2017-2018 Building HOME Webinar Series IV
Chapter 5 - Homebuyer Activities

Kris Richmond: We'll get started with the next section. Shawna [ph], if you want to go ahead and get started.

Shawna Moraille: Yeah. I cannot advance the slide. So I'll go ahead and tell people just real fast who I am. I am standing in for Les Warner today. He is your fearless leader in terms of the Building HOME series that you folks are a part of along with obviously Kris Richmond. I am here today only. I do not think you will see me next week or hear from me next week. I've been working at ICF since 2001, so a very long time. I have been mostly working on HOME, CDBG, neighborhood stabilization program, and more recently HUD's housing counseling program. And just like Kris and Les, they do a lot of training, I do a lot of technical assistance, write guidebooks, training manuals, etc., and a lot these days in terms of like the HUD Exchange, like I'm one of the main people who helps manage the content of the income eligibility calculator. That's available for you to determine income. So I might mention that as we get started.

And then prior to joining ICF, I worked for a tax credit developer, I worked for a large urban county in New Jersey, and I worked for a couple of other national organizations, National League of Cities, National Association for County Community and Economic Development. I'm well over 20 years in the HOME program at this point. So anyway, it's good to be a part of this webinar.

So I think we're going to open up homebuyer with a poll. So this question is similar to owner occupied rehabilitation that Kris answered with the help of Mike. How many of you are actually funding a HOME homebuyer activity? We want to figure out how many of you are actively funding a program today.

Michael Reich: Poll is closing in 15 seconds.

Shawna Moraille: Okay. Great. We need a few of -- okay. Did you go ahead and close the poll, Mike?

Michael Reich: Yes. I did.

Shawna Moraille: Okay. Great. All right. So we do want to hear from some of you. So maybe you can chat and tell Kris in the chat box. But it looks like, I don't know, a third of you are doing homebuyer programs. And just around 50 of you are doing -- are not doing homebuyer programs. So we have seen over the years homebuyer used to be one of the most popular activities across all HOME PJs in the country. We've seen a lot more folks decide to fund rental. And now I think some people are going back to homebuyer. So maybe some of you are hanging with us because you'd like to figure out how to revamp your homebuyer program or maybe you're interested in getting one started again in your community. And all of that would make sense. So happy to have you. And half of you did not answer. So we are paying attention to that.

Okay. So in terms of actual activities, so there are many different options. This is one of the great things about the HOME program, where you can really design what works for you. I think most of the folks out there are using HOME funds simply for acquisition, where you might be providing down payment assistance, closing cost assistance, you might be doing soft second mortgages which would be the difference between the sales price and what's affordable to a homebuyer. These are by far the most popular programs across the country. It also helps a little bit of money goes to a lot of different homebuyers, which makes it most attractive.

Some of you are also funding acquisition and rehabilitation programs. And this would mean, okay, we don't have enough units in our community that are in standard condition. Remember Kris talked about the property standards, and I know you guys did that on last week's session, that they need to be in standard condition. So a lot of people use -- pay for in the homebuyer program, acquisition, which might be the down payment, closing cost, etc., But then they also realize this property is not in standard condition, we need to also rehabilitate it as well. So that is a fairly common model as well.

You might even have some CHDOs that you're working with, or community housing development organizations. And some of you may be CHDOs, who might be picking up property, rehabilitating it, and then selling it to a homebuyer. Some of you don't have an ample supply of affordable units in your community that can be purchased by a homebuyer. And some of you are doing new construction, so that might be new construction in terms of subdivisions, it could just be like one off units around your particular town, it could be anything like that. But new construction is fairly popular as well particularly in areas where they don't have an ample supply.

Some people are doing lease purchase. And lease purchase is a homebuyer program where you have maybe some clients that you're working with that do not have enough funds potentially for down payment. They might be repairing credit, they might be doing any number of things. They're going to purchase the unit over time, but initially they are going to be involved in what's called a lease purchase agreement. And this is where within 36 months of signing, a lease purchase agreement, the homebuyer and household they take title to the property. Or if you the PJ, let's say that that didn't work out over 36 months, you the PJ have an additional six months to make sure that that unit is transferred to an eligible homebuyer.

I think my bias is that most of the lease purchase programs that I have seen, they're successful if it's a shorter term. Like it might be a year lease purchase or something like that. Longer lease purchases, it just gets wonky in terms of the property management relationship, that type of thing. And I do want to say, this lease purchase -- I live in Ohio, which I failed to say before. I've also lived in California and worked at ICF, as well as the DC area. So I've kind of had multiple experiences related to markets as well as the many clients that I work with. But in Ohio we have these funny [ph] lease purchase projects that are -- I don't know if any of you are from Ohio -- that are tax credits. They use the low income housing tax credit program. And then they're a rental for a period of time and then change into homebuyer. That is not what we mean by lease purchase here. This is meant from the outset as homebuyer.

Now we could have, and this could be in any scenario, we have seen some rental units that have income eligible households, that they buy the property. So they have to be income eligible at the time. [inaudible] with the rental situation. And then also it's the same household or different household in that rental unit. Then they could purchase the unit over time. This obviously works best if it's scattered single family homes in an area, such as this happens all the time in Toledo and other parts of Ohio. That's totally fine. And we have another slide on that as well. So many different options to you in terms of eligible homebuyer programs.

So you can sell a HOME assisted rental unit to a tenant. But they have to be income eligible, as I mentioned, at the time of sale. And then the next couple bullets really talk about resale and recapture, which we haven't covered yet. But just know that there is still a period of affordability that has to be completed. And if you provide them with additional assistance such as down payment assistance, then you might be able to use the recapture option.

