

AH Committee

From: Sherri Dodson <sherri@habitat-maui.org>
Sent: Wednesday, September 09, 2020 2:10 PM
To: AH Committee
Subject: Habitat Deed Restriction
Attachments: Maui Deed Restriction Policy.pdf

Aloha,

Attached please find Habitat for Humanity Maui's Deed Restriction Policy. Please let me know if you have any questions.

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Habitat for Humanity Maui builds strength, stability and self-reliance through shelter.



Deed Restriction Policy

Because Habitat homes are built with volunteer labor and Habitat for Humanity Maui (HfHM) seeks no profit, the purchase price (the First Mortgage amount) of a Habitat home generally falls well below its fair market value (FMV). Without something to secure this difference, an opportunistic homeowner could sell the home immediately after closing and realize a substantial profit on the difference. This would very likely alienate the donors and volunteers who contributed to the construction of the house.

Another risk is that predatory or sub-prime lenders may target Habitat homeowners because the sub-prime lender can lend a large sum of money for a very low investment. For example, if a homeowner has a \$60,000, 0% interest mortgage and the FMV of the house is \$100,000, then the sub-prime lender could lend \$100,000 to the homeowner at a very high interest rate by paying off only the remaining balance of the First Mortgage. This would be very tempting to the homeowner as well, although it would be potentially disastrous, as the homeowner may be unable to make the higher monthly payments. Therefore, it is in the best interest of both HfHM and the homeowner to have some form of equity sharing arrangement.

In today's real estate market, the affordability of land is one of HfHM's principal concerns. Using Deed Restrictions HfHM can safeguard its investment in affordable housing, and also ward off predatory lenders.

HfHM serves very low and low income families. In order for these families to be able to afford homeownership, HfHM can provide a no interest long term mortgage. HfHM will issue a 30 year mortgage in order that very low income families will be able to afford homeownership. There will be no restrictions or penalties on pre-payment so that a Partner Family may pay off the mortgage earlier and be debt free.

HfHM will issue a First Mortgage to equal the amount of cash to be paid by the homeowner. The First Mortgage will be the cost to build the home plus no more than 10% of direct costs to cover indirect expenses incurred in the building process.

Recognizing the high cost of land and the high cost of building in Hawaii, HfHM will attempt to keep the cost of each unit affordable through subsidies. This will enable the homebuyer's initial monthly payment to not exceed 30% of the family's gross income at the time of closing.

A Second Mortgage will also be issued equaling the difference between the purchase price and the Fair Market Value of the property. The Fair Market Value will be determined by an appraisal done at the time of sale. The first 10 years of the mortgage

there will be no shared equity. The affiliate would then forgive 5% each year, reflecting the increasing equity interest the homeowner has in the house and providing an added dimension to the partnership between Habitat and the homeowner. This gradual vesting of equity in the homeowner not only allows HfHM to control the resale or refinancing of the house in the early years of the partnership, but also illustrates that the homeowner is a "stakeholder" in the house. The realization of more equity with each year can be an incentive for the homeowner to make monthly payments on time and take care of the house.

Habitat's mission is to provide an opportunity for homeownership to those deserving families who would not be able to afford to purchase a home on their own. As such, HfHM will require all units sold to be owner-occupied.

A Right of First Refusal (ROFR) will allow HFHM to keep the property affordable to repurchase the property if the low income buyer chooses to sell it. The ROFR will contain a requirement that the homeowner must notify HfHM and give the HfHM a certain amount of time to repurchase the property. The repurchase price would be the FMV of the property or a bona fide offer, which would then be adjusted by the amount owed to the affiliate under the First and Second Mortgage. This allows the affiliate to bring the property back into its stock of affordable housing to be sold to another low-income buyer. The ROFR will be used in conjunction with the Second Mortgage. This allows HfHM to repurchase the property at an affordable price by offsetting the repurchase price by the amounts due under the Second Mortgage.

This policy will not affect any home built in partnership with the Department of Hawaiian Home Lands. These homes and any restrictions are governed by the Memorandum Of Understanding between the Department of Hawaiian Home Lands and Hawaii Habitat for Humanity.

Conclusion

In Summary Habitat for Humanity Maui has the following policy for Deed Restrictions:

- 30 Year Mortgage
- No Prepayment Penalty
- Owner Occupied
- No appreciation in the first 10 years
- From year 11 through 30, a 5% shared equity each year
- Right of first Refusal