

**CITY OF TUSTIN  
TUSTIN HOUSING AUTHORITY  
AFFORDABLE HOUSING OWNERSHIP PROGRAMS FACT SHEET  
(LENDER)**

**GENERAL PURPOSE**

The purpose of this document is to provide the prospective homebuyer with a summary of the City of Tustin's Affordable Home Ownership Programs and its requirements. It also provides insight for future issues such as refinancing that may occur.

The Tustin Housing Authority administers the affordable ownership programs for the City of Tustin. As the administrator, the Authority is responsible for ensuring that all affordable guidelines established by California Redevelopment Law (CRL) and the City of Tustin are enforced. CRL restricts the sales price and income levels for all affordable units within the City.

**Inclusionary Units**

Pursuant to California Redevelopment Law, 15% percent of privately developed or substantially rehabilitated units within a redevelopment project area are to be set aside as "affordable" units to benefit very-low-, low-, and moderate-income households. The different income classifications (very low, low, and moderate) are based upon the Orange County median income. The income levels are further refined based on the number of persons per household.

For upcoming affordable housing units to be offered, please periodically check the City of Tustin website or contact staff at (714) 573-3117.

**Resale Units**

The City of Tustin currently has restrictions on over 270 affordable ownership units throughout the City. From time to time, these units will become available for sale.

The City of Tustin does not maintain a list for those interested in purchasing resale affordable units; however, the City does provide an affordable units for resale list on the City's Website. It is the responsibility of the current owner to locate a qualified buyer.

**Income Limits**

The affordable units can be offered to qualified households, who at the time of sale meet the program criteria and the City of Tustin's household income limitation requirements established by the California Department of Housing and Community Development (HCD).

The current income limits are published on the City's website. The income limits are increased for larger household sizes pursuant to household income limits published by the HCD. These income limits are subject to annual revision, as HCD publishes revised income limits.

## **General Criteria:**

- The purchaser's gross income, before any payroll deductions, cannot exceed the maximum income limits established by HCD.
- Each purchaser is required to provide a minimum down-payment of 3% out of their own funds. In some cases, the purchaser will be required to provide additional down payment in order to keep their housing costs within affordable housing guidelines.
- Gift funds are acceptable for additional down-payment in excess of the minimum 3% down-payment or for closing costs. A Gift letter must be submitted along with supporting documentation reflecting funds available.
- Housing Cost Ratio – the purchasers housing cost (principal, interest, taxes, insurance, HOA dues, and applicable utility allowance) cannot exceed the following guidelines:
  - Very Low Income households - 30% of the gross household income
  - Low Income households – 30% of the gross household income
  - Moderate Income households – 35%; but not below 28% of the gross household income. This is generally the rule; however, certain Developers through their Affordable Housing Agreement have been granted higher ratios.
- Household income is determined by using the gross income, before any payroll deductions, of all household members over the age of 18.
- The first mortgage loan must be a fixed rate mortgage, minimum of 30 years. An existing affordable unit may be refinanced for a term less than 30 years as long as the Housing Cost Ratio does not exceed the current guidelines as mentioned on above.
- The purchaser may use any lender of their choice. However, the City does maintain a preferred lenders list. This list is to be used as a resource document only; it is not an endorsement for any of the lenders.
- The City will record a silent second mortgage on each unit. The amount of the second mortgage is the difference between the affordable sales price and the fair market appraised value of the unit.
  - Example: If the affordable price is \$200,000 and the fair market appraised value is \$500,000, the City will record a second mortgage on the property in the amount of \$300,000.
  - This second mortgage will remain on the property for the entire 45-year period and may not be paid off.
  - If at the end of the 45-year period the owner has not defaulted under the terms of the affordable agreements, the amount due to the City is 5% of the original second mortgage. If the second mortgage was \$300,000, the amount due to the City would be \$15,000.
  - A CLTA lender's policy of title insurance is required at closing to insure the Affordable Housing Deed of Trust as a second priority lien, junior only to the First Lien.
- In compliance with California State Assembly Bill 987, the City of Tustin maintains a database of affordable housing units, AB 987 Affordable Owner-Occupied Housing Units, on the City's website. The database does not include the owners name, but it does include:
  - the property address
  - assessor's parcel number
  - size of the unit (bedroom count)
  - the date the affordable restrictions were recorded against the property; and

- the expiration date of the affordable restrictions

### **Program Restrictions:**

There are several restrictions that are imposed on each affordable unit:

- The affordability period for all affordable ownership units is 45 years. This means that the unit must remain affordable for a period of 45 years. If the owner decides to sell during the 45-year period, it must be sold to another household at the same income level as the original purchaser.
  - Example: If the unit was purchased by a low-income household, all subsequent sales must be to a family whose combined gross income does not exceed those established for a low-income household. NO EXCEPTIONS
- The homebuyer must live in the unit as his or her primary residence.
- The homebuyer may not lease or rent the unit. Exceptions may be made on a case-by-case basis.
- The homebuyer shall not own or co-own any residential real property other than the unit.

