% AMI. In some cases, the HOME Department may accept a lower AMI if the amount assistance needed from HOME and other sources to make the home affordable to that household is considered reasonable, the homebuyer has good credit and a stable work history, or other proof of affordability/feasibility can be established.

Sales Price Determination During HOME Period of Affordability

The following procedure is used to determine the maximum sales price of the assisted unit during the HOME Period of Affordability:

- **Initial Sale of Unit**

Step #1 Determine the Market Value of property (value of land and unit combined) using an Appraisal completed by a licensed third party appraiser. Appraisal must also provide a separate value for the land only;

Step #2 Deduct the land value from the Appraised Value of the property (land AND unit):
- Appraised value of the land or cost of the land, whichever is the most feasible based on the specific project; and

Step #3 The sales price of the unit is the Calculated Sales Price of the unit, as established using Steps #1 and #2 above, *unless* the calculated price exceeds the development cost of the unit. If development cost is less than the appraisal-based calculation, the total development cost, EXCLUDING any land cost becomes the sales price to the buyer. *For the purposes of the CLT homebuyer sales price calculation, "Development Cost" is defined as all hard costs, soft costs, and developer fee(s) from ALL sources, not including any land cost.*

If *both* the appraisal based calculation, and the development cost (as defined above) exceeded the HOME maximum sales price limit for the county/metro area in which the unit resides, the HOME maximum sales price limit must be used as the sales price to the buyer.

*Add-ons, reductions for any purpose other than meeting the maximum sales price allowed by HUD, or other adjustments to the sales price are not allowed. CLT's and lenders *must* follow the sale price calculation to determine the sale price.

**Please note approved household will receive direct down payment assistance from HOME to bridge the gap between sales price and first mortgage loan amount to make the mortgage payment affordable to the household. Affordability is determined by the loan amount, not the sales price.

**This sales price model not only aligns with other large CLT's in region 10, but also potentially prevents federally funded CLT units from negatively impacting comp values of other homes in the geographic area. HUD does not want federally funded homes to bring down the values of nearby housing by selling for drastically below market value. HOME bridges the gap between sales price and affordability by offering down payment assistance instead.

Current Maximum Homeownership Sales Price Limits https://www.idahohousing.com/federal-programs/home-program/

- **Subsequent Sale Price Limit**

The subsequent sales price is limited as an attempt to remove some of the volatility of the market in high cost areas of Idaho. Therefore, after the initial sale of the unit, each subsequent sales price of the unit is limited to the total of the current homeowner's original sales price (this captures equity paid down by homeowner), and the homeowner's Fair Return on Investment (see Homeowner's Investment- Defined as available from the net proceeds Sales Price Determination- Examples:). It is in this way the housing market is allowed to play a part in the sales price of the unit, but is limited in a way that maintains ongoing affordability of the unit for future low-income homebuyers.

Determining the Maximum Sales Price for Subsequent Sale

Step #1 Determine Fair *Market* Value of the unit, including the land, using an Appraisal completed by a licensed third party appraiser. Appraisal MUST include the value of the land and unit together, as well as provide the market value of the land only.

Step #2 Determine Owner's Investment- Total the following:

- Homeowner's original Purchase Price (captures mortgage equity paid down by owner)
- Determine 25% of the increase in value between initial purchase and resale (established by subtracting the appraised market value of the unit at the time of initial purchase from the appraised market value at the time of resale)
- Add owner's share of increase in value to the original purchase price owner paid for the unit. This equals the sales price to the next buyer, unless the calculated price exceeds the current Maximum Homeownership Sale Price Limit in effect at the time of sale. If calculated price exceeds this limit, go to Step #3.

Step #3 When calculated price using steps #1 and #2 exceeds the Maximum Homeownership Sales Price Limit, the sales price must be reduced to the sales price limit in place at the time of the sale. The sales price can ***never*** exceed the HOME Maximum Homeownership Sales Price Limit. Maximum Homeownership Value Limits can be found here: HOME Program Resources CLT must use the calculated sales price following steps #1 and #2, or the homeownership value limit; whichever is *less.*

*****IMPORTANT NOTE** –***

1. ***Sales price can NEVER exceed the maximum sales price limits in effect at the time the contract is signed, OR the appraised value.***
2. ***The sales price MUST be determined using the calculation above. If sales price exceeds the maximum sales price limit or appraised value, sales price must be adjusted to the Maximum Homeownership Sales Price limit or the appraised value, whichever is less.***
3. ***Increases due to market/cost during construction, addition of buyer down payment/closing costs, or any other costs not accounted for in the approved sales price calculation are not allowable.***

In a depreciating housing market, the fair market value of the unit at the time of the subsequent sale may not be sufficient to allow the seller to recover all or any of their investment (see definition of Investment above Homeowner's Investment- Defined).

In a stable or appreciating housing market, the fair market value of the unit at the time of the subsequent sale may be such that it will allow the seller to recover some or all of their investment (see Homeowner's Investment- Defined). However, the maximum sales price sets a hard limit on how much the unit can be sold or re-sold for, and the equity the seller receives. The seller may not receive more than the calculated "fair return on investment", and only as available from net proceeds.

