

2005-2006 Civil Grand Jury

City and County of San Francisco

**AFFORDABLE HOUSING BOND PROGRAM:
THE DOWN PAYMENT ASSISTANCE LOAN PROGRAM**

Report released: June, 2006

Purpose of the Civil Grand Jury

The purpose of the Civil Grand Jury is to investigate the operations of the various departments, agencies, and officers of the government of the City and County of San Francisco—to develop constructive recommendations for improving the operations of the City and County of San Francisco, as required by law.

Each Civil Grand Jury has the opportunity and responsibility to determine which officers, departments and agencies it will investigate during its one year term of office. To accomplish this task, the Civil Grand Jury divides into committees. Each committee researches in depth the departments or areas which are being investigated, by visiting government facilities, meeting with public officials, and reading appropriate documents.

The nineteen members of the Civil Grand Jury are selected at random from a pool of thirty prospective jurors. San Francisco residents are invited to apply. More information can be found at: http://www.sfgov.org/site/courts_page.asp?id=3680, or by contacting Civil Grand Jury, 400 McAllister Street, Room 008, San Francisco, CA 94102; (415) 551-3605.

State Law Requirement

Pursuant to state law, reports of the Civil Grand Jury do not identify the names or identifying information about individuals who provided information to the Civil Grand Jury.

Departments and agencies identified in the report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of Supervisors. As to each finding of the Civil Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further, as to each recommendation made by the Civil Grand Jury, the responding party must report either (1) that the recommendation has been implemented, with a summary explanation of how it was; (2) the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of this report); or (4) that recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (California Penal Code, §. 933, 933.05.)

Purpose of This Report

To evaluate the efficiency and fairness of the Down Payment Assistance Loan Program authorized by Proposition A during the Elections of November 1996 and to discuss the benefits of homeownership to the community. Additionally the Civil Grand Jury sees a need for more funding to augment the number of homebuyers.

I. Summary

In January 2006, the Civil Grand Jury (CGJ) began an investigation into the current status of the City and County of San Francisco's Down Payment Assistance Loan Program (DALP). Several issues surfaced, among them:

1. The current maximum sales price limits are based on 2004 real estate prices and are unrealistic in the present real estate market.

2. When the program was established in 1996, section 43.3.7 of the Administrative Code of the City required the Mayor's Office of Housing (MOH) to file an annual report with the Board of Supervisors on the status of the Affordable Housing and Homeownership Program. The CGJ has been unable to determine whether any report was filed after 2002.

The Civil Grand Jury of 2005/2006 offers the following suggestions:

- Raise the maximum sales price for properties.
- Establish a waiting list when funds have been depleted.
- Initiate a ballot proposition that provides additional funding for the DALP
- Ensure that the Mayor's Office of Housing files the required annual reports.

II. Introduction

In November of 1996 the voters of the City and County of San Francisco (the City) approved Proposition A, the Affordable Housing and Homeownership Bond Program, a \$100 million general obligation bond to expand affordable housing opportunities for low- and moderate-income residents. \$85 million of the bond proceeds were to be spent for acquisition, rehabilitation and construction of rental units for households with annual incomes of no more than 60% of the San Francisco metropolitan area-wide median (\$62,000 in 1996). The remaining \$15 million was to be invested in down payment assistance loans for first-time homebuyers with annual incomes at or below the area-wide median.

The Board of Supervisors ordinance (449-97) that established program guidelines requires that the bond proceeds be deposited in two accounts: the Development Account for the rental housing component of the program and the Down Payment Assistance Loan Program Account for the homeownership component. This latter program is the only focus of the CGJ's investigation. It works as follows:

The City makes interest free down payment assistance loans, which are to be repaid into the City's DALP fund when the homeowner sells. At such time, the City receives back not only the original principal amount but also its share of the appreciation of the home in proportion to the City's participation in the financial transaction. Hence the fund is considered an "evergreen" fund, or a "revolving loan fund" that is available to be lent out again and again.¹

DALP loans are made on a first come, first served basis. All properties purchased with down payment assistance loan funds must be single-family residences located in the City including condominiums, townhouses or cooperative units.