### **Refinancing:**

The affordable homebuyer is allowed the opportunity to refinance their home as long as the new loan does not exceed 97% of the current affordable sales price and the new housing payment does not exceed affordable guidelines. Please contact the City prior to initiating the refinancing process or visit our website for the refinancing requirements.

### **Future Sales:**

- If the homebuyer wants to sell or transfer the property, the homebuyer must first give written notice to the City of Tustin for its prior approval of the terms of the sale.
- The home may only be sold or transferred to a qualified affordable household at a price that falls within the affordable criteria of that unit.
- The Affordable Sales Price is calculated by the City. The price is established using current income limits established by the State of California Department of Housing and Community development (HCD) and the current housing costs e.g. homeowner association dues, property taxes, insurance, and utility allowance. The current interest rate is also used in determining the affordable sales price. (Please note: any upgrades (i.e., marble countertops, hardwood flooring, shutters, etc.) to the home, are not factored into the affordable sales price.)
- The homebuyer and seller must each pay their respective closing costs. At no time is the homebuyer allowed to pay the seller's costs.

### **Program Documents:**

There are several documents that the purchaser must execute in favor of the City of Tustin that will make certain that the property will remain affordable for a period of 45 years:

- Affordable Housing Covenants – This document records the affordable restrictions placed on the property.
- Promissory Note - A document signed by a borrower promising to repay a loan under agreed-upon terms. Please note that there are no payments due on the silent second mortgage used to secure an affordable unit.

- Deed of Trust and Assignment of Rents – This secures the Promissory Note.
- Option Agreement – The homebuyer grants the City an option to purchase the unit.
- Reimbursement Agreement – The homebuyer agrees to reimburse the City for any payments made to cure a Default or delinquency on the Loan.
- Notice of Affordability Restrictions on Transfer of Property – This notifies all subsequent buyers of the affordable restrictions placed on the unit.

### **The Process:**

#### **Lender Documentation:**

- A. Affordable Housing Worksheet – The worksheet is required to complete the annual HCD Schedules. (Do any of the households and/or household members fit any of these categories - Female Head of Household, Elderly, physical disability, or mental disability)?
- B. Qualification Summary Sheet
- C. Household Member Certification
- D. Certification of Purchaser
- E. AB 987 Disclosure
- F. Certification of Eligibility – Local preferences, if applicable. Submittal of the Certification requires supporting documentation as listed on the form.
- G. Release and Authorization for the City of Tustin

***The forms listed above may be obtained from the City of Tustin.***

- H. Copy of driver's license or California Identification Card for all adult household members (18 years or older)
- I. Completed, signed and dated loan application (Fannie Mae Form 1003)
- J. Proof of permanent legal residency for each household member (birth certificate, passport or permanent resident card)
- K. Copy of Social Security Card for all household members
- L. Copy of Certified Birth Certificate for each dependent
- M. Copy of Credit Profile (minimum score of 620)
- N. Copies of Pay Stubs for the two most recent months for all adult household members (18 years or older)
- O. Adult household members (18 years or older) who are not employed and are students must provide a copy of their academic transcripts for verification of enrollment
- P. Last two years federal and state income tax returns (signed) with all schedules for all adult household members
- Q. Last two years W2 forms for all adult household members (18 years or older)
- R. Last three months bank statements for all accounts (all pages) for all adult household members (18 years or older)
- S. If renting – name, address, and telephone number of Landlord
- T. Recent retirement, stock, IRA, 401K, etc. statements
- U. Gift letter and supporting documentation (if applicable).
- V. Appraisal report
- W. Uniform Underwriting and Transmittal Summary (Fannie Mae Form 1008)
- X. Closing Disclosure
- Y. Loan Estimate

Z. Fully executed AB 987 Disclosure Statement

City/Authority Forms and Lender Forms submitted to the City/Authority from Escrow prior to closing:

- A. Copy of Purchase Agreement and Escrow Instructions
- B. Affordable Housing Promissory Note
- C. Affordable Housing Deed of Trust with Assignment of Rents
- D. Affordable Housing Covenant
- E. Request for Notice under Civil Code Section 2924b
- F. Reimbursement Agreement
- G. Affordable Housing Option Agreement
- H. Notice of Affordability Restrictions on Transfer of Property
- I. Insurance Certificate
- J. A copy of the first mortgage Deed of Trust and Promissory Note

The final step is ensuring that the City/Authority receives the closing documents and all recorded documents.

