

IHCDA HOME Homebuyer Program

Post-Closing Requirements

Session 7

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IHCDA's Mission and Vision

Our Mission

To provide housing opportunities, promote self-sufficiency, and strengthen communities.

Our Vision

An Indiana with a sustainable quality of life for all Hoosiers in the community of their choice.



Agenda

- Period of Affordability Determination
 - Recapture
 - Resale
- Homebuyer Documentation
 - Lien
 - HOME Agreement
 - Homebuyer Completion Reporting
- Final Draw Request
- Project Monitoring & Notice of Project Completion
- On-Going Compliance
 - Annual Certification of Completion
 - Refinance and Subordination Requests

Period of Affordability: Recapture v. Resale

What is the Period of Affordability?

- The Period of Affordability is the amount of time the unit is required to meet and maintain the HOME requirements.
- It is based upon the amount of HOME investment in the property.

HOME Investment	Affordability Period
<\$15,000	5 Years
\$15,000-\$40,000	10 Years
>\$40,000	15 Years

What is the Period of Affordability?

- The amount of HOME investment to be used in the POA determination, however, is determined by the use of the Buyer Subsidy.
- If there is a Buyer Subsidy, then the POA is based on the amount of the Buyer Subsidy.
- If there is ONLY a Developer Subsidy, then the POA is based the total HOME investment to the property.
- Developers may not elect to use Resale if there is a Buyer Subsidy. Developers are also not allowed to mix Resale and Recapture.

POA requirements

- The new owner must maintain residency throughout the POA
 - Yearly certification required to be submitted to IHCD
- Unit must be primary residence
- Non-compliance will trigger full repayment of the total HOME investment to IHCD from the developer
 - I.E. Buyer converts unit to rental, Air BnB, home is sold during POA but the recapture/resale provisions were not enforced.
- No income certification after initial closing

Recapture and Resale Triggers

- If any of the following occurs during the POA, then the Recapture/Resale Provisions are triggered:
 - Homebuyer transfers or conveys the property by deed, land contract
 - Foreclosure proceedings are commenced against the property
 - The Property is transferred by an instrument in lieu of foreclosure, or,
 - The title to the property is transferred from the homebuyer through other involuntary needs

Recapture

- “Sell to anyone, for any price, but pay back the subsidy”
- Requires use of HOME for Buyer subsidy
- Amount of HOME on Lien and length of POA is based on Buyer Subsidy only
- Example: Lien is \$25,200, POA of 10 years

Summary of HOME Investment		
HOME for Dev. Subsidy	60,000	10,000
HOME Buyer Assistance (passed-through)	25,200	(10,550)
HOME Construction Loan (repaid from proceeds)	39,800	550

Recapture Provisions

- The owner may sell the unit to whomever they want at whatever price the market will bare. LRCA is released upon sale.
- Upon sale, the buyer must pay the Buyer Subsidy back to IHCDA.
- Amount to be paid back is dependent upon:
 - Forgiven Ratio
 - Net Proceeds
- No right of first refusal during POA

Recapture Provisions – Forgiven Ratio

- The amount of the buyer subsidy will be reduced by the “forgiven ratio” – by dividing the number of full months that the owner occupies the property as its principal residence by the total number of months in the POA.
- Example: \$25,000 Buyer Subsidy; POA of 10 Years. Buyer lived in unit for 4.5 Years.
 - 54 months of residence
 - 120 total months under POA
 - Ratio is .45
 - \$11,250 to be paid back to IHCDA from owner upon sale

Recapture Provisions – Net Proceeds

- The amount to be recaptured is also limited by “Net Proceeds”.
- Net Proceeds are the sales price (-) superior loan repayment (other than HOME) and closing costs.
 - Example: HOME unit sells for \$250,000 - \$150,000 (Mortgage) = \$100,000 net proceeds.
- If there are not net proceeds, the amount to be recaptured is \$0 and the HOME loan to the owner is satisfied and can be released upon sale.
- The amount to be paid back to IHCDCA cannot exceed net proceeds.

Resale

- Under IHCD policy, used when no buyer subsidy is given to the homebuyer
- Other PJs may have policy to always require Resale – this would be the TOTAL HOME investment (buyer subsidy + development subsidy)
- POA is determined by total HOME investment

Resale – what happens if the home is sold during POA?

