



**SACRAMENTO
HOUSING AND REDEVELOPMENT
AGENCY**



Agency Rpt (38)

February 24, 1986

APPROVED BY THE CITY COUNCIL
RECEIVED
MAR 4 1986
FEB 26 1986
OFFICE OF THE CITY CLERK

Sacramento City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Single Family Bond Programs Waiver of Owner Occupancy Requirement

SUMMARY

The Council is being requested to consider a policy regarding the assumption of loans and waiver of the owner occupancy requirements under the single family bond program.

BACKGROUND

The single family bond program documents require that a person ". . . intend to occupy the residence as his or her principal residence for two years". In addition, because the program is intended to provide home ownership opportunities, the documents specify that the residence is "not to be used for investment purposes, and that no more than 15 percent of the home can be used as a business". Renting a portion of the property (15 percent or more) is construed as being used as a business.

Over the past several months, Agency staff has received requests to waive the owner occupancy requirement for homeowners who have had to, or chose to, move from their residence for job related or personal reasons. In some cases the person had to move for personal or job related reasons, but planned to return to the residence. In this situation, staff has waived the owner occupancy requirement and allowed rental of the property during the interim period. In other cases, a person decided to move for job or personal reasons and did not plan to return to the residence. In these situations, a waiver of the owner occupancy requirement was generally made after the homeowner had unsuccessfully tried to sell the home. Based on these circumstances, staff has approved

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All Districts

(1)

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requests for waivers for up to a three year period, if the homeowner agreed to act with "due diligence" in trying to sell the home. The owner or his agent will provide periodic reports to the Agency on the progress made in selling the home.

The request for policy direction arises because there is some legal ambiguity as to whether or not the homes must remain owner-occupied for the life of the loan, or whether the occupant must only fulfill the two-year occupancy requirement, at which time he or she may move and rent the residence. Staff has received two conflicting interpretations of the law from two different bond counsel firms. The lack of any private letter rulings or court cases leaves this issue open to interpretation. In any event, federal law does allow up to 25 percent of the total loan portfolio to be in noncompliance before all the bonds are deemed taxable. This leaves the City some latitude should the courts ever rule that homes must remain owner-occupied.

Staff believes the program's intent is to provide homeownership benefits for the life of the loan, and not only for a two year period. However, we acknowledge that individuals may desire to move or be required to move, and not be able to immediately sell their residence. Therefore, on several occasions staff has approved the temporary waivers of the owner occupancy requirement if the person agreed to act with due diligence in selling the home.

Given the ambiguity in the law, staff seeks direction from the Council on 1) whether the Council wishes to retain the homes as owner occupied for the life of the loan; and, if so, 2) adoption of a specific policy under which waivers are to be made to accommodate homeowners who chose to or must leave their residence.

Staff recommends a policy that retains the home as owner occupied for the life of the loan, with waivers of this requirement awarded under the following circumstances and conditions:

- a. If a person must, or chooses to leave the residence for job related or personal reasons, but provides sufficient evidence that he or she will return to the home within three years, the home may be rented for the interim period;
- b. If a person must or chooses to leave the residence for job related or personal reasons, but does not intend to return to the residence, the home may be rented, as long as the owner makes diligent efforts to sell the property. The owner or his/her agent will make periodic reports to the

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Agency or lender regarding progress made in selling the home;

- c. In any event, loans may be called if the home is not sold or reoccupied by the original owner or immediate family member (e.g., mother, father, child, grandparent) within three years from the date the original owner vacated the premises;
- d. The loan may be called upon 30 days notice to the owner if staff determines a "diligent" effort, as previously defined, to sell the home is not being made, or if the homeowner provides false information to the Agency regarding the vacating and subsequent renting or reoccupancy of the residence. The owner will be given the opportunity to remedy the situation within the 30 day period; and
- e. No more than 20 percent of the loan portfolio may have the owner occupancy requirement waived. This will provide a five percent cushion for loans that unknown to the Agency may be in noncompliance.

FINANCIAL DATA

The actions recommended in this report will have no fiscal effect on the City.

ENVIRONMENTAL REVIEW

There is no environmental effect as a result of the actions recommended.

POLICY IMPLICATIONS

This new policy provides staff direction in light of ambiguities in federal law and in the bond documents..

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VOTE AND RECOMMENDATION OF COMMISSION

At its regular meeting of February 24, 1986, the Sacramento Housing and Redevelopment Commission adopted a motion recommending approval of the attached resolution. The votes were as follows:

AYES: Amundson, Glud, Luttrell, Moose, Pettit, Sanchez,
Walton, Wooley, Angelides

NOES: None

ABSENT: Lopez, Teramoto

RECOMMENDATION

Staff recommends adoption of a policy, as set forth in the attached resolution, that provides for waiver of the owner occupancy requirement, and hence rental of bond financed homes, under certain circumstances and conditions. Adoption of the policy indicates the Council's desire to retain bond program homes as owner-occupied for the life of the loan.

Respectfully submitted,

William H. Edgar
WILLIAM H. EDGAR
Executive Director

TRANSMITTAL TO COUNCIL:

Walter J. Slupe
WALTER J. SLUPE
City Manager

Contact Person: John Molloy
440-1360

Owner/Occup/Req
2-13-86 065

RESOLUTION NO. 86-187

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

APPROVED BY THE CITY COUNCIL

MAR 4 1986

OFFICE OF THE CITY CLERK

March 4, 1986

POLICY ON OWNER OCCUPANCY REQUIREMENT FOR SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM

WHEREAS, the City has previously issued bonds to provide homeownership opportunities to first time homeowners; and

WHEREAS, homeowners under the program sometime must or choose to leave their residence, but experience a hardship in reselling the home to a qualified buyer; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. It is the Council's intent to retain the residence when possible as an owner-occupied residence for the life of the loan.

Section 2. Waivers of the owner-occupancy requirement may occur under the following circumstances and conditions:

a. If a person must or chooses to leave the residence for job related or personal reasons, but provides sufficient evidence that he or she will return to the home within three years, the home may be rented for the interim period upon written approval of the Executive Director of the Sacramento Housing and Redevelopment Agency (hereinafter "Agency");

b. If a person must or chooses to leave the residence for job related or personal reasons, but does not intend to return to the residence, the home may be rented upon written approval of the Agency, but for no more than a three year period, and as long as the owner makes diligent efforts to sell the property and the owner or his agent makes periodic reports to the Agency or lender regarding progress made in selling the home;

c. In any event, loans may be called if the home is not sold or reoccupied by the original owner or a member of her/his immediate family within three years from the date the original owner vacated the premises;

d. The loan may be called upon 30 days notice to the owner if staff determines a "diligent" effort, as previously defined, to sell the home is not being made, or if the homeowner

defined, to sell the home is not being made, or if the homeowner provides false information to the Agency regarding the vacating and subsequent renting or reoccupancy of the residence. The owner will be given the opportunity to remedy the situation within the 30 day period; and

e. No more than 20 percent of the loan portfolio may have the owner occupancy requirement waived. This will provide a five percent cushion for loans that, unknown to the Agency, may be in noncompliance.

Section 3. This action is to apply to the 1980, 1982, 1983, 1984, and subsequent single family mortgage revenue bond issues.

MAYOR

ATTEST:

CITY CLERK

OwnerOcc