

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: January 24, 2012 Consent Regular
 Ordinance Public Hearing

Department: Housing & Community Development
Submitted By: Housing & Community Development

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) Approve First Mortgage Modification Policies** to establish guidelines under which the terms of first mortgage loans made to homeowners under housing programs administered by the Department of Housing and Community Development (HCD) may be modified by means of Mortgage Modification Agreements; and
- B) Adopt a Resolution** authorizing the County Administrator, or his designee, to execute Mortgage Modification Agreements with homeowners who have granted Palm Beach County first mortgages in exchange for the receipt of assistance under housing programs administered by the Department of Housing and Community Development provided that the terms of such Mortgage Modification Agreements comply with the First Mortgage Modification Policies, as attached hereto, and as may be amended from time to time by the Board of County Commissioners, and provided that such Mortgage Modification Agreements have been deemed legally sufficient by the County Attorney's Office.

Summary: These First Mortgage Modification Policies (Policies) will allow County financed homeowners whose ability to service their first mortgage debt has been involuntarily reduced, to modify the terms of their County held first mortgages in order to maintain the affordability of their homes and to continue their homeownership tenure. HCD administers various housing programs under which homeowners receive financial assistance in exchange for which they grant the County repayable first mortgages as security for such funding. These Programs include, but are not limited to, the Universal Housing Trust Program (UHT), the Neighborhood Stabilization Programs 1, 2, and 3 (NSP1, NSP2, and NSP3), the State Housing Initiatives Partnership Program (SHIP) and the HOME Investment Partnership Program (HOME). Homeowners who become adversely affected by circumstances beyond their control and who as a consequence are not fully able to service their debt to the County, may apply to the County for relief as provided under these Policies. In order to provide relief to homeowners who qualify under these Policies, a Mortgage Modification Agreement must be executed that will result in extending the loan amortization period, adding delinquent mortgage payments to the backend of the loan, suspending or temporarily reducing mortgage payments for a pre-specified period, transferring a portion of the mortgage balance to an existing forgivable County financed second mortgage, or any combination of these measures. These Policies will require homeowners to pay a non-refundable \$750 fee to recover the County's administrative costs associated with mortgage modifications. **No additional local funds are required to implement the proposed policies.** (MHA) Countywide (TKF)

Background and Policy Issues: (Continued on Page 3)

Attachments:

1. First Mortgage Modification Policies
2. Resolution

Recommended By: Edward W. Gomez 12/25/2011
 Department Director Date

Approved By: Sharon G. [Signature] 12/28/11
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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Is Item Included In Current Budget? Yes _____ No _____

Budget Account No.:

Fund _____ Dept _____ Unit _____ Object _____ Program Code/Period _____.

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No Fiscal Impact.

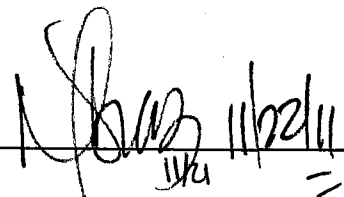
C. Departmental Fiscal Review:



 Shairette Major, Fiscal Manager I

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:



 OFMB
 11/21/11
 JB
 11/21/11



 Barbara Wheeler 12-21-11
 for Contract Development and Control

B. Legal Sufficiency:

This item complies with current County policies.



 Senior Assistant County Attorney
 12/18/11

C. Other Department Review:

 Department Director

Background and Policy Issues: (Continued from Page 1)

With the implementation of new housing programs that provide first mortgage assistance and the growth of the County's first mortgage portfolio, HCD has become aware of the need for these Policies in anticipation of mortgages in this portfolio that may become seriously delinquent. With such reductions in debt service the County's investment could be placed at risk and the County's continued income stream from such first mortgages could become increasingly uncertain. Accordingly, HCD is recommending the approval of these Policies in order to establish a process by which both the County's interest could be preserved and homeowners' continued housing affordability and homeownership tenure could be maintained.