If you don't provide assistance, then you would be looking at the resale restriction, which is typically a longer period of time. And we can revisit this slide if helpful tomorrow. But just know that a couple different things you have to keep in mind. And the single family really is what works best when you're selling units to tenants. Obviously if it's like a couple -- like a fourplex or something like that, or something where unless it's changed into condominiums or do something else, it's probably not going to work for you, because it's not going to be like a fee simple title or something like that.

So in terms of forms of assistance, similar to what Kris said, there are lots of different options here. So grants, some PJs choose to do grants. But they call them a forgivable loan because the repayable if the affordability is not satisfied. Some people say, you know what, I'm just going to defer the payment until maybe the end of the period of affordability or I'm going to defer it for a certain period of time. And then the last option that Kris touched on as well, I mean below market interest rate loans, I mean could be used, but usually we see those in a downward interest rate market, which is not what we have today.

So in terms of other forms, these are the most common would be down payment closing cost assistance. Again that's where a lot of people have decided to focus their funds just because it's a little bit of money that goes a long way. I would say the other most popular item is to fund just the gap assistance. So this is the gap financing again that might be a soft second loan to a homebuyer where maybe the property is $200,000 and they need $20,000 because they can only afford 180. In a first mortgage that $20,000 would be like an example of a soft second. So usually we don't write down the sales price. That's something that we have had on our building home sites for a long time. We don't want to depress the values in any market. Some of us learned that through the neighborhood stabilization program. So that is really not popular.

Development assistance, we might have a community housing development organization or a CHDO. We might give them development funds. It might be that they need $100,000 to develop this single family home. We might be providing that with HOME assistance. Or it might be $50,000. It also might be the difference between what they can get as a construction loan and then the rest of their total development costs. If they have a lender that's providing them with a construction loan of 100,000, but they really need 150,000 to develop the property, maybe you slide in HOME funds for that development assistance of like $50,000.

And then finally loan guarantees. Loan guarantees are unpopular. I don't know of any PJ ever who's done this. But there could be a loan guarantee pool that's set up that protects the first mortgage lender typically, where you promise to pay the lender back if somebody defaults on their loan. And it's limited to only 20 percent of the principal amount of what the face value of those loans. But people often ask the question, we get a lot of questions during the foreclosure crisis about doing loan guarantees. I wouldn't do it with my HOME funds. I would focus on developing making sure my CHDOs, if they need to do CHDO homebuyer, if I've got the market for that, and I would probably fund like a down payment closing cost program.

So homebuyer counseling, this is something that came as -- it's always been an option in the HOME program. It became required with the advent of the HOME final rule. So any assisted homebuyer out there has to receive homebuyer counseling. It is up to you in terms of the number of hours, the scope, etc. It is not detailed in the HOME final rule. And in terms of costs, you can pay for housing counseling out of your HOME administrative pot, your 10 percent of admin, all day long. And some people choose to do this because they are unsure of who's going to become a HOME assisted homebuyer. You can only charge it as a project related soft cost if the prospective homebuyer receives a HOME assisted unit. But you can do that. And you can charge a counseling fee. I think that's not a problem.

And then there's a couple more things about housing counseling these days that we'll save. Maybe if we have time tomorrow, Kris, we can go into. But there are some additional requirements that have happened over the last year. I would just recommend that you work closely with the HUD housing counseling agencies in your area. And if we have time tomorrow, I will show you where to locate those because we have a quick look up on the HUD Exchange.

Roles of lenders. So we have had I would say over the last seems like five, ten years, there's been a lot of questions about working with lenders. And so a couple things were clarified in terms of the HOME final rule. So I guess I'm going to explain the typical model that we have seen and what's required. So it might be that you are working with a nice pool of lenders in your community that are providing first mortgages and others. You might be working with a housing counseling agency as well. And basically they might be working with again your nice pool of lenders, one or two or more. They might be providing that first mortgage assistance. So they're going to look at what's affordable to the homebuyer.

You yourself, you as a PJ or you might be a subrecipient or CHDO, you're typically looking at that household to figure out what they can -- if they're income eligible for the HOME program. You're going to be looking at also what they can afford based upon your own underwriting, which we'll talk about in a second. But basically trying to figure out what that household can afford giving your own requirements.

And often this doesn't really match up with the lender. It can line up with the lender if you've got a process where you're letting the lender know kind of what your criteria is. But it's about syncing those up. So while this slide talks about a lender being like a contractor or doing something like that, that's not the model that we typically see. Usually the PJ owns or the subrecipient owns like full responsibility for income eligibility, figuring out what they can afford, etc., and then the bank kind of folds in their first mortgage.

But if you did have this relationship, in terms of you wanted that lender to be a contractor to you, obviously they have to be competitively procured, and you'd have to have a written agreement with them as well. So and you must always verify income eligibility, and inspect the unit, do all the things you normally do. However working with a lender that is a contractor is rare. My former example is more of generally how it works for the majority of folks out there.

So I typically don't see a lot of for profits, so I'm going to talk about nonprofits and CHDOs. Certainly there are a lot of nonprofits out there. There's community development corporations, there's CHDOs, there's many great organizations probably that are on the line that could provide homebuyer counseling, they could also develop housing counseling, they might be doing other things for you, like Kris said, like owner occupied rehab as like a subrecipient. But you can have these relationships. These are great partners for you. CHDOs can serve as like a developer for a project, where they acquire a property for home ownership and then transfer title to an eligible homebuyer. And that's pretty standard. But we see a couple of these models out there. I do not have an example for profits, but maybe there's a for profit out there that wants to do some type of development assistance for you. Most of you guys are working with Habitat for Humanity and others.

