



STAFF REPORT – CITY COUNCIL MEETING

March 01, 2023

TO: Honorable Mayor and City Council Members

FROM: David Loya, Director of Community Development

PREPARER: David Loya, Director of Community Development

DATE: February 23, 2023

TITLE: **Adopt Resolution No. 223-34, a Resolution of the City Council of the City of Arcata Adopting Homebuyer Downpayment Assistance for Community Land Trust Acquisition Only Program Guidelines and Authorizing a Budget Appropriation to Fund the Program in the Amount of \$100,000.**

RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 223-34, a Resolution of the City Council of the City of Arcata Adopting Emergency Homebuyer Assistance for Community Land Trust Acquisition Only Program Guidelines and Authorizing a Budget Appropriation to Fund the Program in the Amount of \$100,000.

INTRODUCTION:

The City has operated a homebuyer assistance program funded by the HOME Investment Partnership Program for decades. The City's Homebuyer Assistance Program (Program) provides gap financing to eligible households for purchase of qualifying open-market and Community Land Trust homes. The HOME Program has been suspended by the Department of Housing and Urban Development (Department) while it reviews the state Housing and Community Development Department's implementation of the HOME Homebuyer Assistance Program. This gap in the HOME Program has inordinate impacts on the Community Land Trust. Adopting Resolution No. 223-34, will create a new downpayment assistance program to attempt to stabilize the Community Land Trust.

BACKGROUND:

On July 27, 2022, all HOME grantees operating HOME Homebuyer Assistance Programs were notified by the CA Department of Housing and Community Development that HOME Programs were suspended until further notice in order to update its policies as required by the U.S. Department of Housing and Urban Development. This leaves the City of Arcata without capacity to assist qualified low-income homebuyers with downpayment financing under its Homebuyer Assistance Program.

The Community Land Trust is a partnership with Rural Communities (Housing Humboldt), which includes 22 units that are reserved for sale to low-income homebuyers. Unlike the open market homeownership assistance through the City's Program, which is paused without significant impact, the Land Trust homes must be financed or they risk creating a significant drain on Housing Humboldt's limited resources. The recommended solution before the Council is to use existing Successor Agency funds to provide emergency downpayment financing for low-income buyer acquisition of Community Land Trust homes only when there are no other sources of funds to finance their purchase.

DISCUSSION:

The proposed Guidelines would provide emergency financing for Community Land Trust homes only. While the existing Program can be used to fund both open market and Land Trust homes, the effect of the suspension on Land Trust homeownership is significant. Whereas the open-market program can be suspended without having a direct financial impact on any household or involved entity, the suspension disrupts the households in the Land Trust desiring to sell, and Housing Humboldt's operations if a household defaults. Without the program, a seller must find a buyer that does not need the City's downpayment financing but still meets all income qualifications. Very few households are both low-income and have sufficient resources to purchase a home without assistance. This leaves prospective sellers with a very limited pool of potential buyers and may result in the seller getting 'stuck' in the home.

When a home is foreclosed, Housing Humboldt owns the land, but the home may end up being owned by any number of entities. Due to the underlying affordability covenants, the homes eventually will be sold in accordance with the Land Trust requirements, however, Housing Humboldt has holding, operations, and administrative costs during this period. Also, they are not securing the leasehold revenue associated with the land trust during this time to offset costs. These negative impacts to both the households and our partner, Housing Humboldt, destabilize the program.

There is currently one Land Trust home for sale, which will more than likely need downpayment financing assistance. Over the last five years, the City has assisted five low-income buyers and expectations are that the trend will continue. These guidelines will create a local program to help stabilize the Land Trust program.

The proposed Guidelines are based on existing Homebuyer Assistance Program Guidelines (last updated and approved by the City Council in 2019), modified for use when Department-funded homebuyer programs are not available. The proposed Guidelines remove references to Department funding, but maintain the following key components of the existing Guidelines:

- Application content requirements.
- Required disclosures, such as fair lending, conflict of interest, truth in lending, lead-based paint.
- Underwriting requirements, such as down payment, income verification, maximum loan amount, debt-to-income, credit.
- Processing and approval requirements, including homebuyer education, and a NEPA environmental review.
- Loan documentation, including affordability restrictions, escrow instructions and title insurance.

- Approval conditions, such as home safety inspections and anti-displacement constraints.
- Post-funding servicing and monitoring.

Staff recommends the City Council consider adopting Resolution No. 223-34 (Attachment A) to provide downpayment assistance financing for low-income buyer acquisition of Community Land Trust homes in the absence of a Housing and Community Development-funded Program.

POLICY IMPLICATIONS:

The Land Trust model was envisioned as a means for affordable homeownership when it was established in Arcata in the 1990s. The City partnered with Housing Humboldt (then HBHDC) to develop the program and established a strategy to add approximately 100 homes into the program. This was seen as the range of units that would be self-sufficient and sustaining.

Many of the financial tools the program was predicated on are no longer available. Redevelopment and inclusionary zoning were drivers in adding units to the Land Trust. The City no longer has either of these tools. The HOME Program was the tool for financing home sales in the Land Trust. This source has proved unreliable, and a 2013 change in HOME policy disallowed any new units to be funded by HOME. Lacking the appropriate financial tools to build a consistent and sustainable program, the City and Housing Humboldt should revisit the Land Trust model.

Notwithstanding, if the Land Trust is dissolved, it should be done so thoughtfully and strategically. This emergency program will ensure stability during the planning period. Staff will provide an update and recommendation in the near future after consulting with Housing Humboldt.

COMMITTEE/COMMISSION REVIEW:

None

ENVIRONMENTAL REVIEW (CEQA):

Adopting a program for the purpose of financing loans is not a project as defined by the California Environmental Quality Act. The Program will not include any federal funding, therefore, it is not subject to the National Environmental Policy Act.

BUDGET/FISCAL IMPACT:

The Community Land Trust program will be budgeted on an as needed basis using either the Housing Successor Fund (244), Basic Fund (250), or General Fund (101), as determined by the Council on a case-by-case basis. The current budget allocation is proposed to come from the Housing Successor in the amount \$130,000.

The Council should be fully aware that these loans are higher risk than most other loan activities the City is engaged in. When a bank forecloses on a home in the Program, the City generally takes a loss as there is not enough value in the home to pay off the first lien loan and City loans. A homeowner may also sell their home for less than the total amount owed, resulting in a short sale, where the City takes the loss.

The Land Trust has historically had a slightly higher rate of default and foreclosure than the open market program. In the last five years, foreclosure rate among Land Trust homes has been six per year, while the open market program rate has been four per year. There were also two short sales of Land Trust homes over five years. Considering the proportion of the City's portfolio that is invested in the Land Trust, the risk of loss is substantially higher than the open market program.

ATTACHMENTS:

A. Resolution 223-34 (PDF)