These proposed Policies recognize the following circumstances which could diminish a homeowner's household income such that they could impede the ability of the homeowner to continue to service the debt created by the County financed first mortgage:

- Job loss of a mortgagor (initiated by the employer without fault of the employee and not as a result of the employee's resignation or dismissal)
- Illness or injury of a mortgagor or a permanent household member
- Retirement of a mortgagor
- Divorce of the mortgagors
- Death of a mortgagor
- Loss or reduction of income from an income producing asset(s)
- Discontinuation of court ordered payments (child support/alimony)

In order to accommodate homeowners under these circumstances and at the same time continue the County's mortgage income stream, an adjustment to the terms of the first mortgage by means of a Mortgage Modification Agreement is envisioned under these Policies. These Policies establish the following mortgage modification strategies that may be used singularly or in combination:

- Extending the first mortgage loan term beyond the 30 year amortization period
- Adding delinquent first mortgage payments to the backend of the loan
- Transferring a portion of the first mortgage balance to an existing forgivable County financed second mortgage within the established second mortgage limits
- Abeyance or temporary reduction of the first mortgage payments for a pre-specified period while the homeowner regains the ability to pay and the addition of the unpaid amount to the backend of the loan

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA**



**DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT**

FIRST MORTGAGE MODIFICATION POLICIES

**POLICIES EFFECTIVE AS OF
DECEMBER 6, 2011**

1. INTRODUCTION AND PURPOSE

The Department of Housing and Community Development (HCD) administers various housing programs under which homeowners received financial assistance. In exchange for the receipt of such assistance, homeowners approved for funding under certain of these housing programs granted Palm Beach County (County) repayable first mortgages as security for such funding. HCD has recognized that some of these assisted homeowners may, over the life of their first mortgages, be involuntarily adversely affected by circumstances beyond their control whereby their ability to service their first mortgage debt is diminished and whereby, in turn, their housing affordability and/or their continued tenure as homeowners will be jeopardized. As a result, the County's outlay to capitalize these first mortgages could be placed at risk, and the County's continued income stream from such first mortgages could become increasingly uncertain.

While HCD presently has a Mortgage Foreclosure Prevention Program that could provide assistance to some affected homeowners to enable them to keep their mortgage payments current, the scope of assistance afforded by this program is both temporary and limited. In order to institute broader remedies to alleviate the effect of debt service capacity reduction, and in order to offer homeowners solutions that are more permanent in nature, the County has adopted certain strategies contained in these First Mortgage Modification Policies (Policies) that could allow certain homeowners to maintain the affordability of their homes and to continue their homeownership tenure.

As such, these Policies establish the process by which HCD financed homeowners could be considered in order to benefit from the strategies contained in these Policies, the manner by which their circumstances are evaluated, and, the methods by which their first mortgages could be modified in order to maintain the affordability of their homes and to continue their homeownership tenure.

2. COVERED PROGRAMS

Below is the list of housing programs implemented by HCD at the time of adoption of these Policies where financial assistance is provided in exchange for which the County receives first mortgages:

- Universal Housing Trust Program (UHT).
- Neighborhood Stabilization Programs 1, 2 and 3 (NSP1, NSP2 and NSP3).
- State Housing Initiatives Program (SHIP).
- HOME Investment Partnership Program (HOME).
- Residential Rehabilitation Program (RRP).
- Any other housing program presently implemented by HCD and approved by the Board of County Commissioners (BCC) under which the County receives first mortgages.

All of the above listed programs are covered by these Policies. In addition, these Policies shall also cover any future housing programs approved by the BCC under which the County will receive first mortgages.

3. THE APPLICATION SUBMISSION PROCESS

There are two ways by which homeowners could initiate an application with HCD for a first mortgage modification:

- Homeowners may contact HCD directly in order to apply after they determine that their ability to service their mortgage debt is in jeopardy.
- HCD monitoring of mortgage repayments reveals potential debt servicing problems upon which homeowners are contacted by HCD and are encouraged to apply for a first mortgage modification.

HCD shall make an application form and an information pamphlet that provides details about the mortgage modification process available to homeowners interested in applying. HCD shall, in said pamphlet, inform applicants that a non-refundable mortgage modification fee of \$750 will be due when they apply after attending a pre-application conference with HCD staff.

HCD staff shall not officially accept and begin processing applications, nor shall HCD staff accept the \$750 fee, until after a pre-application conference with homeowners has been conducted.

At the pre-application conference, HCD staff shall review the application and supporting documentation and establish the potential for homeowners to benefit from the mortgage modification methods provided herein. HCD staff shall then inform homeowners of these conclusions and allow homeowners to decide whether they wish to proceed with the application and pay the fee. HCD staff shall maintain a written record of the basis for their conclusions at each pre-application conference.