So in terms of eligible properties, so it has to be a single family home, it could also be a single family home plus another unit. We had these when I worked in New Jersey, where one side was like a home ownership unit, the other side was rental. And then the entire property acquisition cost was for the whole thing. And then we had the rental side that had to meet all the home rental requirements. And then you could do condominiums, you can do any number. In terms of two to four units, you need to make sure that you understand which units are HOME assisted. I gave the example just now of the entire two units were considered HOME assistance.

But you can go through cost allocation to figure, okay, what's half of the down payment for this two unit property, one half of the down payment because I only want a homebuyer unit. Having this second unit as a potential rental unit has its own challenges and requires a lot of oversight. The city of Milwaukee in particular has a bunch of these for mom and pop homeownership units that have rentals. And the city has to monitor them. And it's just a lot of work. So it's not something we typically see, but you can do it, and it can be very helpful for a neighborhood stability and also offering different types of units in your community to make sure it's diverse and welcoming for many populations.

So you might have a cooperative or mutual housing unit. We have tenancy in common in California [inaudible]. So it is same as what Kris said in terms of its recognition as ownership by the state. Manufactured home, so there could be a manufactured home that you're serving. This might be something that's just like a prefab home that might come into the project site like in four pieces. We've seen some manufactured homes in the Midwest come in and have been very successful.

This is not the same thing as a mobile home. These typically have foundations that are poured or on a slab. It has to be for it to be considered homebuyer, it has to be on fee simple land that's homebuyer owned. Or there could be like a ground lease for at least the period of affordability, which I think you guys talked about on the first week, but 5, 10 or 15 years. And it'll depend on whether or not we're talking about resale or recapture, which is toward the end of this presentation.

So in terms of the maximum property value, as Kris mentioned we're really talking about housing that must be modest. These are not five, six, eight bedroom homes like on an acre that's valued at a million dollars. These are homes that are modest and we have a couple of limits to keep in mind here. So for the HUD limit today, this is the affordable home ownership limit, these are actually done by HUD in the home office. And we've got two limits here. We have one for new construction.

So this is for new construction or if you're building or paying for it to be built. Or it might be acquisition of something that's already been built, that is newly constructed, and that's over the last year. We have a separate limit for existing housing. So this is going to be for those where you've got acquisition and rehabilitation. We've got a separate limit for that. So these limits as I mentioned are done by county. The limits that are in place today are for 2017. And keep an eye on the HOME listserv to get notified of the 2018 limits once those come out.

Some of you have decided, that you've looked at those limits, and they're not -- they don't work maybe for your particular community. Maybe the county isn't the same as like the city that you might live in. So you can do your own local market study. Some PJs have decided to do this. City of Oakland comes to mind. California, they used to do their own because it was a little bit different in the city as opposed to the overall county.

You have to do various types of housing needs to be considered, whether or not they're condominiums versus single family detached, attached like townhome style, like things like that, is where you might see some differences in terms of market value. So you have to prepare this market study. You've got to submit it to HUD. And they have to approve it. And it is annually updated, so there is some maintenance associated with that. So I would take a look at these limits, see if you can live with them for your county, make sure that it works, and then decide if you need to do something separately.

But same as what Kris went over as well, I mean if we're talking about new construction or existing housing, we're going to be looking at the sales price and comparing it against that limit. Or if it's owner occupied -- I'm sorry, homeowner rehabilitation, it's the same here as if you're doing acq rehab. And so the same limit applies. You're going to be looking at the value. So it's going to be an appraisal that might have looked at the acquisition plus the rehabilitation. It might be somebody on your staff as well who's going to be looking at comparing that value.

So here's a quick handy chart, so just to kind of help us out here. New construction, acquisition only, we're going to be looking at the sales price and comparing it to the HUD limit. Acq rehab, I mentioned the appraisal. Oh, I didn't mention, but it's the same as if it was homeowner rehabilitation. We might have a tax assessment if tied to market. My tax assessment is not tied to market, thankfully. So I don't have a tie of taxes as other people. But you really need to have your tax assessment tied to market if you're going to use it, which is rare across the country in my experience. Most of the time we're doing an appraisal or an informed [inaudible]

Okay. So let's take a break here in terms of the property and let's turn toward the application for a second before we take our break. So the applicant has to be low income. As Kris said, that's 80 percent and below typically in our jurisdiction. And they have to be living in it, they will be living it, as their principal residence.

So I see good homebuyer applications out there that talk about applications. They ask questions about who will be living with you to make sure that you're capturing any household members that will be living with you as you purchase the unit. Income eligibility, so if it's for existing housing, we're going to do it at the time of purchase. We usually do something that is three to six months, something like that, before they actually purchase the home. Usually it's as short a period of time as possible. Most PJs give 60 days to find a unit after they've done income eligibility or something like that. And obviously it can't be longer than six month, which I think you guys talked about last week.

So if it is new construction, we can actually use the contract to purchase that new construction. They have to be income eligible by that particular time. And then also at the time of a lease purchase agreement, at the time they sign that lease purchase agreement, they have to be income eligible. So the timing really matters depending upon what you're doing here. So hopefully that is helpful. And I think the only last thing I will say is I'm happy to -- if we can do this tomorrow, Kris, if we have any time in the Q&A, I can show you guys where to get the income eligibility calculator on the HUD Exchange. It is the most popular tool on the HUD Exchange today. And it really helps make sure people conduct income eligibility appropriately. So just want to mention that.

So I think we're ready for our 10-minute break. It is exactly 2:00 on my computer. So I think we'll just do some stretching, do whatever you need to do, and we'll see you back here at 2:10.