City/Authority Forms and Lender Forms submitted to the City after the Escrow closing:

- A. Final Closing Statement
- B. Title Policy for City's second mortgage
- C. Recorded City Documents (Affordable Housing Deed of Trust with Assignment of Rents, Affordable Housing Covenant, Request for Notice under Civil Code Section 2924b, Affordable Housing Option Agreement, and Notice of Affordability Restrictions on Transfer of Property)

#### **AFFORDABLE HOUSING PROGRAM ELIGIBILITY CRITERIA**

- A. The application must be completed for all household members who will be living in the home as their primary residence. A child who is subject to a legally binding shared custody agreement, in which the child resides with the Household at least 50% of the time, is counted as a member of the Household.
- B. Applicant household members must show at least one full year of current joint residency. Applicants who have married within the past year will be required to provide documentation.
- C. All adult household members (18 years or older) who are employed must have at least two full years of verifiable income and Federal tax filing history in the United States. Note: anyone in the household that has been a student during the past three years will be required to provide a copy of academic transcripts for verification.
- D. Self-employed individuals must show proof of at least three full years of verifiable continuous personal and business income.
- E. Gross Income, before any payroll deductions, must be disclosed for all individual members living in the home. Gross income from employment includes base wages, overtime and bonuses. Income includes any money received from any source, such as wages, interest, dividends, distributions, annuities, pensions, child support, alimony, etc.

- F. The total gross income, before any payroll deductions, of all household members may not exceed the maximum income limit as defined by the California Department of Housing and Community Development (HCD).
- G. Divorced or legally separated applicants must have verifiable evidence of at least one full year of complete financial and residential separation at time of loan application.
- H. Applicants may not own any other residential property, including mobile home property or land. No file will be reviewed until the close of escrow. Excludes time-share ownership and/or a mobile home if registered as a motor vehicle/trailer.
- I. Verification of the applicant's ability to provide the minimum 3% down payment must be provided. Gift funds are acceptable to be used for additional down-payment in excess of the minimum 3% down-payment or for closing costs. A Gift Letter must be received along with supporting documentation reflecting funds available. Gift funds may be deposited directly from the grantor into the escrow account. Gift funds are not required to be deposited into the homebuyer account.
- J. The total value of assets owned by the combined household members cannot exceed one-half of the market value of the unit per the fair market appraisal of the Affordable Housing Unit, exclusive of qualified pension funds and dedicated retirement accounts (IRA's, SEP's, Keoghs, 401k, etc.) The one-half asset to total value ratio applies to assets remaining after initial assets have been used for the purchase of the home. Please see example below:

Value of Assets Available: \$300,000  
 Down Payment for Purchase: \$100,000  
 Net Value of Assets Available: \$200,000

Fair Market Value of Property: \$450,000

Asset Value/Value of Property: \$200,000/\$450,000 (44.4%)

\*The above example would be approved within the affordable housing program\*

- K. Applicants must use actual income to obtain mortgage financing – stated income loans will not be allowed.
- L. Applicants must certify that they will reside in the affordable housing unit as their primary residence. The City will monitor this requirement after purchase. On an annual basis, the homebuyer will be required to supply documentation\*, in writing, to the City or its designee confirming:
  1. The homebuyers still reside in the home as their primary residence
  2. The homebuyers did not lease or rent the home
  3. The homebuyers did not take out any additional loans on the property (i.e. Home Equity Line of Credit); and
  4. The homebuyers' insurance policy is current (unless paid by homeowners association)
  5. The homebuyers do not own or co-own any other residential real property.

\*The required supporting documentation includes, but is not limited to a copy of the most recent telephone and electricity bill.