The DALP is administered by the Mayor's Office of Housing (MOH) with the assistance of six participating lenders each of which is either a bank or a mortgage company selected by MOH. Participating lenders submit applications to MOH for approval after determining that the borrower is eligible for a first mortgage and appears to be eligible for a second loan from the City to assist the borrower with a down payment.

III. Procedure

The Civil Grand Jury (CGJ) used multiple sources of information to determine the current status of the DALP and to ensure that our findings and recommendations are credible, valid and realistic. The CGJ:

- Reviewed studies and recommendations made by SPUR (San Francisco Planning & Urban Research Association), and by the Budget Analyst of the Board of Supervisors
- Interviewed individuals and personnel from City departments knowledgeable about the DALP
- Examined documents available on the www.sfgov.org website and the www.huduser.org website.

Interviewees included personnel from the Mayor's Office of Housing, DALP Homebuyers Education Counseling Agencies, participating lenders, and the San Francisco Redevelopment Agency.

¹ Example: A unit is purchased for \$400,000 with a DALP loan of \$60,000. When the residence sells it might generate \$600,000, an appreciation of \$200,000 or 50%. The borrower repays the City the original \$60,000 plus \$30,000 which is the 50% appreciation of the loan..

IV. Background

Those who wish to apply for a Down Payment Assistance Loan must do the following:

1. Complete an approved first-time homebuyer's education course.
2. Secure a commitment of a first mortgage from a participating lender.
3. Be approved by the MOH for a DALP loan.

A. Education Counseling Agencies.

Borrowers are required to complete an approved first-time homebuyer's education course. Applicants for down payment assistance must include a certificate of completion with the application package. There are five non-profit education counseling agencies approved by the U.S. Department of Housing and Urban Development. They organize workshops which are free and typically include:

- A. Credit review
- B. Advantages of budgeting
- C. Lender underwriting guidelines
- D. Down payment and closing costs
- E. Shopping for a mortgage
- F. Notice of affordable homeownership opportunities.

In addition, applicants attend individual counseling sessions that include a discussion of home maintenance.

The agencies serve as liaisons between the buyer and potential lenders. The agencies make an initial determination of the applicant's eligibility and help to prepare the DALP application. At this point the applicant may shop for a home within the price range set up by the MOH.

B. Participating Lenders.

The borrower must secure a commitment of a first mortgage from a participating lender. The borrower must contribute a minimum of 5% of the purchase price toward the down payment (3% must be the borrower's own funds, the balance may be in the form of a gift or grant). The bank decides if the applicant qualifies for the loan and prepares the necessary paperwork. The loan and the DALP application are then forwarded to the MOH for approval.

C. Mayor's Office of Housing.

The Down Payment Assistance Loan Program is administered by the MOH in conjunction with the participating lenders. The MOH determines the income limits and subsidy levels for the program. The income limits, and their percentage of median income, depend on the household size – from one person to four or more – and vary from \$49,875 to \$95,000 (effective February 2005).

The maximum DALP loan amount is \$100,000 or 30% of the purchase price, whichever is less. The lower the income, the higher the possible DALP loan.

The maximum sales price for properties purchased with DALP funds are established by the MOH and as of October 2004, are:

<u>Unit size</u>	<u>maximum sales price</u>
Studio/one bedroom	\$360,000
Two bedrooms	\$480,000
Three bedrooms	\$550,000
Four or more bedrooms	\$620,000

Other restrictions are:

- ❖ Properties must be single-family residence units in the City and County of San Francisco,
- ❖ The borrower's household size must be compatible with the property size,
- ❖ Borrowers must occupy the purchased properties as their principal residences, and
- ❖ Properties must remain owner-occupied throughout the terms of the loans (maximum of 40 years).

