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## Using HOME for Homebuyer Assistance

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**MRBs and Other Federal Homeownership Programs**  
JANUARY 10 – 12









**Housing Credit**  
JANUARY 9 – 11

**Section 8 and Other Federal Multifamily Programs**  
JANUARY 10 – 12







**HOME and Housing Trust Fund**  
JANUARY 7 – 9



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## Administering Homebuyer Activities




**Strategic Approach**

- Development (projects)
- Direct buyer assistance (programs)

**Partners/Participants**

- Developers
- Subrecipients
- Counselors
- Homebuyers
- Lenders?


**Policies & Procedures**



- Underwriting & responsible lending
- Counseling
- Resale/recapture
- Refinancing

**Administrative Controls**

- Written agreements
- IDIS (& POA)
- Program income
- Resale/recapture

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NCSHA  

## Required: PJ Policies & Procedures

- §92.504(a) { • PJs must have & follow written policies, procedures & systems
- §92.254(f) { • PJs must have program policies/procedures for all assisted homebuyers
- §92.254(a)(3) { • Assisted buyers must receive housing counseling
- §92.254(e) { • Applicable if 1st mortgage lender also provides the HOME funds

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NCSHA  

## Policies v. Procedures

Policies	Procedures
<ul style="list-style-type: none"> <li>• Specify <i>program requirements &amp; guidelines</i></li> <li>• Policies &amp; minimum requirements of the Rule</li> <li>• Additional local policies &amp; investment terms</li> </ul>	<ul style="list-style-type: none"> <li>• Identify <i>who does what when</i></li> <li>• Pipeline processing steps</li> <li>• Program administration</li> <li>• Project monitoring</li> <li>• Documentation</li> </ul>

**Online Resource:** *Homebuyer Program Policies & Procedures Program Compliance Review & Assessment*

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# Pick Your Own Adventure



- 75-minute session after very full day, right before happy hour
- So, what's top of mind related to homebuyer for you?
- We'll work thru the top issues but may not cover all slides
  - Full slide deck and additional resources available online
  - Catch us during breaks, happy hour, etc.




# Homebuyer Development

Developer & Buyer Assistance All in One Package

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## 2 Approaches: Buyer Assistance




**Purchasing Power**

- *Direct buyer assistance and/or*
- *“Pass-through” development assistance*

HOME Assistance

- Downpayment assistance
- Closing cost assistance
- “Gap” financing
- Interest subsidies?



**Market Pricing**

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## 2 Approaches: Development Assistance

More suited to markets with:

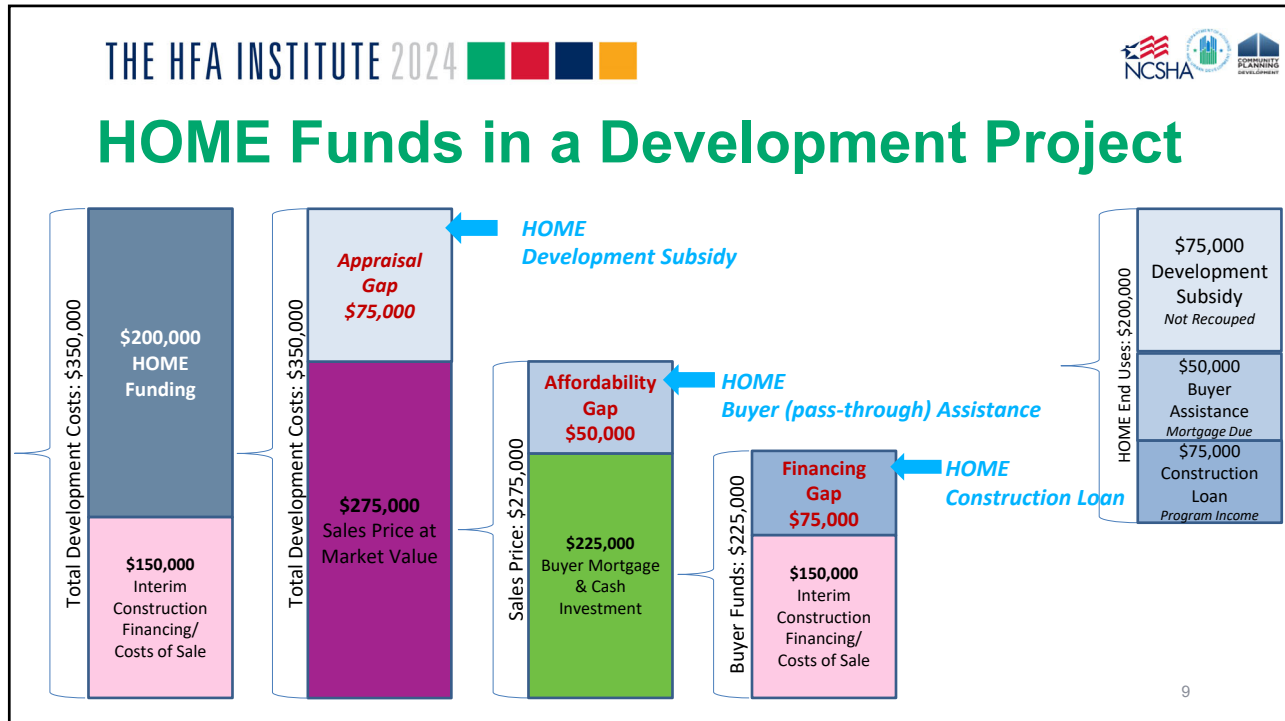
- Limited supply of quality homes – need production of new units and/or rehabilitation of substandard homes
- Sizable affordability gap between buyer purchasing power & price
- Strong buyer demand

