

MEMORANDUM

TO: Somerville Affordable Housing Trust Fund Trustees
FROM: Paul Goldstein, OSPCD Housing Division and Trust staff
DATE: March 7, 2023
RE: Closing Cost Assistance allocation and other program recommendations
CC: Kelly Donato Assistant Housing Director and Housing Counsel, Cecelia Kelly Housing Paralegal, Hanalei Steinhart, Fair Housing and Inclusionary Program Specialist

The purpose of this memorandum is to provide a recommendation for an allocation of \$75,000 in non-CPA Trust funds for the Trust's Closing Cost Assistance ("CCA") program, and to raise the maximum level of assistance per household to up to \$5,000 based on documented need. Additionally, this memo provides information on certain aspects of the Trust's CCA program that differ from the HOME funded CCA program that the Trust in the past decided not to follow and which staff recommends should remain in place in the interest of programmatic flexibility.

At the January 2023 Trust meeting, I noted that the amount of funds allocated for CCA had fallen below the maximum amount of assistance per household that currently stands at up to \$3,500 based on documented need, and that additional funds would have to be allocated at a future meeting. Staff recommends that **\$75,000** of non-CPA funds be allocated for CCA at the March Trust meeting. Based on current application rates, staff anticipate that this allocation is likely to provide adequate funding for roughly five fiscal years (with an average of three households per year if the maximum amount per household is needed). Since Fiscal Year ("FY") 2019, \$31,500 in CCA funding has been provided by the Trust, with an average of \$10,500 provided per year, and an average of three households served per year.

In the past, based on then-current staff recommendations, the Trust voted to lower the maximum amount of Trust CCA assistance per household to \$3,500 based on documented need because of the increased volume of applications. No households received CCA in Fiscal Years 2017, 2018, 2020, or 2021, and while there has been increased interest for CCA so far in FY23 and in FY22, demand is not at the level it was at the time the Trust chose to lower the maximum amount of assistance. Given the change in the average number of households assisted per year, staff have revisited the analysis that had prompted lowering the cap amount.

The average number of assisted households is three per year based on an analysis from FY19 to present. As such, staff recommends raising the maximum amount of Trust CCA per household to be in line with HOME CCA, from \$3,500 to **\$5,000** per household. Raising the maximum amount of Trust CCA would also help to account for increases over time in the total amount of closing costs for applicants to the Trust CCA program, which currently is an average of \$5,589 per household based on an analysis from FY19-present.

The Trust and HOME CCA programs will be administered by Program Specialist for Fair Housing and Inclusionary Program Support Hanalei Steinhart, who joined the Housing Division in this capacity last month and is copied on this Memorandum along with other staff involved with the programs.

As noted above, there are selected differences in eligibility and program requirements between HOME-funded CCA and the Trust funded CCA which the Trust decided in the past to follow for maximum flexibility. For HOME funded CCA, all participants must either be US citizens, permanent residents or be a qualified alien in order to receive assistance, which is not the case for Trust-funded CCA. A second distinction is that any property purchased through HOME funded CCA must fall below current HUD

Homeownership Value Limits¹. Finally, a Tier Two Environmental Review must be carried out prior to a Purchase & Sales Agreement being executed for a HOME-assisted property and is not required under Trust-funded CCA.

Staff recommend that these policies continue in place for the Trust's CCA program, as the original basis for their adoption continue to apply. The Trust's CCA program does not require participants to be US citizens, permanent residents, or qualified aliens² in order to preserve affordable homeownership as an option for these groups for which federal assistance is not available. Regarding the HOME requirement that properties be below Homeownership Value Limits- most market rate home prices in Somerville are significantly above the HOME program's homeownership value limit.

