

SANTA FE COUNTY

BOARD OF COUNTY COMMISSION RESOLUTION No. 2010-241

HOUSING AUTHORITY BOARD RESOLUTION No. 2010-19

A JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS AND THE HOUSING AUTHORITY BOARD ADOPTING A FORECLOSURE PREVENTION PROGRAM AND POLICY AND DELEGATING SIGNATURE AUTHORITY FOR TRANSACTIONS VALUED AT TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000) AND BELOW TO THE COUNTY MANAGER FOR THE NEGOTIATION, PURCHASE AND SALE OF HOMES UNDER THE PROGRAM

WHEREAS, in March, 1995, the Santa Fe County Housing Authority received a Development Grant from the Department of Housing and Urban Development to develop 40 new construction units targeted for home sale to families earning less than 80% of the area median income; and

WHEREAS, on May 30, 2000, the Board of County Commissioners adopted Resolution No. 2000-66 approving the Santa Fe County Housing Services Division's Public Housing 5(h) Homeownership Plan for submittal to the Department of Housing and Urban Development; and

WHEREAS, in September, 2000, the Department of Housing and Urban Development approved the Santa Fe County Housing Services Division's 5(h) Homeownership Plan; and

WHEREAS, the Santa Fe County Housing Authority has sold 61 homes under the approved 5(h) Homeownership Program which has generated home sales proceeds to be used for purposes relating to low-income housing; and

WHEREAS, on February 14, 2006, the Board of County Commissioners adopted Resolution No. 2006-02 approving the "Affordable Housing Ordinance" providing increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County; and

SFC CLERK RECORDED 12/15/2010

WHEREAS, because of the current economic climate, many families who purchased homes under Santa Fe County's Affordable Housing Program can no longer afford to stay in their homes and face foreclosure; and

WHEREAS, Santa Fe County wants to purchase homes that are in danger of foreclosure or have been foreclosed on that were inventory within the Santa Fe County Affordable Housing Program; and

WHEREAS, Santa Fe County will utilize home sales proceeds generated from the sale of homes under the Santa Fe County Housing Authority's 5(h) Homeownership Program to purchase these homes; and

WHEREAS, County staff has prepared a Santa Fe County Foreclosure Prevention Program Policy that sets forth the Foreclosure Program a copy of which is attached hereto as Exhibit A; and

WHEREAS, to effectively operate the Board of County Commissioners will have to delegate signature authority to the County Manager for transactions relating to the negotiation, purchase and sale of homes under the Program including all purchase agreements and closing documents for transactions with a value of two hundred and fifty thousand dollars (\$250,000) or less.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners and the Santa Fe County Housing Authority Board hereby adopts the Foreclosure Prevention Program and Policy attached hereto as Exhibit A and delegates signature authority to the County Manager for transactions relating to the negotiation, purchase and sale of homes under the Program provided the transaction is valued at two hundred and fifty thousand dollars (\$250,000) or less.

APPROVED, ADOPTED AND PASSED this 14TH Day of December, 2010.



ATTEST
Valerie Espinoza
Valerie Espinoza, County Clerk

BOARD OF COUNTY COMMISSIONERS

[Signature]
Harry B. Montoya, Chairman

APPROVED AS TO FORM:
[Signature]
Stephen C. Ross, County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
I Hereby Certify That This Instrument Was Filed for Record On The 15TH Day Of December, 2010 at 11:15:57 AM And Was Duly Recorded as Instrument # 1620221 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
[Signature]
Deputy Valerie Espinoza
County Clerk, Santa Fe, NM

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Santa Fe County Long Term Affordability and Foreclosure Prevention Policy

The Santa Fe County Housing Authority - and - The Santa Fe County Affordable Housing Program

1. Activity Description:

The goals advanced by this joint policy document of the Santa Fe County Housing Authority and the Santa Fe County Affordable Housing program include; (i) ensuring long term affordability of homes created through the Santa Fe County Affordable Housing Program, (ii) ensuring that persons who purchase homes through the affordable housing programs of the County are able to keep those homes, (iii) preventing foreclosure of affordable units, (iv) directly assisting program participants when unforeseen problems threaten home ownership, and, (v) providing a means to purchase affordable homes and make them available to eligible buyers that when default or foreclosure becomes inevitable.