- M. The Unit shall be used exclusively as the principal and only residence of Homeowner and Homeowner's family. All individuals defined as "Homeowner(s)" in the Covenant must adhere to this principal residence requirement. Failure to adhere to the principal residence requirement by a Homeowner(s) may result in removal of the Homeowner(s) from the Covenant.
- N. The City will also verify on an annual basis that the homebuyer is maintaining improvements and landscaping on the Unit consistent with Community Standards and the City Code.
- O. On an annual basis the City will verify that there are no additional encumbrances recorded against the property (such as third trust deeds, or liens for unpaid homeowner association dues or unpaid property taxes) that have been recorded against the property. **Under no circumstances may a homebuyer obtain a home equity loan or line of credit.**
- P. As of the date of the Covenant and during the term of the Covenant, Homebuyer shall not own or co-own any residential real property other than the unit.
- Q. The City and the Seller reserve the right to request any documents and/or information needed to verify program eligibility. The lending sources may have additional underwriting requirements to those described in this document. It is the applicant's responsibility to demonstrate eligibility to purchase an affordable housing unit.
- R. Applicants unable to provide satisfactory evidence of income, assets, or other qualifying criteria will not be allowed to purchase an affordable housing unit. In addition, an applicant's qualification with the Affordable Housing Program Eligibility Criteria IS NOT a guarantee of the purchase of an Affordable Housing Unit.
- S. In the event an applicant is found ineligible for the Affordable Housing Program, they must wait ninety (90) days before they are eligible to reapply.
- T. The homebuyer must sign a Deed of Trust in favor of the City of Tustin and other City documents (Promissory Note, Covenants, Reimbursement Agreement, Notice of Affordability Restrictions on Transfer of Property and Option Agreement) to make certain that the property will continue to be sold at an affordable housing cost for a period of 45 years from the original date of sale. The grant deed will contain additional language which will include, but is not limited to the following:
1. The requirement that all future resales must be to an affordable household at the same income level of the original purchaser.
  2. The homebuyer must live in the home as his or her primary residence.
  3. The homebuyer may not lease or rent the home in full or in part. Exceptions may be made on a case-by-case basis.
  4. If the homebuyer wants to sell or transfer (all or in part) the property, the homebuyer must first give written notice to the City of Tustin for its prior approval of the terms of the sale.
- U. The City allows affordable units to be placed into a Trust, only after a homebuyer receives approval and the necessary documents from the City to place the unit into a Trust.
- V. The home may only be transferred or sold to qualified affordable income households at a price that falls within the affordable criteria. The future homebuyer must live in the home as his or her primary residence. The future

homebuyer may not lease or rent the home. Exceptions may be made on a case-by-case basis.

- W. The Affordable Housing Covenant limits the price at which the homebuyer can resell the home. The maximum amount the homebuyer may charge for the home will be determined by the City based on the then current affordable income limits established by the State of California Department of Housing and Community Development (HCD) and the current housing costs e.g. homeowner association dues, property taxes, and utility allowance. The current interest rate is also used in determining the new affordable sales price.

When applying to purchase an affordable home, affordable homebuyers can expect the approval process to take at minimum 30-45 days. Timely approval is dependent upon all submitted paperwork being complete at application and prompt responses to requests for missing documentation or additional information. **As a result, DO NOT ENTER into an Escrow of less than 45 days, preferably 60 days.** The approval process is outlined below:

- **INITIAL HOMEBUYER DOCUMENTATION SUBMITTED TO CITY**  
(A checklist of the required documentation will be provided to the Lender/Real Estate Agent submitting the paperwork on behalf of potential affordable homebuyer.)
  - o Please allow at least **ten (10) business days** from the day the preliminary paperwork is received by the City for approval. Initial approval can be delayed by requests for information and missing documentation.
- **FINAL HOMEBUYER DOCUMENTATION SUBMITTED TO CITY**
  - o Please allow **ten (10) business days** from when all final documents are received for the City to approve submittal and prepare the Affordable Housing Documents for administrative review;
  - o **Five (5) business days** for the Housing Authority Manager to review documentation and approve Affordable Housing Documents; and
  - o **Five (5) business days** for the Housing Authority's Special Counsel to approve Affordable Housing Documents.
- **AFFORDABLE HOUSING DOCUMENTS TO ESCROW – HOMEBUYER'S SIGNATURE**
  - o **Two – Five (2-5) business days** for the homebuyer to sign Affordable Housing Documents.
  - o **Three (3) business days** after receiving homebuyer's signed Affordable Housing Documents from Escrow for the City to sign and return Documents to Escrow for Recording.