



Community Affordable Housing Strategies Alliance COMMITTEE REPORT

Committee Name: Maintenance of Affordability committee

Date of Report October 16, 2006

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Meeting Date/Time: October 12, 2006

Attendees:

Committee's Mission Statement:

To make recommendations that creates an intervention strategy to:

- a. maintain the affordability of the housing unit (and, if appropriate the housing development maintenance structure)
- b. create a system of supportive services and policies to maintain the housing owner/occupant "in place" in times of economic crisis.

▪ **Issue 1: Aspects of Affordability - Real Estate**

- ✓ restrictive covenants on property and financing documentation

Discussion (summarize major points):

Florida law does not encourage restrictions on the transfer of real property unless there is a public purpose. The maintenance of affordability as a purpose should be drafted into any (and all) ordinances and resolutions dealing with preserving housing affordability.

The committee reviewed various deeds, lien documentation, and other instruments currently used by various Miami-Dade County housing programs and found that there was no uniformity in transactions or programs when (and if) restrictions were placed on the transferability of the property in order to insure preservation of the "affordability" aspects of the real estate. The committee recognizes that there are different programmatic requirements when federal and state funding is used in a transaction and that many transactions which produce affordable housing require several layers of financing, most of which have income targeting and property restriction requirements which are sometimes at variance with each other. The committee also familiarized itself with various types of restrictions: deed restrictions, restrictive covenants placed directly on the property, restrictions in notes and mortgages requiring "no prepayment or prepayment penalty" and requiring no assumability or qualifications to assume the indebtedness, and various other restrictive agreements that deal with the use, occupancy, and income targeting of the ultimate owner or renter. The committee also discussed that as a policy Miami-Dade County is interested in the improvement of the quality of life for all of its residents and the equity of allowing a property owner to share in the value appreciation of the property they own should be factored into the restrictive transferability of the property.

Based upon the discussions in committee as summarized above, the committee asked staff to develop a matrix of various types of restrictions, when they can be appropriately used and their value in achieving the desired outcome, and known state and federal financing requirements which might

mandate or mitigate their use in a transaction. The matrix is made part of this report as Attachment "A".

Action Items (for submittal to CAHSA Task Force):

1. All ordinances and resolutions of the Board of County Commission which deal with housing should contain a clear policy statement that it is the policy of Miami-Dade County when dealing with public property or dollars that any use of those dollars should be with a clear purpose of not just promoting housing affordability, but also **preserving** housing affordability.
2. Any use of public property or funding for affordable housing transactions must appropriate contain property restrictions which maintain and preserve the affordability aspects of the real estate. The matrix created for this report (Attachment "A") should be used as guidance in determining the appropriateness of the restrictions used as to type and duration.
3. In order to encourage people to create equity and take advantages of opportunities to improve their lives, a mechanism to share an appreciation in property values should be considered as well as property use and transfer restrictions.
4. The enforcement of the property restrictions needs to be monitored and improved (It is acknowledged that some of the larger projects especially rental developments with various subsidy programs and regulatory agreements, are currently monitored for compliance by Miami-Dade County and/or the State of Florida and or the federal government). Attorneys and title companies need to be better educated. Title Insurance companies could require title agents to attach any property restriction documents to title commitments. State law can be changed to require restrictions on property use to be better "flagged" and require County clerks to also "flag" such documents when recorded.
5. A housing compliance office (or officer) can be created within the Housing Agency whose responsibility is to monitor and enforcement affordability compliance and restrictions.

▪ **Issue 1: Aspects of Affordability - Real Estate**

- ✓ Community land trusts

Discussion (summarize major points):

The committee spent sometime acquainting ourselves with the concept of land banking and community land trusts (CLT). Attached to and made part of this report is a briefing paper on community land trusts which was prepared for the workforce housing task force and which summarizes the purposes of and how to use this vehicle for preservation and maintenance of housing affordability (Attachment "B").

Generally, CLT are set up for governance as 501(c)(3) not for profit corporations which own the land and the homeowner owns the structure on the land. There are basically two types of community land trusts...neighborhood-based and community-wide.

A Neighborhood-based CLT operates in a defined geographical neighborhood and the land it owns is in that neighborhood. Its governing board is similar to a CHODO (in the federal HOME program) and is composed of one-third lessees, one-third neighborhood residents in general, and one-third people with housing-related expertise. The Bahama Conch CLT land trust in Key West is a model that has been in existence for several years... more recent models are in Winter Park (Hannibal Square) and Delray Beach.

A Community-wide CLT is larger in geographic scope and usually holds several parcels of land. The governing boards are not necessarily composed of community residents or lessees (with the one-third structure as set forth above). Florida community-wide CLTs are being developed in Sarasota, Charlotte, Lee and Martin counties.

Currently there are two CLTs in Miami that have been created and one is in process:

- A CLT in Overtown has been set up by the Collins Center for Public Policy (a parcel of land has been purchased with Knight Foundation funding) and a few projects are on the drawing board; but no housing has been built. The governing board of this organization is made up of people with housing-related expertise and there is a separate advisory board which is composed of Overtown CDC executive directors. Although it was initially created for Overtown, its scope and design is to encompass other areas as well.
- A neighborhood-based CLT located in the West Grove has been discussed for several years by the Coconut Grove Collaborative. It is unclear at this time as to whether or not it has actually been set-up or is operational.
- The city of Homestead is in the process of creating a CLT which will principally be located in its Community Redevelopment Area (CRA).