This policy establishes an equitable process through which staff will review situations that threaten the possession of affordable homes, make decisions concerning the issues threatening the transaction, and, when necessary, purchase homes that will be lost. The policy also establishes the County's discretion to make such decisions, which is delegated to the County Manager.

All words and phrases used herein shall have the meanings assigned to those terms and phrases by Ordinance No. 2006-02 and the Santa Fe County Affordable Housing Regulations. If not assigned a meaning by those documents, words and phrases shall be interpreted according to their usual and customary meaning.

2. Options.

To advance the goals described in the previous section, upon learning of impending default or proposed foreclosure of an affordable unit, the County will take the following actions, in the following order, as appropriate:

A. Refinancing. Immediately upon learning that an impending default or forfeiture threatens ownership of an affordable home, County staff will meet with the owner and discuss the situation. Staff, with permission of the owner, may evaluate the owner's existing income and credit to determine if the mortgage may be refinanced to lower the monthly mortgage payment. Staff will facilitate discussions on this topic between the owner and the lender.

B. Loan Modification. If it is not possible to refinance the transaction to lower the monthly payment, Staff shall facilitate additional discussions with the owner and a lender to obtain loan modification to allow the owner to remain in the affordable home.

C. Mortgage Assistance. If it not possible to refinance or to obtain loan modification, Staff may grant emergency mortgage assistance to remedy a hardship such as a loss of income or medical emergency. Before granting emergency mortgage assistance, staff shall thoroughly evaluate the situation. In particular, staff shall consider whether the underlying problem resulted from a temporary loss of income, loss of employment, medical emergency or other unusual financial circumstance; if the financial circumstance appears to be of a temporary nature not to exceed four months, staff may grant emergency mortgage assistance to the owner to bring the mortgage current and may assist making monthly payments as needed to ensure that the owner retains the home, the default is remedied, and the foreclosure cancelled. In no event, shall mortgage assistance exceed a period of 24 months or \$ 5,000.00.

D. Voluntary Sale. In the event that none of the previous options are successful, staff may work with the owner to seek a voluntary sale of the affordable home, as appropriate, to another affordable buyer within the same income range as applied to the owner when the unit was originally purchased, prior to foreclosure. Staff shall work with the lender, the owner and the prospective affordable buyer to ensure that the transaction is successful, and staff shall have discretion to take reasonable actions consistent with this paragraph including, but not limited to, compromising or releasing County liens that had been imposed on the property pursuant to Ordinance No. 2006-02.

E. Purchase. In the event that none of the previous options are successful, staff may consider purchasing an affordable unit either by exercising its right of first refusal, directly from the owner through a negotiated sale, or through a foreclosure sale. Funds to purchase a unit may come from funds provided by home sales proceeds of the Santa Fe County Housing Authority, in which case low and moderate income households not to exceed 80% of the area median income (AMI). If this option is selected, staff shall thoroughly analyze the situation and provide all relevant facts to the County Manager, who will make the final decision concerning the purchase.

3. Restrictions.

The program is intended to be as flexible as possible to account for differing circumstances. However, certain restrictions apply to the County's administration of the program.

A. Eligible Properties. The County may acquire any property that was originally sold as an affordable home through the County's affordable housing program. The County may acquire homes if the owner is presently delinquent on one or more payments, prior to foreclosure through a negotiated sale, through foreclosure, or following foreclosure in a

negotiated sale from the lender. All property acquired pursuant to this policy must meet U.S. Department of Housing and Urban Development Housing Quality Standards (HQS). Any property acquired through this program must have a current appraisal not more than 90 days old, and the County shall not pay more than the appraised price for any home.