PJ funds development costs initially

- Some may be allocated to excess costs (Appraisal Gap; “Development Subsidy”)
- Some may pass through to the buyer (Affordability Gap)
- Some may function as a construction loan (Financing Gap)

Development requires more capacity: Developers & the PJ

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NCSHA COMMUNITY PLANNING & DEVELOPMENT

## Observations & Cautions

Counterparty role is critical – developers are **not** subrecipients

- Two written agreements, one with developer, one with buyer
- Per project – most often each assisted unit is its own “project” (& POA)
- Developers may not retain/reuse program income or recaptured funds\*

Critical to categorize how much HOME was “**left**” as development subsidy, “**passed through**” as buyer assistance, and “**recovered**” as a construction loan to avoid:

- Excessive returns to developers (aka over-subsidized)
- “Leakage” of Program Income

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# Homebuyer Underwriting & Responsible Lending Policy

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## PJ Underwriting

Eligibility

Affordability &amp; Sustainability

Appropriate Assistance

The PJ is responsible to ensure that:

- The buyer is **eligible** for the HOME Program
- The home purchase is **affordable & sustainable**
- The **appropriate** amount of HOME assistance is provided

HUD “best practice” requirements:

- Buyer underwriting guidelines §92.254(f)(1)
- Responsible lending policy §92.254(f)(2)

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## PJ Buyer Underwriting Guidelines

**Separate** from 1<sup>st</sup> mortgage lender underwriting & HOME income qualification

**Individual** evaluation: likelihood of **sustainable** ownership

PJs must examine:

- Front-end & back-end ratios
- Other recurring (“uncontrollable”) monthly expenses
- Buyer assets (min. investment, max. assets, remaining cash reserves)

Conducted **prior to** written agreement with homebuyer

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## PJ Focus on Lending Ratios

### Front-End Ratio (aka Housing Ratio)

Mortgage payment as % of gross income

Common lending parameters: 28-33%

PJ may also establish minimum ratio (to limit subsidizing other debt)

- Buyer must spend at least 20 – 25% of gross income on mortgage


### Back-End Ratio (aka Total Debt Ratio)



Housing + all debt payments as % of gross income

Common lending parameters: 38-43%

- PJ policy challenge: Determine “**appropriate level of assistance**”
  - Lower ratio means ownership is more affordable & sustainable, but
  - Lower payment means lower mortgage & requires more HOME funds

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## Other Elements of Underwriting Policy

Monthly expenses of the family
→

- Other monthly expenses affecting ability to pay


Assets available to acquire
→



- Buyer cash for down payment & closing costs
- Excess liquid assets

Resources to sustain ownership
→

- Post-closing cash
- Can consider credit history, prior housing costs

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## Implications of PJ Underwriting Policy

Not everyone who is income eligible is going to qualify
→

- May require more assistance than PJ guidelines allow
- May not have enough income & liquid assets to sustain