4. THE APPLICATION REVIEW PROCESS

Upon receipt of an application for a mortgage modification and the receipt of the required fee, HCD staff shall review the application and the supporting documentation provided by the applicant and shall request additional documentation from the applicant, as necessary, in order to fully evaluate the applicant's circumstances that have negatively impacted the applicant's ability to service the County's mortgage.

The below list contains the events that shall be recognized by HCD under these Policies as acceptable events to be considered in evaluating an application for a mortgage modification. HCD staff shall obtain documentation that demonstrates how these events have caused a reduction in an applicant's ability to service the County's mortgage.

- Job loss of a mortgagor only if initiated by the employer without fault of the employee and not as a result of the employee's resignation or dismissal (this may be a layoff or a reduction in the number of work hours initiated by the employer).
- Illness or injury of a mortgagor or a permanent household member.
- Retirement of a mortgagor.
- Divorce of the mortgagors.
- Death of a mortgagor.
- Loss or reduction of income from an income producing asset(s) that was relied upon to service the County's mortgage.
- Discontinuation of court ordered payments (e.g. child support, alimony) to the mortgagor.
- Any other event beyond the applicant's control (e.g. natural disaster) that is deemed acceptable to the HCD Director.

HCD staff shall also verify the applicant's household income in writing as part of the application review process.

5. THE APPLICATION EVALUATION PROCESS

During the application evaluation process, HCD staff shall establish the authenticity and veracity of the documentation provided by the applicant in support of the application that is associated with the above listed events. HCD staff shall also establish the effects of the aforesaid events on the applicant's continued ability to service the County's mortgage, such as determining whether the effect is temporary or permanent.

In addition, during the application evaluation process, HCD staff shall establish the applicant's capacity to service the mortgage debt based on the income verified in connection with the application review process.

6. HCD STAFF RECOMMENDATIONS

In formulating a recommendation to the HCD Director, HCD staff shall take the results of the evaluation process into consideration and recommend the use of one or more of the following strategies to modify the applicant's mortgage in order to maintain the affordability of the applicant's home and to continue the applicant's homeownership tenure:

- Extending the first mortgage loan term beyond the 30 year amortization period, but not for a period exceeding 40 years.
- Adding delinquent first mortgage payments to the backend of the loan.
- Transferring a portion of the first mortgage balance to an existing forgivable County financed second mortgage within the established second mortgage limits.
- Abeyance or temporary reduction of the first mortgage payments for a pre-specified period while the homeowner regains the ability to resume payments at a higher level and the addition of the unpaid amount to the backend of the loan.

Recommendations made to the HCD Director by HCD staff to approve an application for a mortgage modification shall, at a minimum, include a financial analysis showing the applicant's debt obligations prior to application, a description of the events that caused a reduction in the applicant's ability to service the County's mortgage, a statement showing the current household income, the strategies from the above list that are recommended for use and a financial analysis relating the applicant's current household income to the recommended debt restructuring that would result from the use of the recommended strategies.

Recommendations made to the HCD Director by HCD staff to deny an application for a mortgage modification shall, at a minimum, include a financial analysis showing the applicant's debt obligations prior to the application, a description of the events that caused a reduction in the applicant's ability to service the County's mortgage, a statement showing the current household income, and an explanation why debt restructuring using the above strategies would not result in maintaining the affordability of the applicant's home nor continue the applicant's homeownership tenure.

If a mortgage modification is approved by the HCD Director, HCD staff shall then proceed with the preparation of mortgage modification documents as described below, and if a mortgage modification is denied by the HCD Director, HCD staff shall then prepare a denial letter from the HCD Director to the applicant outlining the reasons for the denial.

7. PREPARATION AND REPORTING OF MORTGAGE MODIFICATION AGREEMENTS

Approved mortgage modifications shall be embodied in Mortgage Modification Agreements to be executed by the approved applicant (homeowner) and by the County Administrator, or designee.

HCD staff shall prepare Mortgage Modification Agreements on forms that have been pre-approved for use by the County Attorney's Office. The Mortgage Modification Agreement for each approved applicant shall contain the terms and conditions of the mortgage modification strategies approved by the HCD Director for such applicant, and shall be presented to the applicant for signature. Once signed by the applicant, the Mortgage Modification Agreement shall be transmitted for signature by the County Attorney's Office to indicate said document's legal sufficiency, and then presented to the County Administrator, or designee, for execution on behalf of the BCC.