B. Eligibility for Purchase of Homes Acquired Through the Program.

i. **Affordable Buyer.** All affordable homes acquired by the County through this program shall be sold only to an affordable buyer, as that phrase is defined in Ordinance No. 2006-02. An affordable home that is acquired with funds provided by the Housing Authority shall be sold only to an affordable buyer whose income does not exceed 80% AMI; an affordable home that is acquired with other funds may be resold to an affordable buyer.

ii. **Maximum Target Home Price.** Homes shall be sold at or below the original maximum target housing price, as established in the Santa Fe County Affordable Housing Regulations.

iii. **Annual Income.** The total annual family income for any person or persons purchasing an affordable home may not exceed the income range applicable to the property when it was originally purchased by the first affordable buyer. Income is to be determined in accordance with Santa Fe County's standard program definition of "Annual Family Income" as described in Affordable Housing Regulations.

iv. **Owner-occupancy.** All homes resold to an affordable buyer must be occupied by the owner; as part of the closing documentation for the sale, a second mortgage shall be executed by the affordable buyer that requires the home to be occupied by the owner in default of which, to the extent permitted by law, the County may exercise its rights to foreclose and resell the home to another affordable buyer. The second mortgage shall also grant the County a right of first refusal upon subsequent sale of the home by the affordable buyer.

v. **Residency.** The three year residency requirement described in the Santa Fe County Affordable Housing Regulations shall apply.

vi. **Household Size.** The household size of an affordable buyer desiring to purchase an affordable unit through this program must not be less than the following: (i) a one or two bedroom unit may be sold to a one person (or greater) household; a three bedroom unit may be sold to a two person (or greater) household; a four bedroom unit may be sold to a three person (or greater) household.

C. Marketing of Homes for Resale. Santa Fe County staff will market each home to be sold pursuant to this policy; realtors shall not be employed and real estate commissions shall not be paid from revenue derived from home sales by the Housing Authority or from the Affordable Housing Fund. Recognizing that time will often be of the essence during a

foreclosure or default, staff shall pre-qualify affordable buyers eligible to purchase an affordable home through the program.

D. Credit Guidelines, Homebuyer Education. Recognizing that the success of a purchaser of an affordable home depends on the affordable buyer being qualified financially to purchase a home, FNMA mortgage loan credit standards shall be strictly applied to application to purchase an affordable home upon resale through this program. Any exceptions to the FNMA guidelines must be fully supported by staff. The affordable buyer shall secure a prime fixed rate mortgage with a term of from 15 to 30 years. Homebuyers will be required to participate in at least eight hours of homebuyer counseling prior to completing the purchase.

E. Documentation. All documents described in the Affordable Housing Regulations shall be submitted to support an application to purchase a home to be resold pursuant to this policy. Any application shall be denied if the Affordable Housing Administrator determines that an applicant has submitted a materially incomplete, inaccurate, misleading or fraudulent application, or otherwise engaged in fraudulent, dishonest, or misleading conduct.

F. Affordability and Appreciation Share Liens. Staff may release or compromise an appreciation share lien or an affordability lien as necessary to acquire a home that is in default or foreclosure. Liens shall be placed upon the home upon resale to an affordable buyer as specified in Ordinance No. 2006-02 and the Affordable Housing Regulations; staff may reduce the amount of a lien as necessary to account for closing costs.

G. Signatory Authority. The Santa Fe County Manager has authority to: (i) compromise or release an appreciation share or affordability lien to facilitate County purchase of an affordable unit in default or foreclosure; (ii) execute all closing documents necessary to complete the purchase of a home, and resell a home pursuant to this program; and (iii) determine, or delegate to appropriate County staff, the eligibility of an affordable buyer to participate in the program. The phrase "County staff" as used herein shall refer to those County employees assigned by the County Manager the task of administering this policy which, in most cases, will be the Affordable Housing Administrator.

4. Budget.

Santa Fe County shall dedicate the sum of \$ 1,000,000 to fund the activities described in this program. Annually, foreclosure data will be reviewed by County staff to determine whether funding needs to be adjusted based. Any unobligated SFCFPP funds will be eligible at any time for redistribution to other affordable housing initiatives and projects.