- The buyer must be marketed to, and sold ONLY to a low-income buyer (at or below 80% AMI)
- Sales price must be affordable and is set by IHCDA – must ensure the PITI is below the 29% front end ratio and 41% back-end ratio
- IHCDA will determine a fair return to the owner and determine the maximum sales price
- The new buyer will assume the lien and must live in the property for the remainder of the POA

Post-Closing Documentation

Documentation required

- Four documents are required within 30 days of sale:
 - HOME Agreement
 - LRCA
 - Homebuyer Completion Report
- HOME Agreement and LRCA are required by HUD – see CPD notice 12-003
- Homebuyer Completion report is the report IHCD directly enters into the HUD IDIS system for final reporting on the project

Home Agreement & Principal Residency

- The HOME agreement is to ensure that all parties are aware of the provisions related to the LRCA and the HOME requirements (principal residency requirement, POA).
- Developers will receive a fillable Word Doc in their award packet
- Not required to be recorded – must be signed by both Developer and Homebuyer(s)
- Principal Residency Certification certifies homebuyers understand HOME residency requirements
 - Only signed by homebuyers. Does not need to be recorded.

Lien and Restrictive Covenant

- Recorded version of LRCA must be submitted
 - Let IHCDa know if your Recorder's Office has margin limitations – we can make adjustments
- Recapture LRCA included in the Award Packet
 - If resale is triggered, IHCDa will send that version to you
- The POA starts when the entire project has been monitored and closed in the IDIS system. More on this later.

Homebuyer Completion Reporting

- This replaces other close-out forms that were previously required.
- Three sections of the Form:
 - Activity Information
 - Financial Structure of Activity
 - Household Characteristics
- Must be filled out per unit

Homebuyer Completion Reporting

Part A: Activity Information			
1. Name of Participant:		2. Contract #:	
3. Type of Property (check one):			
<input type="checkbox"/> 1-4 Single Family		<input type="checkbox"/> Condominium	<input type="checkbox"/> Manufactured House
4. Type of Activity Financed (check one):			
<input type="checkbox"/> Acquisition Only Acquisition & New		<input type="checkbox"/> Construction	
<input type="checkbox"/> New Construction Only Acquisition &		<input type="checkbox"/> Rehabilitation	
		Total Completed	HOME-Assisted
5. Units			
Of the Total Completed Units, the Number of:	Units Qualified as Energy Star		
	Section as 504 Accessible Units		
6. Period of Affordability: If you are imposing a period of affordability that is longer than the regulatory minimum, enter the total years (HOME minimum + additional) of affordability. If only imposing the HOME regulatory minimum, leave blank. Total Years of Affordability: _____ Years:			
7. Lead Based Paint Requirement (only applicable for Acquisition/ Rehab activities)			
<input type="checkbox"/> Housing Constructed before 1978			
<input type="checkbox"/> Exempt, Housing Constructed 1978 or later			
<input type="checkbox"/> Otherwise Exempt: 0 Bedroom, Elderly – disabled with no children under 6, LBP free and/ or used no more than 100 days per year.			
8. Lead Hazard Remediation Actions (if applicable)			
<input type="checkbox"/> Lead Safe Work Practices (24 CFR 35.903 (b))			
<input type="checkbox"/> Interim Controls of Standard Practices (24 CFR 35.903 (c))			
<input type="checkbox"/> Abatement ((24 CFR 35.903 (d))			
Part B: Financial Structure of Activity			

Homebuyer Completion Reporting

Part B: Financial Structure of Activity		
1. Purchase Price	\$	After Rehab Value (if applicable)
2. HOME Property Costs (Including HOME Program Income)	Amortized Loan	\$
	Grant	\$
	Deferred Payment Loan	\$
	Total	\$
	Amortized Loan	\$
3. HOME Downpayment Assistance (Including HOME Program Income)	Grant	\$
	Deferred Payment Loan	\$
	Total HOME DPA	\$
4. Public Funds	Other Federal Funds	\$
	State/Local Appropriated Funds	\$
	Tax Exempt Bond Proceeds	\$
	Total Public Funds	\$
5. Private Funds	Private Loan Funds (Include Buyer's Permanent Financing)	\$
	Owner Cash Contribution	\$
	Private Grants	\$
	Total Private Funds	\$
6. Total Activity Costs		\$