According to Warren Group Data for Somerville condominiums between January 2021-December 2022, the average cost for a studio condominium is \$445,062.50, the average cost for a one-bedroom condominium is \$641,739.37, the average cost for a two-bedroom condominium is \$821,972.35 and the average cost for a three-bedroom condominium is \$1,080,010.61. Under this analysis, based on the current applicable homeownership value for a new condominium limit of \$501,000 and an existing condominium limit of \$489,000, if the Trust were to cap property eligibility at the HOME and Homeownership Value Limits, the only condominium property type households between 81-110% AMI purchasing a market rate unit could afford would be a studio unit.

Finally, the time involved with commissioning and completing a Tier Two Environmental Review prior to a Purchase & Sales Agreement – as required for HOME-assisted properties – continues to create additional time constraints that could threaten transactions that need to be completed by a 'date certain'. For that reason, staff continue to recommend that this HOME-specific requirement not be applied to the Trust-funded CCA program. Staff will be glad to address questions Trustees may have on these issues.

ATTACHMENTS: City of Somerville Closing Cost and Down Payment Assistance Program Guidelines

¹ Homeownership Value Limits are the maximum price for a home that is considered reasonable in the market by HUD using median purchase prices for homes in the metropolitan statistical area. Homes priced above these limits may not be assisted with HOME funds.

² Qualified Alien under Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA") §431

1. Aliens lawfully admitted for permanent residence under the Immigration and Nationality Act ("INA"), 8 USC 1101 et seq.;
2. Refugees admitted under §207 of the INA;
3. Aliens granted asylum under §208 of the INA;
4. Cuban and Haitian Entrants, as defined in §501(e) of the Refugee Education Assistance Act of 1980;
5. Aliens granted parole for at least 1 year under §212(d)(5) of the INA;
6. Aliens whose deportation is being withheld under (1) §243(h) of the INA as in effect prior to April 1, 1997; or (2) §241(b)(3) of the INA, as amended;
7. Aliens granted conditional entry under §203(a)(7) of the INA in effect before April 1, 1980;
8. Battered aliens who meet the conditions set forth in §431(c) of the PRWORA as amended;
9. Victims of a severe form of trafficking, in accordance with §107(b)(1) of Trafficking Victims Protection Act of 2000, P.L. 106-386

City of Somerville

Closing Cost and Down Payment Assistance Programs

WHAT DO THESE PROGRAMS OFFER?

The City of Somerville can provide assistance in purchasing a home through two different programs, Closing Cost Assistance and Down Payment Assistance.

You may apply for only one of the following programs. Households purchasing a deed restricted affordable property may only apply for Closing Cost Assistance.

Closing Cost 80 Program: Closing Cost Assistance of up to \$5,000 is available for income-eligible *first-time homebuyer households* earning up to 80% of Area Median Income (AMI). This assistance will be offered in the form of a 0% interest, five-year forgivable loan. If the borrower lives in the property and it is their primary residence for five years, the loan is forgiven at the end of the five years. If the borrower moves or defaults on any of the loan terms prior to the five-year loan term expiring, the amount of the loan is due. Note eligibility is a two 2 part analysis (a) income and (b) an underwriting process to determine need.

Down Payment Assistance 80 Program: Down Payment Assistance of up to 15% of the purchase price of the property is available for income-eligible first-time homebuyer households (earning up to 80% of AMI). This assistance is offered in the form of a 0% interest deferred payment loan. The borrower is also responsible for repaying a portion of the appreciation. The “Appreciation Share”, is calculated as follows:

$$\text{Appreciation Share (\$)} = \frac{\text{Principal Sum (\$)}}{\text{Acquisition Cost (\$)}} \times \text{Property Appreciation (\$)}$$

As long as the borrower lives in the property as their primary residence, the loan is deferred. Upon moving or refinancing, the loan is due in full. Note eligibility is a two 2 part analysis (a) income and (b) an underwriting process to determine need.