MOH notifies the lender and applicant if it approves the application for down payment assistance. The funds that were approved are sent to the escrow agent and the deed of trust to the property will reflect the City's contribution and the conditions under which the loan must be repaid upon sale of the residence.

V. Discussion

A. Education Counseling Agencies.

These education counseling agencies are private and non-profit organizations, existing by receiving private grants and through their own fund-raising. The Civil Grand Jury believes these counseling agencies are well managed and staff has their clients' welfare uppermost in their minds.

In interviews personnel from the agencies said they were not aware of any discrimination due to ethnicity in the administration of the DALP or any other unfair rejection of their clients.

There is a problem in that the current approved maximum sales price limits are unrealistic. It has become very difficult or nearly impossible to find a one-bedroom home in San Francisco for \$360,000, or a two-bedroom for \$480,000, or a three-bedroom for \$550,000. Thus it is not possible to take advantage of the approximately \$3,400,000 of DALP funds that are available today for allocation to new borrowers. An interviewee suggested an increase of at least 15% from the Oct. 2004 value scale would be appropriate.

B. Participating Lenders.

The lender determines if the applicant qualifies for a loan and helps the homebuyer with the loan application. The lenders interviewed indicate that the homebuyers have not been discouraged by the process. There have been no defaults on the loans under the DALP.

Due to the low maximum sales price limits many first-time homebuyers have needed both the Below Market Rate (BMR) Units of the San Francisco Redevelopment Agency and the DALP. There are two problems with this linkage: There are about 200 applicants for each available unit (allocated by lottery); and on resale the appreciation of the BMR Unit is limited to the increase in median income, not to the increase in real estate market value. Thus, the DALP revolving fund appreciates to a much lesser degree.

Sometimes it is possible to combine the DALP loan with the California Homebuyers Down-payment Assistance Program (CHDAP) loan. The California Housing Agency web site states "CHDAP offers a unique interest rate, and the repayment of principal and interest is due on the sale of the residences."

The fact that there are 200 applicants for each available BMR unit is an indication of the great need for affordable housing assistance.

C. Mayor's Office of Housing.

By the end of the summer of 2002, 240 loans had been made to first-time homebuyers under the DALP. This obligated all the initially available funds. A SPUR report of July 2002 found that the DALP has been an effective and efficient program.

In a letter of March 29, 2006, to the CGJ the Director of the MOH provided current statistics:

- 293 loans have been made since inception of the program
- The average loan is for \$61,000
- 68 loans have been repaid by borrowers
- There have been no defaults
- \$3,400,000 is available to allocate to new borrowers.

However, it should also be noted that when the program was established, section 43.3.7 of the Administrative Code of the City required the MOH to file an annual report with the Board of Supervisors on the status of the Affordable Housing and Homeownership Program.

In June of 2002, the Budget Analyst criticized the MOH for publishing the Annual report prior to the end of the 2001/2002 fiscal year covered by the annual report. The Analyst insisted that in future years the reports be made after the closing of the fiscal year. The CGJ has been unable to determine whether MOH filed any annual report after 2002 and the MOH was unable to supply the CGJ with a report as regards DALP for the year ended June 30, 2005.

The participating lenders indicate that the MOH is responsive and returns application packages within five days. Rejected applicants can appeal to the Director of the MOH.

An interviewee stated that there have been no objections to the “first come, first served” basis to lending, however it may be appropriate to develop a waiting list when funds have been temporarily depleted.

D. Benefits of Homeownership to the Community.

Assisting low- and moderate-income households by providing greater access to homeownership, as an instrument of social mobility is an important tool for enabling the lower middle class to remain in San Francisco, working against a city inhabited predominantly by the rich and very poor.