[In progress] -- and ready to do the rest of homebuyer. So in terms of homeownership or forms of ownership, it's the same as what Kris talked about, so I'm not going to spend too much time. Just want to make sure that we refresh that for a second. In terms of cost, so in terms of hard costs, acquire the land, site preparation, there might be some demolition that needs to be done on the project site, it might be a building, it might be maybe an existing home or something like that. You can also do construction costs obviously for new construction. Might be rehabilitation costs, all of those would be considered hard costs.

And then we also might have some, or typically have a lot of soft costs. So might be architectural drawings, you might have some fees that need to be paid, you might have some work write-ups, you might have site plans, things like that are very popular particularly with new construction. And we often have appraisals that need to get done, homebuyer counseling, relocation costs. And so these are the same just like Kris covered in homeowner rehabilitation. There is a nice chart in your chapter as well that includes that.

And relocation, if there might be any type of relocation costs that need to be included, it might be somebody who is living in the home as a rental person or something like that. If it's simply owner to owner, as long as you have relocation documents in place, that they've signed off on the property, that this was a voluntary sale, you should be good to go with that. But pay attention to occupants of all sorts.

So in terms of underwriting and subsidy layering, so you do have to have your own underwriting, as we talked about earlier. So you need to have some sort of standard in place, what do you offer in terms of assistance. So you might offer that soft second mortgage, which again would be lowering the household's monthly costs. Because they could only afford a certain amount as a first mortgage, a second mortgage would make up the difference between that first mortgage and the sales price.

We might have down payment or closing cost assistance as well. And so you're going to figure out here what can the household afford. So you're going to be looking at their income and asset sources, you're going to figure out what's reasonable to them. Not everyone gets $5,000, for example. Not everyone gets $10,000. It's looking at everyone's individual situation. And you're going to be looking at what they can afford and back into what is the reasonable standard for that front end ratio.

So this is often called the housing ratio. So this is principal, interest, taxes and insurance, which is PITI. And typically there's a separate ratio for all of the expenses that the household might have, which is total debt to income. So this is going to be car payments, it might be their student loan, they might have other debt associated with -- maybe it's hospital bills and things like that. So typically what's established is some type of maybe 30 percent for the front end ration, maybe it's 40 some percent for the back end. We've seen lower than that, we've seen higher than that. You just should establish that for your community.

So in terms of what you need to have for if it's multi-unit that you might be doing, so you might have an acquisition program. So you're going to be looking at not just what the homebuyer can afford, which is the prior slide. You're going to be looking at reviewing that project overall, and looking at the HOME funds that are needed, whether or not the owner is receiving a fair return in terms of their developer fee, you're going to be looking at their financial viability, have they developed HOME units in the past, what other sources and uses are in the project. You're going to be looking at the market demand. There's no requirement that you do a market study. But you need to look at the market demand to make sure that you've got a ready pool of homebuyers who want to purchase this type of project.

Some people go and also work with the neighborhood. And our CHDOs do this all the time to make sure that it's the right type of rehab, that the home is going to fit within the community, if it's rehabilitation or if it's new construction, all those things. We look at the developer capacity as well, not just how they worked with HOME in the past, but whether or not they've developed units, how many they can take on at one time. Sometimes PJs establish [inaudible] only one unit at a time comes on or five units at a time within a market because they don't understand the saturation rate. So all those things would be important.

And as we mentioned before, if you're going to have some units that are HOME assisted, some non-HOME assisted, then we need to look at cost allocation. And I haven't mentioned this, but there is a cost allocation notice that is available that you can download from the HUD Exchange. And that's 16-15. There's also an underwriting notice as well, 15-11.

All right. So we do have a deadline in terms of sales. And this is something that was put into the HOME final rule, where homebuyer projects have to be sold within nine months of construction completion, which means that any time you're working with a developer or anything like that, you need to make sure that those units have been pre-sold or they've got a ready pool of applicants so that you can make sure that you're in compliance with this deadline.

If any of you happen to have any funds left in 2012 or 2013, those have an earlier deadline. So that's six months of construction completion. And so we document that it's been sold, again comparing to the construction completion, which would be the certificate of occupancy or final inspections done by the PJ. So this is a ratified contract which is a contract that's signed by the two parties. It's binding. Or if we're talking about a rental unit that happens to be a part of the homebuyer project, that it's rented to an eligible tenant.

We still have the nine month deadline even with lease purchase. So just keep that in mind. So most of the time we're also putting in our written agreement with our developers or anyone who's running this program for us. People set an earlier deadline than nine months to try to make sure that they've got enough time. Six months is what we typically see in written agreements. Okay. And if it's six months and you got a couple extra months to get somebody in there.

You also have to have procedures in place. So you've got to have underwriting and subordination policies. We have to look at not just what their ratios are, but we also have look at the amount of assistance, like what makes sense for a homebuyer. We should create and need to create some type of asset requirement. So if you as a PJ have said, we're not going to service one that has like $10,000 in like liquid assets that they can put toward down payment assistance.

Things like that are a good practice because then it helps make sure that you're serving those that absolutely need the HOME funds. But you would include other things that you would look at in terms of that household, in terms of these policies. So what do they need to have on hand for expenses. Some people have different standards for new construction in terms of available funds for rehabilitation versus new construction versus rehab. So having something in place would be helpful.

So in terms of long term affordability, and we're going to cover this before we get into resale and recapture, but we do have long term affordability with homebuyer. And so less than 15,000 we're talking about five years of the period of affordability, 15 to 40 years, 10 years, and then if it's more than 40,000 we're talking about 15 years. Okay? And so these amounts are based upon whether or not you use resale or whether or not you use recapture. If it's resale, it's total HOME investment. And if it's recapture we're talking about the direct assistance to a homebuyer such as down payment assistance. And this is an example.