Closing Cost 110 Program: Closing Cost Assistance of up to \$3,500 is available for income-eligible first-time homebuyer households (earning between 81 and 110% of AMI). This assistance will be offered in the form of a 0% interest, five-year forgivable loan. This loan is forgiven at a rate of 20% per year that the buyer lives in the home as their primary principal residence and has not defaulted on any of the loan terms. Note eligibility is a two 2 part analysis (a) income and (b) an underwriting process to determine need.

Any property purchased through these programs must meet the State Sanitary Code/HUD Housing Quality Standards as determined by the Office of Strategic Planning and Community Development (OSPCD) and must be properly established as a condominium if applicable. In addition, the property value must meet Homeownership Value Limits for the 80% of AMI programs (see page 7).

- All funds provided will be secured by a mortgage.

WHO IS ELIGIBLE?

Income Eligibility is based on documenting current family income in accordance with HUD guidelines listed on Pg. 6 and does not provide a guarantee that participants will qualify for a mortgage. Participants who are determined to be income eligible to participate in this program must qualify for a standard 30 year fixed rate mortgage with a lending institution. Participants must be first time homebuyers who have taken a first-time homebuyer class. To be considered a first-time homebuyer, a household cannot have owned a home, or an interest in a home, within the preceding three (3) years. For HUD HOME funds for the 80% Closing

Cost Program, and for the Down Payment Assistance Program, households must be U.S. Citizens, permanent residents or a Qualified Alien under Personal Responsibility and Work Opportunity Reconciliation Act of 1996 “PRWORA”). If Housing staff is unsure of an applicant’s status, housing will seek guidance from HUD. Income eligibility is valid for six months from the date a certificate is issued by the City, and a closing must occur within this time frame. If the closing does not happen within 6 months, the household must re-certify with the City.

An underwriting analysis will occur later in the process and will include a review of documents such as the bank commitment letter and closing disclosure. Applicants not only must be income eligible, but an underwriting analysis must demonstrate a financial need/gap. Funds are committed pending availability of funds at the time of closing and will only be based on the financing gap identified by the underwriting analysis.

Participants must be able to provide at a minimum, private funds of 3% of the Acquisition Cost of the property.

Asset Policy

Households with liquid assets over the higher of \$25,000 or six (6) months documented income will be required to invest these funds (i.e. those over the amount described above) in the purchase (down payment) prior to the City of Somerville providing an affordability subsidy. All assets for all household members are counted, including gifts for a down payment, except for restricted accounts and government approved college savings accounts. Restricted accounts are qualified retirement accounts such as IRA, 401K, 403B, Pension, etc. Government approved college savings accounts and government approved health savings accounts will not be counted towards the asset limit unless they are being liquidated to purchase a property. Waivers of this policy will be allowed on case by case basis for households that can demonstrate the funds are needed for known expenses such as education of household members, medical needs, or other financial commitments deemed to be necessary and reasonable.

Somerville is held by the federal financial circulars to demonstrate that all funding commitments are reasonable and necessary before committing federal funding.

Applicants who have savings in excess of 15% of the purchase price are not eligible for the down payment assistance program.

Participants must apply prior to signing a purchase and sales agreement.

HOW DO I APPLY?

1. Buyers meet with a Bank to get pre-approved and *submit pre-approval letter(s) to City staff*. The participant's primary mortgage pre-approval must have conventional terms (30 year fixed-rate standard mortgage). The mortgage pre-approval must be from a bank or recognized lending institution using conventional underwriting criteria. Pre-approvals from other sources may not be accepted.
2. Complete an application. Upon being determined income eligible you will receive a certificate (active for 6 months). ***Please note it will take up to a week to review the initial application, and we may request additional documents if needed before a final income certification can be completed. Applicants are strongly recommended to apply early, well in advance of the deadline to sign a purchase and sale. It can take up to two weeks to complete the income certification period.***
3. Buyers locate their own property, negotiate the best price possible (must meet Homeownership Value Limits for the either the Closing Cost or Down Payment 80 Programs), and have a private Home Inspection performed. ***OSPCD must perform a Housing Quality Standards Inspection the property*** and any items identified in the private home inspection and HQS shall be used to create a list of required repairs (if needed) and for the Closing Cost and Down Payment 80 Programs, an Environmental Review shall be done ***prior to the P&S agreement being signed. Please allow***