The U.S. Department of Housing and Urban Development has published many studies on the benefits to society of homeownership. A summary of some of their findings follows:

- ✓ Homeownership (HO) benefits neighborhoods as well as individuals because owner-occupiers have a financial stake in the quality of the local community.
- ✓ HO expands individual opportunities to accumulate wealth, enables a family to exert greater control over its living environment, creates incentives for households to better maintain their homes, and may benefit children of homeowners.
- ✓ HO is associated with gaining access to high quality public services and amenities.
- ✓ HO is the primary means of long-term wealth accumulation and financial security for most American families, and plays an important role in promoting neighborhood stability and civic engagement.
- ✓ Parents who own their own home may be helping to boost their children’s educational achievements and even reduce behavioral problems.
- ✓ The greater stability of homeowners is good for child development.
- ✓ Homeowners tend to stay in one place longer than renters. This stability means that children stay in the same schools, and parents and children invest more time in developing positive relationships with their neighbors and the community.
- ✓ A boost in HO strengthens the economy by creating jobs and the need for more durable goods.
- ✓ The longer one puts down roots, the more stake one has in supporting local institutions.

VI. Conclusions: Findings and Recommendations

The Civil Grand Jury finds that the Affordable Housing Bond Program has been successful but it has some shortcomings that should be addressed. More importantly, a new bond measure should be sponsored for more affordable housing as the program addresses deeply held values such as equity, opportunity, and the right to a home.

Findings:

1. The maximum sales price for properties set in October 2004 has been overtaken by a rising local real estate market.
2. The program is on a “first come, first served” basis.
3. The current fund is too small to address the need for affordable housing.
4. The Mayor’s Office of Housing has not filed annual reports on DALP since 2002.

Recommendations:

1. The maximum sales price for properties should be increased to conform to current market rates, an increase of at least 15%. If that is done, efforts should be made to place the now available funds (3.4 million dollars) into the community.
2. When the funds are depleted a waiting list of additional applicants should be developed by the MOH.
3. The Mayor and Board of Supervisors should sponsor a ballot proposition for a general obligation bond that would inject additional money into the revolving DALP fund. Such a proposition should only focus on the DALP---unlike the unsuccessful \$200 million Prop. A in 2004, which grouped \$90 million for homeless housing, \$60 million for rentals, \$25 million for housing development and \$25 million for DALP. The 2004 Prop. A received approval by a majority of the voters but fell 2% short of the 2/3rds majority required for general obligation bonds. Other housing ballot measures can be introduced separately. Prior to the housing bond measures, the City should conduct the due diligence of a comprehensive audit of past housing bonds and have a coordinated plan for future housing needs.
4. The Mayor’s Office of Housing should file the required annual reports with the Board of Supervisors starting with the 2002-2003 fiscal year.

VII. Required Responses

Mayor's Office - 60 days

Mayor's Office of Housing - 60 days

Board of Supervisors - 90 days

VIII. Glossary

BMR:	Below Market Rate
CGJ:	2005/2006 Civil Grand Jury
CHDAP:	California Homebuyers Assistance Program
DALP:	Down Payment Assistance Loan Program
HUD:	U.S. Department of Housing and Urban Development
HO:	Homeownership
MOH:	Mayor's Office of Housing
SPUR:	San Francisco Planning and Urban Research Association

IX. Resources

Interviews with representatives from:

City and County of San Francisco Mayor's Office of Housing
San Francisco Redevelopment Agency
Mission Economic Development Agency
San Francisco Housing Development Agency
Washington Mutual Bank, Home Loans
Wells Fargo Bank, Mortgage

Documents:

Analysis of the San Francisco Affordable Housing and Homeownership Opportunity Bond Program, Official SPUR report, July 3, 2002
San Francisco Office of the Budget Analyst, Affordable Housing Report dated June 7, 2002
Mayor's Office of Housing, Down Payment Assistance Loan Program (DALP), www.sfgov.org, accessed on March 6, 2006.
HUD User Publications, www.huduser.org/publications, accessed on April 3, 2006.
California Housing Finance Agency, www.calhfa.ca.gov/homeownership/programs/chdap.htm, accessed May 29, 2006.