So even if somebody pays you off, we work with communities all the time where they're like, you know what, Shawna, they've already paid off their home loan, it's still a period of affordability, you still have to monitor for principal residence. You've just given up your ability to penalize them as they rent out their unit. So for each homebuyer you have to decide up front whether or not you're going to use resale or recapture. And you've written this in your consolidated plan. There's been a concerted effort by the field offices to review your recapture provision or resale provision. There's a lot of guidance out there on this. So hopefully you've gotten some good guidance. And you have to submit this and get it approved in writing.

And you're choosing this for your entire program. Some PJs have decided [inaudible] do recapture for everything, I'm going to make sure it's direct assistance. Some people may say, I'm going to do recapture if this, and I'm going to do resale if this. So it just depends on what you have going on. And before I forget, there is a good notice 12-003 that is going to be updated sometime in the future. But it goes through all of resale and recapture pretty thoroughly.

The most popular option is the recapture. You can sell it to anyone and you get paid back a subsidy. This is also the most politically popular. So a recapture scenario might be down payment assistance that you provide to families. And you say, okay, when you live in it through the period of affordability, you satisfy that in five years. If you sell before then, maybe in the fourth year, basically we get back all or part of the subsidy, depending upon what your option is. So you can do that all day long so long as you have a direct assistance amount to recapture like down payment assistance.

We have had some questions of people over time where there might be an assumption. And I believe this is because FHA, so long as it's a low income like [inaudible], they can assume the HOME assistance. So you can do that so long as you don't have any further HOME assistance that's provided and they are still low income. So you do not need to from the outset require that the buyer sell to a low income buyer. It could be sold to anyone. This middle bullet is mostly about heirs to properties.

So unlike recapture which is about getting money back in your HOME program, resale is I need to keep this unit affordable. I live in a high cost area potentially where I have to have a ready set pool of properties that are going to turn over, over and over and over again to low income people. Maybe it's a land trust model, maybe I live in really high cost areas. So a lot of people in those parts of the country use resale. And they're monitoring it over time to make sure that the sale continues to [inaudible]

So this is for -- you can do this for any buyer. Even if you do down payment assistance, you can still do resale. You can do this for any buyer. They have to be in it just like for recapture as a principal residence. And then the original buyer has to receive a fair return for their sale. And we'll talk about what that means in a couple minutes. And you have to define again your resale provision, and how you determine a low income buyer, the price is affordable, the fair return to the original buyer, all of that is in your consolidated plan.

So you can use, again resale can be used for any HOME assisted homebuyer. So that's like anyone out there that can be used for. You can only use recapture if you got that direct assistance to homebuyers. So that direct assistance could be down payment assistance or something like that. You need to make sure that it's also for some type of loan product. If you're using a grant, then you have to do resale because there's no requirement that they pay you back. Okay?

So a couple of other key terms, so direct assistance goes directly to the homebuyer. It's helping them directly afford it. So down payment assistance is one. A soft second mortgage is another one where you -- it's maybe a $200,000 house. Their first mortgage is for 180. $20,000, that difference would be in a soft second mortgage. So that's the most common and that's the same thing as purchase financing. So we might have -- other times we might have a CHDO involved. Again we typically don't sell units below market. But if we did sell it below market, it would be assistance to the homebuyer. It would be closing cost assistance, anything like that would be examples of directly subsidizing to the homebuyer.

It is not the same thing as development subsidy. So let's say, I think I gave the example earlier, let's say that it costs $150,000 to develop the property. But maybe the market value is only 120. And it would be that difference, that 30,000, that's the difference between the cost to build and the market value or the sales price, just to make it easy, of 130,000. So that would be $20,000 would be the difference between 150 and 120 -- I'm sorry, 130, I apologize, 150 and 130. And by the way, I tried to use my marker, Kris and Mike, and for some reason it's not working for me.

So here's an example of recapture affordability period. So if we've got $60,000 in HOME development assistance, we've given that to the CHDO. And of this we're going to write that down, write it below the sales price, so $10,000. And we also provide HOME down payment assistance. So the direct subsidy, this is the direct assistance to that homebuyer is 10,000 plus 6. So that's $16,000. That 10,000 is going to function the same way as like a soft second. And it's going to be a 10 year period of affordability because we're up over 15. So that's recapture, just to make sure you keep that in mind. And we'll do resale here in a second with the same example.

So what is subject to recapture is going to be anything that directly benefits that homebuyer, as I mentioned. So that down payment closing cost, any type of soft second mortgage, if we write it down below market, and then basically they can sell it to anybody at any price. It easiest to administer because it's the simplest, it's what directly helps that homebuyer. So when that unit is sold in this option is that we have to make sure that we cap it by what's available through net proceeds. So sometimes when you sell a property, even if there's HOME assistance, there are no net proceeds. And that's because of our market values might have dropped or something like that. Or there might be superior non-HOME debt.

So let's just take an example here. So let's say a sales price is $200,000 and we've got superior non-HOME debt. Maybe that is a first -- well obviously it's going to be the first mortgage, but it could be like a tax lien as well. Let's say out of $200,000 of the sales price, let's say superior non-HOME debt is like 150,000. So that leaves 50,000. And then we might have closing costs of $5,000. So that's $45,000 in my example would be the available net proceeds. So it's how those net proceeds are distributed is what happens with recapture.

So we've got like in my example this $45,000. But you may not get all of it. It depends upon how you write your recapture provision. So options approved by HUD include, and you could just write one, two, three, four next to these on the slide. The first option is the direct -- you're going to recapture the entire amount of money that is the direct HOME subsidy to the homebuyer. So even though their net proceeds are 45,000, maybe you only provided 10,000. You would get the 10,000 back as the PJ.