at least a minimum of 5 business days for this to be scheduled.) Per 24 CFR 92.251(c)(3), a Housing Quality Standards inspection (HQS) shall occur no earlier than 90 days prior to the commitment of HOME funds to determine if the housing meets the U.S. Department of Housing and Urban Development HQS, as well as state and local code. Only properties that meet these standards, adopted for Somerville, can be acquired by an eligible homebuyer. For properties meeting these standards, buyer re-negotiates price (if applicable) and enters into a Purchase and Sales Agreement. *Buyer submits copy of executed P&S agreement to OSPCD staff.*

4. Buyer applies for a conventional-term mortgage with their chosen lender.
5. When mortgage is approved, the Bank will issue a Commitment Letter. *Buyer must submit a copy of Commitment Letter, Closing Disclosure and Bank Appraisal to City staff.*
6. City staff will use the above submitted documents for their underwriting analysis.
7. A draft deed shall be provided to staff in advance of the closing. Per 24 CFR 92.2 and 24 CFR 92.254(c) the property must be acquired in an eligible form of ownership, i.e., fee simple title (owned completely, without any limitations or conditions) in a 1-to-4 unit dwelling or in a condominium or other equivalent form of homeownership approved by HUD in writing, and the land is owned in fee simple or the homeowner has a 99-year ground lease. Draft deeds shall be provided to staff in advance of the closing to ensure compliance with this requirement. Only properties that meet this requirement can be acquired by an eligible homebuyer.

*City staff will begin to process City loan documents ONLY when the above steps are completed. City staff will work with buyer and bank to determine a mutually convenient **closing date**. The City assistance check must be in hand at the closing, and a closing cannot happen before the assistance check is available. Please be aware that final review occurs with the final closing disclosure, which is typically issued three-five business days from an anticipated closing. Once the City's underwriting analysis is complete, loan documents are drawn up and a check request is submitted. It can take up to two weeks for a City check to be generated for closing.*

Income Eligibility

Applicants must have incomes at or below 80% of Area Median income for the 80% AMI Closing Cost or Down Payment Program. Applicants must have incomes between 81-110% of Area Median Income for the 110% AMI Closing Cost Program. The Maximum Household incomes by Household Size are as follows as of 6/15/2022:

<u>FAMILY SIZE</u>	<u>80% INCOME LIMIT</u>	<u>110% INCOME LIMIT</u>
1	\$78,300	\$108,000
2	\$89,500	\$123,400
3	\$100,700	\$138,800
4	\$111,850	\$154,220
5	\$120,800	\$166,600
6	\$129,750	\$178,900
7	\$138,700	\$191,250
8	\$147,650	\$203,600

PLEASE NOTE: PARTICIPANTS WHO ARE DETERMINED ELIGIBLE FOR THE ASSISTANCE STILL NEED TO BE DETERMINED ELIGIBLE FOR A MORTGAGE BASED ON LENDING INSTITUTION REQUIREMENTS. THE AMOUNT OF MORTGAGE YOU MAY QUALIFY FOR IS BASED ON YOUR INCOME, YOUR DEBTS, YOUR CREDIT, AND OTHER FACTORS AS DETERMINED BY THE LENDING INSTITUTIONS.

Homeownership Value Limits

Any property purchased through either the Closing Cost Assistance 80 or Down Payment Assistance 80 Programs must meet the Homeownership Value Limits. The newly constructed and existing housing limit are both based on 95% of the median sales price in the area but use different data sets for their calculations. These limits are as follows as of 6/1/2022:

<u>House Type</u>	<u>Maximum Value New</u>	<u>Existing</u>
Condominium	\$501,000	\$489,000
Single-Family	\$501,000	\$489,000
Two-Family	\$641,000	\$626,000
Three-Family	\$777,000	\$758,000
Four-Family	\$962,000	\$939,000

Maximum Value includes the purchase value and any rehabilitation needed to get the property up to Housing Quality Standard.