This is a tool that holds promise as a mechanism that might own and preserve the affordability of current government owned land as well as a tool that could empower and assist property owners on a neighborhood level. If structured correctly it might also serve as organization that is not only concerned with preserving the affordability of housing units and of maintaining the viability and appearance of the land and the structures, but also serve as a safety net for homeowners. On April 8, 2003, the Board of County Commissioners passed Resolution# R-306-03 which directed the County Manager, through the Miami-Dade Housing Agency, to develop recommendations for the establishment and implementation of a community land trust (Attachment "C").

Action Items (for submittal to CAHSA Task Force):

1. The County Manager immediately implement Resolution# R-306-03 and, if appropriate, begin the process of creating a Miami-Dade County CLT.
2. Miami-Dade County review the efficacy of setting up a neighborhood CLT that would cover the Scott/Carver housing projects area and any other neighborhood where the county owns (or could put under its control) a sizable amount of developable property.
3. Appropriately fund and insure stable management of any CLT that is created to maintain itself as a viable entity capable of preserving the affordability of the property under its control and the residents residing therein.

▪ **Issue 2: Aspects of Affordability - Property Associations**

- ✓ escrow reserves
- ✓ governance

Discussion (summarize major points):

Many units of housing are in condominiums, townhomes, community associations or Planned Unit Developments – in times of economic crises, association dues is often not paid by residents creating liens and addition costs on the property. Consequently, there is not enough money in the association reserves account do the mandated and necessary maintenance causing property deterioration which creates a spiraling effect on neighborhood blight and lower property values. This may make property "more affordable", but the social costs in quality of life for the residents increase.

Action Items (for submittal to CAHSA Task Force):

1. As part of an affordable housing project approval process when the planned development structure includes a property maintenance association and Miami-Dade County funding is used as part of the financing, a sufficient amount of money must be set up in an escrow reserves account that would cover the costs of property maintenance in common areas (as specified in the association documents) for an adequate period of time. This can be a developer requirement or a direct operating grant made to a community association.
2. Capacity building training to develop effective governance for association leaders and community residents should be made the responsibility of the developer before the turnover of the association to the residents. Failure to do this can be cause for default if Miami-Dade County maintains a lien or covenant on the property.
3. An examination of Florida law governing community associations in housing developments should be performed in order to determine if any changes need to be made to codify the recommended action items set forth above. Include in this would be an appropriately funded and staff office of the state ombudsman responsible for educating association management and investigating abuses.
4. Ongoing inspections of structures and periodic structural certifications for housing code compliance.
5. MINORITY recommendation: Association fees can be included in the escrow portion of a homeowner's mortgage payment. This can certainly be done when Miami-Dade County or its instrumentalities is a mortgagee.

▪ **Issue 3: Aspects of Affordability - Resident Sustainability**

- ✓ escrow accounts
- ✓ resident case management
- ✓ loan foreclosure forbearance requirements

Discussion (summarize major points):

Many residents of housing characterized as "affordable" are first time homeowners with little experience in budgeting, property maintenance, and few reserves to use when an economic crisis occurs. Often there is a requirement to complete a homeownership and/or a credit counseling class prior to purchasing a home and qualifying for a subsidized mortgage. There are also many different curriculums and training qualifications. However, once the closing occurs there is no safety net system to assist a homeowner other than the social services system in Miami-Dade County. The committee looked at two models that could be used to create a follow-through program:

- a. Some non-Profits involved in housing production (i.e. Little Haiti Housing Association and other community development corporations) have created voluntary "homebuyer clubs" in which purchasers of homes developed by the non-profit have an opportunity to get assistance and answers to questions about post-closing issues involving their mortgages and homes (increase in tax and insurance escrows, interpretation of documents, avoidance of predatory lenders, unexpected repairs). Staff of the non-profit serve as housing information/referral specialists and case managers to the members of the "homebuyer clubs"
- b. Habitat for Humanity performs a similar function. Some of their housing developments have involuntary maintenance community associations which also serve as "post-closing" case management entities which assist in homeowner crises for its members.

The committee also discussed several ideas that could possibly assist individuals maintain themselves that should be further explored such as individual development accounts (IDA accounts),

financial literacy as part of the high school curriculum, incentive programs, the need for continued family self-sufficiency training (including employment enhancement training).

Action Items (for submittal to CAHSA Task Force):

1. Miami-Dade County should provide funding for post-closing homeownership case management services in any community association (including a community land trust) created as part of an affordable housing development which uses Miami-Dade County financing resources and/or land. Surtax dollars and general revenue funds are currently being used for pre-closing homeownership classes can also be used for post-closing follow-through.
2. Grants/loans which are currently available for items such as hurricane shutters can be expanded for other uses such as mold removal, housing code violations, etc. An emergency housing repair pool/ or trust fund can be set up which is funded by general revenue dollars, available grants, and a surtax on building permits.
3. Miami-Dade County (possibly in conjunction with other community agencies or foundations) could establish an IDA account program which can be used for post-closing expenses (i.e. furniture, emergency repairs, mortgage payments in case of an economic crisis).

▪ **Issue 4: Other Discussion items**

The committee did not have the time to look into three vital issues: loan forbearance requirements, mobile home park closures, and mandatory economic strategies such as rent control and rent stabilization programs. It is recommended that these items be further studied for potential action steps.