HCD staff shall cause all fully executed Mortgage Modification Agreements to be recorded in the Public Records for Palm Beach County. Upon the return of a recorded document to HCD, a copy shall be maintained in the applicant's file, and the original recorded Mortgage Modification Agreement shall be transmitted to HCD's Fiscal Section for record keeping.

HCD shall, on a semi-annual, basis provide the BCC a listing of all Mortgage Modification Agreements recorded during the reporting period.

8. NOTES ON THE LIMITATIONS OF THESE POLICIES

The purpose of these Policies is to put a process in place that will assist as many homeowners as possible to the unintended exclusion of others. Homeowners who have granted first mortgages to the County and who are adversely affected by circumstances that diminish their ability to service their first mortgage debt to the County may not always have the remaining financial capacity to support the obligations that would result from the mortgage modification strategies outlined in these Policies. In such instances, despite the County's best efforts to restructure the debt of such homeowners, the only remaining options may result in the loss of homeownership for such homeowners through foreclosure or the deed-in-lieu-of-foreclosure process.

RESOLUTION NO. R2012-

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE MORTGAGE MODIFICATION AGREEMENTS WITH HOMEOWNERS WHO HAVE GRANTED PALM BEACH COUNTY FIRST MORTGAGES IN EXCHANGE FOR THE RECEIPT OF ASSISTANCE UNDER HOUSING PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT PROVIDED THAT THE TERMS OF SUCH MORTGAGE MODIFICATION AGREEMENTS COMPLY WITH THE FIRST MORTGAGE MODIFICATION POLICIES, AS ATTACHED HERETO, AND AS MAY BE AMENDED FROM TIME TO TIME BY THE BOARD OF COUNTY COMMISSIONERS, AND PROVIDED THAT SUCH MORTGAGE MODIFICATION AGREEMENTS HAVE BEEN DEEMED LEGALLY SUFFICIENT BY THE COUNTY ATTORNEY'S OFFICE.

WHEREAS, the Department of Housing and Community Development administers housing programs under which it provides assistance to homeowners, and

WHEREAS, such homeowners in compliance with the requirements of such housing programs grant Palm Beach County first mortgages in exchange for assistance received by them, and

WHEREAS, certain of these homeowners may, over the life of their first mortgages, be involuntarily adversely affected by circumstances beyond their control whereby their housing affordability and/or their continued tenure as homeowners is jeopardized, and

WHEREAS, such circumstances experienced by these homeowners could impede their ability to continue to service the debt created by their first mortgages thereby placing the County's investment at risk and increasing the uncertainty of the County's continued income stream from such first mortgages, and

WHEREAS, such homeowners may request the modification of their first mortgages to alleviate the adverse effects resulting from such circumstances, and

WHEREAS, the Department of Housing and Community Development wishes to modify the first mortgages of such homeowners through the use of Mortgage Modification Agreements in order to continue housing affordability and homeownership tenure provided that the terms of such Mortgage Modification Agreements comply with the First Mortgage Modification Policies attached hereto, and provided that such Mortgage Modification Agreements have been deemed legally sufficient by the County Attorney's Office, and

WHEREAS, the expeditious processing of such Mortgage Modification Agreements would be served by delegating authority for their signature to the County Administrator, or his designee.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA:

The County Administrator, or his designee, is authorized to execute Mortgage Modification Agreements with homeowners who have granted Palm Beach County first

mortgages in exchange for the receipt of assistance under housing programs administered by the Department of Housing and Community Development provided that the terms of such Mortgage Modification Agreements comply with the First Mortgage Modification Policies, as attached hereto, and as may be amended from time to time by the Board of County Commissioners, and provided that such Mortgage Modification Agreements have been deemed legally sufficient by the County Attorney's Office.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and being put to a vote, the vote was as follows:

Commissioner Shelly Vana, Chair	-
Commissioner Steven L. Abrams, Vice Chairman	-
Commissioner Karen T. Marcus	-
Commissioner Paulette Burdick	-
Commissioner Burt Aaronson	-
Commissioner Jess R. Santamaria	-
Commissioner Priscilla A. Taylor	-

The Chairperson thereupon declared the Resolution duly passed and adopted this 24th day of January, 2012.

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

**ATTEST: SHARON R. BOCK,
Clerk and Comptroller**

By: _____
Tammy K. Fields,
Senior Assistant County Attorney

By: _____
Deputy Clerk