Intake, Analysis & Determination

The City staff shall perform intake and assign support staff collection of data responsibilities as needed.

Intake shall include, but not be limited to:

1. A fully completed application.
2. Three ***consecutive months worth of current*** pay stubs for each person earning income. Employer verification for overtime, bonuses, commissions, etc.
3. Three consecutive 1040 Federal Tax forms, W2s, and associated documents (including 1099s, all pages and schedules).
4. A copy of the social security cards for all household members.
5. A mortgage pre-approval from a conventional lender for conventional mortgage terms.
6. Copies of the three *most recent* months of bank account/investment account statements for every household member, *all pages* (even if last page is blank). This includes every savings, checking, 401(k), IRA, money market and certificate of deposit, etc. from every institution for *each* household member.
7. Copy of Valid First-Time Homebuyer Training Class Certificate

The City staff shall review all documents and determine income eligibility.

Please note that the income determination is different from the underwriting analysis to determine household need.

Certificate Issued & Pre-qualification

Once the applicant has been certified as eligible and Income Verification forms have been signed, staff shall issue a certificate to the applicant to include an expiration date within six (6) months.

A certificate can be renewed at the end of the six (6) month term, but a full income certification must be undertaken to do so.

Program eligibility is only determined once a property is identified. This property must meet Homeownership Value Limits and have an Environmental Review done (for 80% of AMI programs only) and pass a Housing Quality Standards inspection. Funds are committed pending availability of funds at the time of closing. The City makes no guarantee that funds will be available at the time of income certification.

The City staff shall mail out a certificate along with an Eligibility Letter that sets out documents that will be required going forward, as well as next steps.

Offer To Purchase and Home Inspection

The applicant shall submit the Offer to Purchase property to the City staff.

The City staff shall review the Offer for completeness.

The City staff shall notify the applicant of the requirement to hire a Private Home Inspection Company. This inspection report is to be placed in the file.

The City staff will assign an Inspector to conduct a Housing Quality Standards (HQS) Walk Through of the property and review the Private Home Inspection.

This must occur prior to a client signing a purchase and sales.

The HQS shall occur no earlier than 90 days prior to the commitment of HOME funds to determine if the housing meets the adopted housing standards.

Purchase & Sale Agreement And Bank Commitment

City staff shall review the P&S and advise the client on any necessary additions based upon the Inspector's findings.

If the P&S is acceptable, the City staff shall advise the client to apply to a Bank or lender of their choice for a mortgage loan (provided the loan will be a 30 year fixed-rate standard mortgage). The City needs to receive a copy of the fully executed Purchase and Sale.

The client must submit an original Bank Commitment, Bank Appraisal, and final Closing Disclosure documents to the City staff. Once City staff has all of the above listed documents, City staff will perform an underwriting analysis.

Closing

Because City underwriting cannot begin until receipt of the Final Closing Disclosure (which typically occurs 3-5 days from an anticipated closing date), the closing date will likely need to be adjusted back. The City staff shall coordinate a mutually agreeable "Closing Date" with buyer, seller, broker, bank and any other person deemed necessary to complete the transaction once in receipt of the Final Closing Disclosure. The Assistance Check takes approximately two weeks to be generated from the time the loan documents are executed, and the Check must be brought to the Closing.

Per 24 CFR 92.2 and 24 CFR 92.254(c) the property must be acquired in an eligible form of ownership, i.e., fee simple title (owned completely, without any limitations or conditions) in a 1-to-4 unit dwelling or in a condominium or other equivalent form of homeownership approved by HUD in writing, and the land is owned in fee simple or the homeowner has a 99-year ground lease.

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