Sales Price Determination- Examples:

Two Examples of Resale Calculations

Initial Sale- May 2017	
Appraised Value (land and unit) = $256,000 Value or cost of Land = -$51,000 **Initial Sales Price to be shown on Purchase and Sales Agreement**	**$205,000.00**
Direct Down Payment Assistance to Buyer (EXAMPLE ONLY –NOT A GUARANTEE OF AVAILABLE DPA FUNDS)	-$41,000.00
Mortgage Loan Amount Needed by Buyer (Does not include earnest money, or, buyer or other down payment contributions)	**$164,000.00**
Subsequent Sale- March 2022	
Seller's Equity (mortgage paid down based on 3.99% average interest rate in 2017)	$15,402.12
New appraised value March 2022	$380,000.00
Change in value between initial and resale appraisal	$124,000.00
25% of increased value between initial and resale appraisal (assuming value increases – if value decreases this will be zero)	$31,000.00

APPRECIATING Housing Market Sold March 2022			**DEPRECIATING Housing Market** Sold March 2022	
Appraised value (land and unit) at time of sale 2022	$380,000.00		**Appraised value (land and unit) at time of sale 2022**	$210,000.00
Change in value (Net Proceeds) **THIS IS NOT THE BUYERS RETURN** **DETERMINES CHANGE IN VALUE ONLY**	$124,000.00		**Change in value (Net Proceeds)** **THIS IS NOT THE BUYERS RETURN** **DETERMINES CHANGE IN VALUE ONLY**	-$46,000.00
Owner's Investment Purchase price paid by homeowner (captures owners initial investment)	$205,000.00		**Owner's Investment** Purchase price paid by homeowner (captures owners initial investment	$205,000.00
Owner's Portion of Increased Value 25% of increase in value (if available from net proceeds)	$31,000.00		**Owner's Portion of Increased Value** 25% of increase in value (if available from net proceeds)	No increase in value – Owners portion is $0.00
Total Fair Return on Investment to Owner Owner's Investment plus 25% of increased value, as available from net proceeds ($41,000.00 in DPA assumed by next buyer – this equals total paid down on owner's $164,000.00 mortgage plus the 25% increase in value)	**$46,402.12**		**Total Fair Return on Investment to Owner** Owner's Investment plus 25% of increased value, as available from net proceeds (owner cannot receive full amount of equity - current appraised value cannot be exceeded – reduced by $10,402.12) **$5,000 is calculated by subtracting current appraised value from purchase price of current owner*	**$20,402.12**
Maximum Sales Price to next Low-income Buyer – Owner's original sales price plus Fair Return on Investment, or current maximum HOME sales price limit, whichever is less.*	$236,000.00		**Maximum Sales Price to next Low-income Buyer –** Owner's original sales price plus Fair Return on Investment, or current maximum HOME sales price limit, whichever is less.* Sales price to buyer may *never* exceed appraised value	$210,000.00
DPA Assumed by New Buyer	$41,000.00		**DPA Assumed by new Buyer**	$41,000.00
Mortgage Loan to New Buyer (Does not include any other down payment resources or buyers contribution)	$195,000.00		**Mortgage Loan to New Buyer** **(Does not include any other down payment resources or buyers contribution)**	$169,000.00

***THE FINAL SALES PRICE OF ANY HOME UNIT CAN NEVER EXCEED THE HOME MAXIMUM SALES PRICE LIMIT IN EFFECT AT THE TIME OF SALE, OR APPRAISED VALUE OF THE UNIT. IF THE SALES PRICE PRODUCED BY THE SALES PRICE CALCULATION EXCEEDS ONE OR BOTH OF THESE LIMITS, THE LOWER OF THE HOME MAXIMUM SALES PRICE OR APPRAISED VALUE IS THE SALES PRICE OF THE UNIT.**

- In the event the calculated price is above the maximum allowed by the HOME Program, the sales price must be reduced to the maximum sales price allowable for the County/metro area in which the unit is located. The Fair Return on Investment to the seller (if available from net proceeds) must be reduced accordingly to ensure the resale price does not exceed the HOME Maximum Sales Price Limit.
- If value has decreased, owner may receive a reduced return based on what proceeds are available. Owner will receive no return if there no available net proceeds after payoff of the primary mortgage loan.
- The maximum sales price for a new construction unit is higher than the maximum allowed for an existing unit. Make sure to utilize the limits for *existing homes* before completing the sales price calculation for any resale.

Example of repayment to HOME and other sources:

Assuming appraised value is equal to total project cost

CLT obtains HOME funds (loan) for the construction of one (1) single family unit.

Total Cost and Appraised Value = $400,000 (Unit value = $350,000 – Land value = $50,000)

HOME Loan Amount- $200,000
Other Sources - $200,000 ($150,000 construction loan + $50,000 donated land)

Total Sources and financing $400,000

Sales Price to homebuyer = Lesser of appraised value minus land value, development cost, or HOME maximum sales price - $350,000 in this example since the calculation is less than development cost

Repayment to IHFA:

Sales Price = $350,000

Less construction loan repayment

*Less buyer DPA (this determines loan amount to buyer)

*Less CLT subsidy

= Total HOME repayment

**DPA and Subsidy are deferred loans to HOME*