The second option is maybe you're going to pro rata like share. So maybe you say, I'm going to go ahead and share 50/50 in the net proceeds. You simply split that 45,000. Oh, sorry, that's number three. Number two is maybe it's a five year period of affordability. So maybe you're going to forgive a portion each year out of each of the five years of that period of affordability. Proportionately shares to share, what's available to net proceeds, like 50/50 or maybe 72/25, people have done that a little differently.

And then option number four is the buyer can recover their initial investment first. So maybe they had to put in a couple thousand dollars of their own money. You would say as a PJ we feel like this is fair, we can give that buyer the option. So you choose one of these options as your recapture provision in your consolidated plans submitted to HUD. And that's how you're operating your recapture provision.

Some people have decided, you know what, we're going to share an appreciation because maybe the property has appraised for a lot more money and that appreciation cost is sky high. Some people have decided we're just going to share an appreciation. This works very well with proportionate share of net proceeds. The most popular is pro rata or I want all my HOME money back. Those are the two.

Okay. So in terms of this recapture example, so the owner investment return first. So $30,000 in HOME assistance. And we've got 10,000 in the owner down payment. Maybe the owner had to provide $10,000. And in this option we just said that, okay owner, you can get your down payment back first. So you're going to get that $10,000. And let's see, this is out of 30,000, that's a 10 year period of affordability. So you've got a sale in year six.

So if we have a sales price, we're going to just do that calculation that you saw on the other screen where it's sales price minus non-HOME debt minus closing costs. So what amount can we recapture? So we have the 175, minus the 150, which is 25, minus the 5,000, so that's $20,000. So that's the only amount that's available through net proceeds that would be a total of 20,000. But we said, you know what owner, you can have your money first, so you can have 10 of that, we would get 10. So we would not receive the entire amount of our HOME assistance. And this happens all the time. So that's that example.

Okay. So now that I've explained the four options, we have our next polling question. You want to do that, Mike? So which of the following recapture options are you using? So choose I guess it's A in this case, entire amount of HOME assistance. B is pro rata reduction. C is proportionately share in net proceeds. D is allow buyer to recoup investment. And it's okay if you say unsure because maybe somebody else in your office runs your homebuyer program. Or maybe you're new to your jurisdiction or to your CHDO or whatever. So let's give that a couple minutes.

And we do have the exercises which we'll go through tomorrow. And that'll be your homework overnight, or this afternoon, or early tomorrow morning. We'll be able to practice some of these again.

Michael Reich: The poll is closing in 15 seconds.

Shawna Moraille: Thanks. Okay. So it looks like some of the results include, it looks like the answers are split between entire amount and pro rata, which is what we typically see those are the two options, they're the most popular. Only a handful of you said proportional share. And then the least amount was allow the buyer to recoup investment.

A couple of you were unsure, which is totally fine. I would encourage you to go back and look at your consolidated plan or look at your written agreement template that you have with your homebuyers, and see what it says related to how your recapture provision is provided. Or potentially you're not doing recapture, you might be doing resale.

So in terms of recording the recapture agreement, must be included in your written agreement with the household. So this is a good time to mention, I was just with a community here in the Midwest, where they did not have a HOME written agreement with their homebuyers. This is incredibly important because of the period of affordability. So make sure that is a separate document standalone. You could also record it in a promissory note or a lien on the property. Some people do deeds of trust, things like that. You definitely need to have something in place for the household. We usually don't always see deed restrictions with recapture. We definitely see it with resale. It has to be sold to a low income buyer.

You have to have some way in which you're going to verify residency. So some popular examples include, I am just going to check my county auditor's website to see if the household that we sold to is the same household. That may not help you in terms of renting out the -- if they rent out the property, but some people choose to do that. Some people send certified letters. And I want to check that this homebuyer is still occupying the unit. In a certified letter they'd have to sign for receipt. And you would receive that feedback that they signed for receipt.

And then some other options might be that you're listed as a loss payee on hazard insurance. And you could get something every year that tells you that they've renewed their policy and that it's a homeowner's policy as opposed to a landlord policy. So those are just some ways in which some PJs have decided to enforce residency.

Okay. So that was recapture. Again that's about getting money back into your program. This resale is fundamentally different. This is about I want to keep this unit affordable in my community. And it's most popular in very high cost areas. And it takes a lot and things like land trust where it's there's like a board associated with the land trust, usually it's a separate nonprofit, they make sure that the property turns over to another low income buyer. A land trust is something where you take the ground out of the cost and it's just the house cost, which makes it more affordable. And then that just turns over to another low income buyer. And land trust typically has a very long period of occupancy.

So for resale, this can be done for as I said any household. And so we're going to look at the total HOME investment in the property. And so the total might be what you gave to the CHDO, it might be what you gave to the buyer, or any other developer. Look at the total amount of HOME assistance. And typically these have the longer period of affordability. So let's take that same example here. And actually, Kris, this one says the soft second principal reduction, unlike the other one. So I think it needs to be the same. So $60,000 is what you gave the CHDO to develop. And then we also provided a soft second mortgage to that household. And we have an additional $6,000 of down payment assistance. So we are adding what is just the HOME assistance, so you have to add the 60 plus the 6, which is how you get $66,000, for a total period of affordability of 15 years. So these are much longer. That 10 is a part of the 60, by the way, so that's why we're not counting that. That's why it's not $76,000.

So a couple things related to resale, and this is why it's the most labor intensive. When the house is sold, you have to make sure that it's available and it's affordable to a reasonable range of low income buyers. So you've got to be able to make sure that you have a ready pool. And this would be whomever you're working with who's going to monitor the fact that it needs to be resold to another low income buyer.