Homebuyer Completion Reporting

Part C: Household Characteristics							
1. Name of Homebuyer: <input type="text"/>							
2.. Property Address: <input type="text"/>							
# of Bedrooms	% of Area Median	Occupant	Hispanic or Latino? (Y/N)	Race-Head of Household	Size of Household	Type of Household	Assistance Type
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Part C: Homebuyer Characteristics							
1. First-time Homebuyer?		<input type="checkbox"/> Yes	<input type="checkbox"/> No				
2. Coming from Subsidized Housing?		<input type="checkbox"/> Yes	<input type="checkbox"/> No				
3. Lease Purchase?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, Date of Agreement			
4. Homebuyer Counseling?		<input type="checkbox"/> No Counseling	<input type="checkbox"/> Post-Counseling	<input type="checkbox"/> Pre-Counseling	<input type="checkbox"/> Both Pre and Post		
5. FHA Insured		<input type="checkbox"/> Yes	<input type="checkbox"/> No				

% of Area Median Code

- 1= 0-30%
- 2= 30-50%
- 3= 50-60%
- 4= 60-80%

Occupant

- 1= Owner
- 2= Vacant

Race of Head of Household Code

- 11= White
- 12= Black/African American
- 13= Asian
- 14= American Indian/Alaskan Native
- 15= Native Hawaiian/Other Pacific Islander
- 16= American Indiana/Alaska Native & White
- 17= Asian & White
- 18= Black/African American & White
- 19= American Indian/Alaska Native & Black/African American
- 20= Other Multi Racial

Type of Household Code

- 1= Single/Non-Elderly (Under 62)
- 2= Elderly (62 age older)
- 3= Single Parent
- 4= Two Parents
- 5= Other

Assistance Type

- 1= No assistance
- 2= Section 8
- 3= HOME/TBRA
- 4= Other Federal/State/Local Assistance

Project Monitoring, Final Draw Request and Notice of Project Completion

Final Project Closeout Monitoring

- Once all units have been sold and the post-closing documents have been submitted, the project will be added to the RED Compliance queue for closeout monitoring.
- All recipients are required to review RED Compliance Congratulations on Your Award located at:
<https://www.youtube.com/watch?v=AUIIm72OFO9E> for a high-level overview of what is required for closeout monitoring.
- All Awards will receive at least one (1) final closeout monitoring.
- IHCDCA will hold the final \$5,000.00 of each award until the final closeout monitoring has been successfully completed.

Final Draw Request

- Compliance will inform the developer when the final draw request may be made.
- \$5,000 retainage may then be claimed.
- It is strongly encouraged that claims for retainage be submitted prior to contract expiration and before final monitoring. The Financial Operations team should deny the claim.
- Once the developer is allowed to claim the retainage, the same claim can be resubmitted through IHCD and should be processed.
- Please note that claims can take up to 30 days to process.

Notice of Project Completion

- The POA cannot start until the entire project is closed in IDIS – this means all units sold, the project has completed its final monitoring and all eligible claims have been paid.
- Once the project is closed, IHCD will issue a notice to the buyer, once the completion date is known, which will serve as an amendment to the HOME Homebuyer agreement.

Post-Closing Compliance

Annual Certification of Compliance

- Homeowner must live in the HOME-assisted unit as their primary residence throughout the POA.
- NOTE: There is NO income requirement under HOME Homebuyer after closing.
- IHCDA must receive yearly the “Homebuyer Activity Annual Certification of Compliance” throughout the POA.
- This should be submitted by January 31 each year to homerentupdate@ihcda.in.gov.

Refinance and Subordination

- During the POA, the homebuyer may refinance their first mortgage (the non-HOME debt) and request a subordination of their HOME loan.
- IHEDA will allow the refinancing to allow to owner to either obtain a lower interest rate, or, if there is sufficient equity, to take cash out for repairs or other catastrophic expenses.
 - Any cash out refinancing to the property must result in a total loan-to-value ratio of 90% or less.
- Total indebtedness may not exceed the value of the property; predatory lending and non-confirm loans are not permitted.

Refinance and Subordination

- The following must be submitted to IHCD as part of the request:
 - Two bank statements
 - Copy of the LRCA and any amendments or addendums
 - Appraisal
 - Good Faith Estimate
 - 1008
 - Estimated closing date
 - Name of lender
 - Amount of new loan
 - Homebuyer refinance/subordination request form
 - Current and new rate if applicable
 - Current and new monthly payments if applicable
 - IHCD staff may request additional information and documentation as part of their review.

Refinance and Subordination

- If approved, IHCDAs Legal Department will execute the Refinance/Subordination Agreement.
- This will be executed between IHCDAs, the borrower and the lender.
- Refinancing does not alter the POA on HOME.
- IHCDAs recommends that borrowers or lenders reach out to IHCDAs at least two weeks prior to closing.

Upcoming Training – NONE!

You've successfully completed this series!

ANY QUESTIONS?

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