



## Federal Housing Finance Board

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June 10, 1998

[REDACTED]  
[REDACTED]  
**Federal Home Loan Bank of** [REDACTED]  
[REDACTED]

Re: \_\_\_\_\_ Community Council, Inc. - Proposed  
AHP Subsidized Cooperative Share Loan Program

Dear [REDACTED]

This is in response to \_\_\_\_\_ letter of April 16, 1998, to Brandon Straus, of the Federal Housing Finance Board (Finance Board), regarding the proposal of \_\_\_\_\_ (Sponsor) to use an Affordable Housing Program (AHP) direct subsidy to fund a proposed cooperative share "revolving" loan program. As further discussed below, the Finance Board's revised AHP regulation would not permit the Sponsor to lend AHP direct subsidies as proposed. However, an alternative approach that would permit the Sponsor to "revolve" AHP grants under certain circumstances would be permissible under the AHP regulation. Also, please note that Finance Board staff currently is revisiting the issue of whether, and how, the AHP regulation should be amended to permit the use of AHP subsidies as revolving loan funds.

\_\_\_\_\_ letter proposes a cooperative share loan program where the Sponsor would lend an AHP direct subsidy to assist AHP income-eligible households to purchase shares in the cooperative. The households would be required to repay the loan to the Sponsor over a specified term, and the Sponsor would use the repaid funds to assist new AHP income-eligible households to purchase shares in the cooperative. All three questions posed in \_\_\_\_\_ letter assume the permissibility of the Sponsor using AHP direct subsidies to make share loans.

The Finance Board's regulation implementing the AHP provides that if a member or a project sponsor lends a direct subsidy to a project, any repayments of principal and payments of interest received by the member or the project sponsor must be paid forthwith to the Federal Home Loan Bank (Bank). See 12 C.F.R. § 960.13(d)(3). There is nothing in the language of this provision that limits its terms to rental projects, as \_\_\_\_\_ suggests -- the provision applies to both rental and owner-occupied projects. The cooperative would be treated as an owner-occupied project under the AHP regulation. See *id.* § 960.1. Under the AHP regulation, proposed projects

(or applications for AHP subsidies) are scored according to scoring criteria adopted by the Banks pursuant to the parameters set forth in the regulation. Contrary to \_\_\_\_\_ position, the Sponsor's proposal to apply for direct subsidies under the AHP would be such a proposed project or application and is, therefore, subject to § 960.13(d)(3). Accordingly, since § 960.13(d)(3) requires that any repayment of a direct subsidy received by the project sponsor be repaid to the Bank, the Sponsor may not lend the direct subsidy and use repaid subsidy funds to assist other purchasers.

The specific questions posed in \_\_\_\_\_ letter are further discussed below.

1. During the retention period, if an AHP-assisted household sells its cooperative shares to another low-income buyer, can the share loan be repaid to the Sponsor and used to assist the new buyer (and/or other low- and moderate-income buyers in the project)?

As discussed above, under § 960.13(d)(3) of the AHP regulation, the Sponsor may not lend the direct subsidy to individual purchasers of cooperative shares and use repayments of such subsidy to assist new households to purchase shares in the cooperative. See *id.* § 960.13(d)(3). Therefore, the question whether the share loan can be repaid to the Sponsor upon the sale of the cooperative shares to another low- or moderate-income household is moot since there can be no share loan repaid to the Sponsor in the first place.

2. After the retention period, can an AHP-assisted household be required to repay its share loan to the Sponsor on a scheduled monthly basis and the repaid funds used for the purposes described above?

This would be, essentially, a deferred loan with monthly repayments to the Sponsor commencing after the expiration of the five-year retention period. Again, as discussed above, § 960.13(d)(3) of the AHP regulation requires that any repayments of an AHP direct subsidy be paid forthwith to the Bank. See *id.* The language of this provision does not limit the repayment requirement to the five-year retention period. Therefore, even after expiration of the five-year retention period, § 960.13(d)(3) would not permit the Sponsor to require repayments of the AHP direct subsidy to the Sponsor for relending to other low- or moderate-income purchasers.

3. If your interpretation of the AHP regulation does not permit the type of program outlined in (1) and (2) above, could the \_\_\_\_\_ program be structured so that during the retention period, if an AHP-assisted household sells its shares to another low-income buyer, the share loan would be transferred to, or assumed by, the new purchaser?

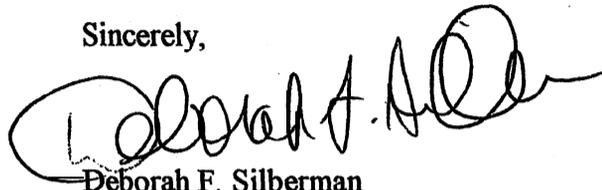
Again, as discussed above, since a Sponsor share loan, as proposed, would not be permissible in the first place under the AHP regulation, there would be no share loan to be transferred to, or assumed by, a new purchaser.

However, although the AHP regulation would not permit the type of share loan program the Sponsor proposes, under § 960.13(d)(1)(ii) of the AHP regulation, a share purchase program could be structured under which AHP subsidies could be provided as grants to individual purchase of shares, with pro rata repayments made to the Sponsor in the event of a sale of the

shares during the five-year retention period to a household that is low- or moderate-income. The Sponsor then could re-grant the repaid subsidy funds to assist new AHP income-eligible purchasers in buying their cooperative shares. This type of program would be permitted because § 960.13(d)(1)(ii) only requires repayments to the Bank where the unit is sold during the retention period to a purchaser that is not a low- or moderate-income household. See id. § 960.13(d)(1)(ii).

Please feel free to call Janet Fronckowiak of the Compliance Assistance Division, Office of Policy, at (202) 408-2575, or Sharon B. Like, Senior Attorney-Advisor, Office of General Counsel, at (202) 408-2930, if you have any additional questions.

Sincerely,



Deborah F. Silberman  
General Counsel

cc: \_\_\_\_\_  
William Ginsburg  
James Bothwell  
Mitchell Berns  
Richard Tucker  
Janet Fronckowiak

