COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 12/10/2013	(3) CONTACT/PHONE Dana Lilley, Supervising Planner/(805)781-5715 dlilley@co.slo.ca.us	
(4) SUBJECT Request to approve Affordable Housing Debt Forgiveness Policy for Individual Owner Occupied Homes. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt and direct the chairperson to sign the attached resolution (1) establishing criteria for when the County will accept less than the full amount owed to the County by owner-occupants of affordable homes and (2) authorizing the Director of the Planning and Building Department to approve and execute documents related to such requests.			
(6) FUNDING SOURCE(S) CDBG, HOME, CalHome Grants	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? No
(10) AGENDA PLACEMENT **{ X }** Consent **{ }** Presentation **{ }** Hearing (Time Est. ___) **{ }** Board Business (Time Est.___)			
(11) EXECUTED DOCUMENTS **{ X }** Resolutions **{ }** Contracts **{ }** Ordinances **{ }** N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: **{ }** 4/5 Vote Required **{ X }** N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY **{ X }** N/A Date: ___________	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts -			

County of San Luis Obispo

TO: Board of Supervisors

FROM: Planning and Building / Dana Lilley, Supervising Planner

DATE: 12/10/2013

SUBJECT: Request to approve Affordable Housing Debt Forgiveness Policy for Individual Owner Occupied Homes. All Districts.

RECOMMENDATION

It is recommended that the Board adopt and direct the chairperson to sign the attached resolution (1) establishing criteria for when the County will accept less than the full amount owed to the County by owner-occupants of affordable homes and (2) authorizing the Director of the Planning and Building Department to approve and execute documents related to such requests.

DISCUSSION

Background

County staff has been contacted over the past two years by a handful of homeowners (or their lenders or realtors) who are participants in our Affording Housing Loan programs asking the County to forgive or reduce secondary loan amounts owed to the County. The reasons for making these requests vary and include hardship issues such as an employment location change, loss of income, change in household composition (divorce, death, etc.), medical expenses, and sometimes simply to facilitate the refinancing of the first mortgage loan. Staff now recommends that the Board of Supervisors adopt a policy guiding staff, borrowers, lenders and realtors when such requests to reduce an amount owed to the County are being considered. Up to now the only option for such borrowers was default and foreclosure.

The County's Portfolio of Currently Active Loans

Loans of federal or state funds

The County of San Luis Obispo has made loans to eligible households during the past thirty years for first time home purchases, rehabilitation of existing homes, and for construction of sewer laterals. Funding for these loans came from the federal Community Development Block Grant (CDBG) Program, the federal Home Investment Partnerships (HOME) Program, and the state CalHome Program. These loans have a variety of terms; some carry a 3% interest rate, some are forgiven after the specific affordability period, and some are not forgiven and must ultimately be repaid.

Long Term Affordable Housing Loans

County codes and discretionary development permits require that certain residential projects provide a number of affordable housing units. Prior to January, 2009, the long term affordability of these units was assured when the eligible homebuyer recorded a second deed of trust in favor of the County. This second trust deed "captured" the dollar difference between the market value and the County's affordable sales price for the housing unit. The eligible buyer was encouraged to continue owning and living in the unit because he or she would be required to pay off the County's second trust deed if they decided to move out to rent the unit out or to sell the property. When one of these "long term affordability Loans" is paid off, the County places the funds into a special account to be used later in support of affordable housing. No County funds were used to create these second trust deeds. The amount owed to the County under these loans declines over time until the required affordability period had passed, at which time the homeowner no longer owed the County any balance.

All Active Loans

Many homeowners have paid off their county loans over the years as favorable interest rates have enabled them to refinance their first mortgage loans to include the amounts owed to the County. Meanwhile, the County has continued to make new loans. As of November 22, 2013, the County's portfolio of such loans on individual homes is summarized in the following table:

Category of loan	**Number of loans**	**Aggregate amount owed**
CDBG	41	$651,762
HOME	78	$2,492,051
CalHome	23	$870,320
Long Term Affordable Housing Loans	20	$1,918,256
Total	**162**	**$5,932,389**

Considerations for Reducing 2nd Trust Deed Principal Amounts

A decline in home market values creates a hardship for all sellers. When the market price falls below the original purchase price, the sale of the unit may not generate sufficient funds to pay off the full amount of the mortgage debt. The recent national economic downturn has resulted in many current homeowners being "under water" when the market value of their home falls below the remaining balance of their first mortgage loan. The federal government created programs to help such homeowners refinance or restructure their first mortgage loans, including an exemption from income tax for the value of any forgiven debt.

Staff now recommends that the Board of Supervisors adopt a policy guiding staff, borrowers, lenders and realtors when a borrower wishes to request reduction of the amount owed to the County. Following are options for consideration:

1. One possible policy might be to confirm that the County loan is not forgivable, except where the terms of the existing agreement specifies that the loan would be forgiven after the affordability period has passed. In some cases of reduced household income, such a policy might cause an underwater homeowner to abandon their home and let the foreclosure process commence instead of attempting to restructure their first mortgage or to sell the property at a price less than the remaining balance of bank and county loans. This option would require the least amount of county staff time to administer when compared to the other options. Few of the County's borrowers have lost their homes through foreclosure in the past. Now that property values are rising again and local economic conditions seem to be improving, the risk of additional foreclosures seems to be declining. However, it is possible that additional underwater homeowners may want or need to sell, and unless the County will accept less than is owed, those homeowners may be forced to take the route of default and foreclosure.

2. A second policy option would be to accept payment of any funds remaining after the first mortgage and closing costs have been paid, but only where hardship circumstances make sale of the property necessary. The County is more likely to receive more funds repaid under this option than it would under the previous option (#1), since bidders at foreclosure sales do not normally offer to pay full market value. This is the option recommended by staff.

3. A third policy would be to authorize reduction of the amount owed the County according to a formula reflecting the percentage of property value loss or other variables. Staff does not support this option because of the potentially large amount of debt forgiven, and consequently, a loss of a large amount of potential future repaid funds to support new affordable housing.

4. A fourth policy option would be to consider reducing the amount owed the County for long term affordability requirements where the County did not directly provide funding or financing for the housing. Staff does not support this option because these loans have financial value which, when ultimately repaid to the County, will be needed to support additional affordable housing.

OTHER AGENCY INVOLVEMENT/IMPACT

This request was reviewed by the County's Debt Advisory Committee (DAC) on October 28, 2013, and the DAC recommendations were incorporated into the attached recommended policy. County Counsel reviewed and approved the resolution as to form and legal effect.

FINANCIAL CONSIDERATIONS

This request does not have a direct financial impact to the County itself. However, staff believes that the recommended policy could result in a greater amount of repaid funds to support additional affordable housing in the future.

RESULTS

The intended result of this request is to increase the amount of loan repayments to the County by enabling owners to sell their homes instead of allowing foreclosure to take their homes. This request could also reduce the number of owners whose credit rating is damaged through a foreclosure.

ATTACHMENTS

Attachment 1 - Resolution