Not everyone qualified by a lender will qualify under PJ policy
→

- May not qualify for a “responsible” mortgage

PJs need to be transparent & upfront about program limits & standards
→

- To manage buyer expectations

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## Observations & Cautions

Most PJs have had to increase limits on assistance given rising prices & interest rates

Make sure buyer underwriting policies include all elements

- Underwriting must determine appropriate assistance for each individual buyer (both avoiding excessive leveraging and also excessive assistance (e.g., minimum front-end ratio)
- Post-closing cash is important to sustainability – consider lower out of pocket to preserve post-closing assets



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## Resale/Recapture

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## Resale/Recapture Requirement

Must meet program requirements for minimum period of affordability (POA)

- If sold during POA, resale/recapture applies (§92.205(a)(5))

Disclose resale/recapture policy in Annual Plan; HUD explicit approval (CPD-12-003)

Designate applicable policy to each program/project in written agreement

Resale or recapture restrictions imposed through written agreement and separately enforced via:

- Lien (recapture) or
- Deed restriction/covenant running with the land (resale)

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## When to Use Resale or Recapture


Recapture can only be used when:



- Providing direct subsidy to homebuyer
- Must have an amount that can be recaptured
  - *If pure grant to buyer or no direct assistance needed, then must use resale*

Resale can be used for any HOME-assisted homebuyer

- **Must** be used when there is no direct subsidy to buyer
- Also used for community land trusts

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## Resale/Recapture Options

**Resale**

If sold during POA, must

1. Sell to low-income buyer (approved by PJ)
2. At price affordable to a reasonable range of LI buyers and fair return to seller (PJ must define “affordability” and “fair return” in it’s ConPlan/Annual Plan)

POA based on **total** HOME investment

Secure by deed restriction/covenant

**Recapture**

Options in Rule include:


- Recapture full amount of buyer subsidy
- Forgive HOME subsidy pro-rata over POA
- Proportionately share net proceeds
- Return of buyer investment first



POA based on **buyer subsidy**;

Recapture “out of net proceeds” only

Secure by note & mortgage/deed of trust


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## Choosing Resale/Recapture Policy

- Achieve long-term affordability?
- Build/preserve buyer equity?
- Protect public investment?
- Generate program income?



- Is model still appropriate under current market conditions (and expected future market conditions)?

- Capacity to monitor & approve transactions, sales prices, buyers (resale) or monitor closings & recapture funds (recapture)

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## Observations & Cautions

As need for assistance per household has increased, PJs are rethinking resale/recapture approach

- Use of CLTs is growing in higher cost markets (resale policy)
- Fewer PJs are forgiving assistance in full; loans repayable beyond affordability period
- Increased use of shared appreciation model

Make sure you have HUD approved resale/recapture policies (CPD-12-003) – HUD is concerned about

- Mixing of recapture and resale approaches
- Unclear resale policies around fair return and range of future affordability



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## Adjusting to an Adjusting Market

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## Program Design: Strategic Alignment



- Objectives**
  - What are your homebuyer objectives?
- Market**
  - How is your market changing?
- Approach**
  - What is/are the best ways to provide assistance?
- Partners**
  - Who has the capacity to implement?

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## Observations & Cautions

Rapid runup in housing values and interest rates have

- Stopped some programs in their tracks – use the time to retool and be ready to restart
- Prompted higher levels of assistance, sometimes without considerations of whether prior resale/recapture policies are aligned

Make sure program reflects current market conditions & capacity

- Be realistic about whether sufficient capacity exists – at the PJ, among potential subrecipients, among potential developers
- Update & enforce Policies **and Procedures**
  - Transparency, consistency & compliance across programs, partners and projects
  - PJ/partner staff turnover happens; it will keep happening



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## Additional Resources

- HOME PJ Homebuyer P&P Program Compliance Review & Assessment
- Sample Written Agreement (Recapture) with assisted buyer
- HOME Homebuyer Program Feasibility Tool
  - Given typical pricing, prevailing lending terms, and PJ-established maximum buyer assistance, what is the income range we can really serve



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## Homebuyer Policy Training

5-week training (scheduled by Field Office)

- 1st week in-person; Weeks 2 thru 5 online
- Weekly presentation, readings, assignment, office hours (& follow-up TA)

Includes additional sample resources:

- Sample Homebuyer Underwriting, Resp. Lending, Subordination Policy
- Buyer Assistance Evaluation Tool
- Sample Written Agreement with assisted buyer (resale)

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