Habitat is one where it might be that they have a ready pool of low income buyers that want to purchase the unit. So it has to be affordable, it has to be sold to another low income buyer. Same principal residency requirement. And then that original buyer must receive a fair return. They have to receive something. So maybe they did capital improvements, maybe they did something to the property. You're going to give them something in return.

And then basically you have the resale restrictions apply to the new buyer. So maybe it was a 20 year period of affordability, somebody sells it in year 10, they have the remaining period of affordability. Unless you give them more money or something like that, and then it could be a longer period of affordability. But you're just making sure that it continues to turn over.

So you have two options in terms of how to define the range of homebuyers. The first one is you say, you know what, everyone who's going to potentially buy this unit, they walk into our office, we're going to look at a certain principal, interest, taxes and insurance, related to their income, and so that type of percentage there. And you define what that looks like. That is probably the most common option.

Some PJs have gone with option number two, which maybe a period of town is always affordable. And so we're just going to have it continue to be affordable in this part of town. We are going to update our action plan every year and say this is our area that's going to be presumed low income. Option two there's no deed restriction required, but with option there must be a deed restriction.

So fair return, as I mentioned, is something that the original buyer must receive. It's something based upon maybe their initial investment or maybe capital improvement. So you have to balance between what are you going to sell it for in terms of reasonable sales price in order for the original owner to get back something in return. And yeah, sometimes the PJ may have to look at further ways to subsidize maybe the next buyer in order to make that happen. There are some examples of terminology and things like that in that notice 12-003.

So for resale we have to have that same HOME written agreement with the household. But it must be, as opposed to can, must be recorded in a deed restriction, land covenant, something that runs with the property, something that is going to be picked up by a title company. And then you obviously have to have the same process of enforcing the residency status. And that's with obviously option number one for the resale where you say, okay, individually I'm going to make sure it's resold to another low income buyer, I've got to enforce that residency status.

So all these things have to be done for resale. And I guess what I didn't mention before is for resale we always have a deed restriction, again by the title company. But recapture we have seen even recapture people doing a deed restriction or something like that, because then title companies take that recapture requirement and what happens more seriously. So it's up to you. I would talk to my attorney and figure out what we think works best in our community. And then

FHA, a lot of the loans done today are FHA. Sometimes FHA lenders also want to see language related to resale, language related to recapture, and they should be familiar with this.

So that was resale and recapture. I don't know, Kris, if anything came in that you want to help clarify before we leave that for a second.

Kris Richmond: No. There's been some really detailed questions, but I think we have to go over tomorrow.

Shawna Moraille: Okay. All right. Thank you. So in terms of property standards, and this is for acquisition only. Again if my pen was working I would show that to you. Acquisition only. So we're looking at you might have a state or local general housing quality standard that the unit has to meet. And if you don't -- which some communities don't -- then you would look at, at a minimum, uniform physical condition standards, or UPCS, has to be met. So in terms of the inspections around that and things like that, I think Kris mentioned that before related to rehab, but this is for acquisition.

Some of those inspectable standards we're waiting for guidance on for UPCS. So those are still forthcoming. But you could figure out what needs to be addressed for a minimum standpoint. It's acquisition only and it's a pre-78 unit. We have the lead-safe housing rule that we have to make sure that there's no chipping, peeling, flaking paint, which is part of every inspection. And then they have to meet all these standards by the time that they occupy the property. So usually in most markets occupancy happens right after closing if it's acquisition only.

If we have acquisition and rehabilitation, we might have -- obviously we have our inspection standards. And we also have written rehabilitation standards. So when we rehab a unit, it's the same things that Kris went over, is that our written rehab standards talk about health and safety requirements, it covers our major systems like HVAC, and others. We're also going to be looking at useful life as well. So is there useful life, what's the remaining time period on a roof or on my furnace, things like that.

Going to talk about what you're doing related to lead-based paint, if you're doing any type of rehabilitation. And it might have accessibility modifications, so just like Kris mentioned, in homeowner rehabilitation. We might have it in homebuyer as well. We might have accessibility modifications that need to be made, so that maybe it's a disabled household member can make sure that the unit's accessible to them. So having wider doors, having levered handles, grab bars, cabinets that have dropped, things like that, like what kinds of accessibility standards.

And then finally this is relatively new for rehabilitation standards, is also disaster mitigation. So it might be that in your community you might need to elevate the property because all the homes have been elevated. That's just part of how you handle disasters for hurricanes and things like that. So it's a little bit more involved if it's acquisition rehab. And so unlike immediate occupancy which typically is handled with existing property acquisition only, if we do have rehabilitation then we're also looking at meeting state or local code.

And if not they have to meet UPCS at the time of completion. And then you as a PJ or if it's a subrecipient, whoever, somebody has to inspect. And one of you wrote in, you can't always use a contractor to inspect, a third party contractor, to inspect the property to make sure that it's ready for occupancy. But obviously if it's the PJ or subrecipient, you have to competitively procure those folks. And so they need to make sure that all the rehab was addressed and the code requirements have been met. And so most of the time it's usually the PJ doing these inspections with some exceptions.

Okay. So new construction, so we're talking about if there isn't a state or local code in place, some communities have them, some don't. We're looking at international resident code, the IRC, or the international building code. And so basically it depends upon the type of housing that it is. But there are some national codes you can borrow from. I mean most of the time, and I'm sorry we haven't mentioned this before, but sometimes we're working with a PJ that's in the community development department or the housing department.

It may not be the same folks that are doing like your code inspections, things like that. So if you have not walked over and talked to those folks, I mean I would make sure that you do that. Because one of the more common errors that we have found in our work over the years is that people working in HOME, they just have no idea what is your code requirements. Maybe you're not paying them through the CDBG program or something like that. But just make sure that you understand what's required.

