



Ogden City

Community Development Division

HOME INVESTMENT PARTNERSHIP PROGRAM RECAPTURE POLICY

Ogden City’s HOME-assisted housing programs, in compliance with 24 CFR 92.254 of the HOME rule, has adopted the following recapture policy.

The HOME recapture provisions are established in §92.254(a)(5) and permit the original homebuyer to sell the property to any willing buyer within the affordability period. The recapture approach requires that all or a portion of the Direct Subsidy provided to the homebuyer from Ogden City’s HOME Program be recaptured from the net proceeds of the sale.

HOME Direct Subsidy is the amount of HOME assistance, including any program income that enabled the homebuyer to buy the unit. It includes down payment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer. It also includes any assistance that reduced the purchase price from the fair market value to an affordable price. Furthermore, if HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is considered to be directly attributable to the HOME Direct Subsidy. The HOME Direct Subsidy excludes the development subsidy, which is the difference between the cost of producing the unit and the market value of the property. The HOME Direct Subsidy is the amount of HOME Funds to be recaptured during the Period of Affordability.

The following table outlines the required minimum HOME affordability periods:

Homeownership assistance HOME amount per-unit	Minimum period of affordability in years
Under \$25,000	5
\$25,000 to \$50,000	10
Over \$50,000	15

The Net Proceeds are calculated by subtracting the superior loan repayment (other than HOME funds) and any closing costs from the sales price. Ogden City may require full or partial repayment of the HOME Direct Subsidy when a subsequent sale occurs during the affordability period. If there are no proceeds or insufficient proceeds to recapture the full amount of HOME investment due, the amount subject to recapture is limited to what is available from the net proceeds.

As per HUD regulations, the Period of Affordability does not begin until the activity is shown as Funded in HUD’s Integrated Disbursement and Information System (“IDIS”). Therefore, the Period of Affordability may not start until sometime after the actual execution date of the Agreement and related Deed of Trust and Promissory Note. The Period of Affordability begins on the date the IDIS activity is funded in IDIS.

At the time of closing, Ogden City's HOME-assisted homebuyers execute a Promissory Note and a HOME Affordability Agreement that conveys the recapture provisions to ensure that all parties are aware of the specific HOME requirements applicable to the home. These requirements include, the period of affordability, principal residency requirement, terms, and conditions of the recapture requirement. The HOME Homebuyer Affordability Agreement is a separate legal document that will ensure compliance with 24 CFR 92.254 of the HOME rule. In accordance with the terms and provisions of the HOME Rule, Ogden City will send the homebuyer a Notice of Period of Affordability letter which states the beginning of the Period of Affordability, which is the date the HOME-funded activity is funded in IDIS. The city imposes the Period of Affordability by written agreement and by recorded lien.

In summary:

Under the city's recapture provision, HOME recipients may sell their housing unit at any time, to any willing buyer, and at a price the market will bear. If recapture is triggered, Ogden City will recapture the entire HOME Direct Subsidy investment loan amount upon sale. In the event that there are insufficient funds following a sale (voluntary or involuntary) during the period of affordability to satisfy the HOME investment, the City's recapture amount will be limited to the net proceeds available (the sales price minus all other superior loan repayments and closing costs). This recapture provision is discussed in section 24CFR92.254.a.5.ii.A.