We might have some accessibility modifications, as I mentioned, for new construction. We gave an example of disaster. So you definitely need to -- you're going to be looking at all of the cost estimates and construction contracts, basically everything that either you're originating out of your department or if you're funding an organization and going to be taking a look at these. And you need to conduct progress and completion inspections. So that completion inspection is when we talked about the nine month sales deadline has to occur before. So you're going to be documenting when that happens. And that could be for new construction, like certificate of occupancy or a final inspection done by the PJ staff.

Manufactured housing, so this is actually straight out of the regs, you guys. I know that there was a couple of things that came out recently where HUD is going to take a look at its manufactured housing standards. It was in all the news last week. So that's great, but we still have some things in the regs. So even if HUD changes, if they do, some of their requirements, we still have some things in the HOME regs. So it would take a reg change to open this up more. But having units on a permanent foundation that are newly constructed with utility hookups is fairly common.

It's a common practice and should probably be done no matter what. If it's existing units, you might need to just check to make sure that your property standards are being met. And there might be different ones for manufactured housing in terms of what the foundation needs to look like, or some anchoring that needs to be done, all of those things. And there are these model manufacturing home insulation standards if your local code does not handle manufactured homes. So that's just something to keep in mind.

So I believe that that is the end of homebuyer. Besides resale and recapture, Kris, that we're going to be talking through tomorrow, anything else that came through that we might want to highlight for folks?

Kris Richmond: Oh, somebody was asking if we could talk a little more about the PITI. But that might be better for tomorrow as well. Oh, here's one that you could probably talk about. Do you know what is the suggested or most popular income determination method for homebuyer activities?

Shawna Moraille: So for home -- and I would say this is for all of HOME, you guys. We have two methods. And you guys talked about this last week. So you could use Part 5 or you could use the 1040 method. I would say most common across the country for all HOME activities is going to be Part 5. It's HUD's definition. It's the one we know the most about. And I will say that with income calculator, we have the most up to date inclusions and exclusions for income that is within the calculator, which is more up to date, and I'm sure Kris and Les mentioned, than the technical guide for determining income and allowances underneath the HOME program that has been -- the last version of that is from 2005.

Some people do choose to use the 1040, Kris, because maybe they're serving seniors or others where it's only the taxable amount of social security. And that's a separate calculation where if they work and get social security, you have to fill out that section of the booklets as well. But the other thing -- and things like child support is excluded in 1040. But the one thing I would say about the 1040 definition is that it is something where you have to stay on top of every single year to make sure that you're calculating income based upon the most recent guidance.

So unlike Part 5 that generally doesn't change, except for we might get a couple more exclusions or inclusions, really there's not much to keep up on. But for 1040, as they make changes, and I don't know about you, Kris, but there's a lot of changes coming this year that we need to be aware of in terms of what's included and what's not for 1040. So Part 5 overall and then for all activities regardless if it's homebuyer or whatever.

Kris Richmond: And then somebody was asking about the template that I know Les was working on. I told him I need to check because I can't remember if it's been posted on the HUD Exchange or not, the one where there's the homebuyer, individual, and the one for sub -- when you're doing multiple units to determine subsidy and cost allocation, that type of thing. There were a number of webinars done last year. I just can't recall if the whole thing has been posted yet or not. I told him we would check into that and report back tomorrow.

Shawna Moraille: I believe that only partial -- it's only partially available. But yeah, we can look into that for sure. And I don't know off the top of my head and I apologize.

Kris Richmond: Yeah. And my system crashes if I go back to open my internet, so I don't want to lose the webinar, so I'm hesitant --

Shawna Moraille: Oh, I know what I was going to mention. So they're updating the resale recapture guidelines. That will be republished in a notice. They're publishing a new -- like a brand new notice, we've never had this before, on homebuyer policies and procedures. They are also publishing a new notice, brand new notice, never had it before, written agreement.

And then as I mentioned before on property standards, they are going to have a new notice that is development and implementation of HOME property standards and inspection protocols that many of us have been waiting for. So lots of notices we expect to come out this year. It's very exciting if you're new to the HOME program. Because we've been waiting for these and we're very happy to hear that they're going to come out.

Kris Richmond: Yeah. Even if you're old to the HOME program, we're excited about it.

Shawna Moraille: What else was brought up today?

Kris Richmond: Well, somebody was asking, there was a lot of back and forth about the 95 percent value, and when they've done the work writeup it's coming up above the 95 percent value, and why can't they do it. And we talked about modest housing. And they said, well is there anything in the regs that say we can do something different.

And I suggested that maybe the PJ -- because this is not the PJ, this is a nonprofit that's using HOME funds -- could look into perhaps doing a market survey, a market study, if the value limits are not allowing -- the published value limits are not allowing them to serve in that community. Perhaps they need to look into doing a market study. So there were a number of questions that came in about that.

Shawna Moraille: Okay. Got it. [inaudible] looking back at that. Yeah. It looks like the only question on PITI was how it was calculated. So that is the housing ratio. So it's what they can afford toward that principal amount, the interest, the taxes and insurance, like all three of those, or all four of those things. So it is the housing ratio. Okay. Well, with five minutes remaining --

Kris Richmond: Here's one we can answer super quick. They want to know is it required to conduct a lead paint inspection for new construction. And the answer to that is no. It's only for housing that was built before 1978. Because lead paint was banned in the United States after 1978. So it's no longer in use or for sale in this country. So any new housing is not subject to the lead safety rules. But with that, I think we could probably end, Shawna.

Shawna Moraille: Okay. Great. So we will see you guys back tomorrow at 1:00, is that right?

Kris Richmond: Yeah. And work on your homework and we'll go over the answers and other questions as well.

Shawna Moraille: Okay. Well, everyone have a great afternoon. Thank you so much.