ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of September 26, 2009

DATE: September 4, 2009

SUBJECT: Proposed Changes to Arlington County's Moderate Income Purchase Assistance Program (MIPAP) Terms for Owners Subject to Previous Program Rules

C. M. RECOMMENDATION:

Allow homeowners with MIPAP loans settled prior to July 1, 2009, to utilize resale provisions consistent with the new MIPAP shared appreciation model.

ISSUE: Modification of the resale restriction on MIPAP loans settled prior to July 2009.

SUMMARY: Concerns have been raised by many homeowners, real estate agents and other interested parties about inequities resulting from varying resale provisions applicable to MIPAP loan recipients. Homeowners have also attempted to appeal their real estate tax assessments based on the limited resale value imposed on these properties; however, the County is not enabled under the state code to assess their properties at a lower value. After examining various options for addressing this issue, staff recommends that these households be given the option to convert their current MIPAP loans to a shared appreciation loan. The repayment of the MIPAP loans plus a proportionate share of the net appreciation of the property would be used to fund loans to subsequent low and moderate income first time homebuyers.

BACKGROUND: When MIPAP was created in 1982, the program had two major goals: 1) Assist low and moderate income households to purchase a home by providing down payment and closing cost assistance; and 2) Keep the property affordable for subsequent low and moderate income purchasers. Prior to September of 2000, the loans included a provision capping appreciation at 5% per year, secured by a 30 year covenant providing a purchase option for the County, through a designated non-profit to purchase the property at a below market price. The interest rate charged on these loans ranged from 4%-6% and, in many cases, the underwriting criteria of the program at that time allowed loan repayments to be deferred until the property was sold or refinanced. For over a decade, the 30 year, 5% limitation on appreciation coupled with a County/designee purchase option was not an issue since increases in home prices rarely exceeded this cap. This situation began to change in 2003, as the market appreciation in Arlington accelerated at a rate far higher than the 5% appreciation cap. Although most loans

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Staff: Doug Myrick, Maureen Markham, CPHD, Housing Division

made prior to September of 2000 were in the $2,000 to $10,000 range, the resale provision could cost owners $100,000 or more in appreciation.

In September of 2000, based on the recommendation of the Affordable Housing Task Force the County Board approved several revisions to MIPAP. Appreciation was still capped at 5% per year but loans made from September of 2000 to June of 2009 have only a five year sales restriction. These households received loans of $25,000, and are required to make a monthly payment of $125 beginning in year six of the loan term.

On April 26, 2009, the County Board approved a new shared appreciation model for MIPAP, effective July 1, 2009. Under this approach, the maximum loan is up to 25% of the purchase price capped by HOME Program limits. The maximum loan amount is currently $90,700, with most loans likely to range from $50,000 to $80,000. There is no interest charged; however, upon sale or refinance of the property full payment of the original loan principal is due, plus a proportionate share of the net appreciation. The County's share of the net appreciation is based on the percentage of the MIPAP loan to the original purchase price of the property. The County or its designee retains the first right of refusal to purchase the home at full market value.

DISCUSSION: Homeowners, real estate agents and others have met with County Board members to request relief from the provisions of the original MIPAP loans. There are 131 outstanding loans from the pre-2000 era subject to the 30 year provision and 89 loans under the five year provision.

In June 2009, the County's designee, AHC, Inc. conducted a survey of the 131 MIPAP households with a 30 year provision. Thirty-nine households responded (30 % response rate), and yielded the following results:

- All households report still being owner-occupants of their home;
- 82% of these households currently earn less than 80% of the Area Median Income;
- 36% of these households plan to sell or refinance their property within the next two years; and
- 31% of these households have previously applied for Arlington County Homeowner's Grant Program (provides tax relief to eligible low and moderate income homeowners).

Staff recommends that all previous MIPAP households be offered the choice to keep the original loan terms or convert their loan to the current shared appreciation model. Although changing the covenants could result in a loss of properties from the committed affordable home ownership stock, the recommendation is intended to be an equitable solution that treats all MIPAP loan recipients in a consistent manner.

If borrowers choose to modify their loans, upon sale or refinance the County would receive the amount of the loan outstanding, plus a proportionate share of the net appreciation. These proceeds would become program income used to assist with funding future purchase options and to fund new MIPAP loans. The cost to convert each deed of trust and deed covenant will be approximately $500, which would be passed on to the homeowner at the time of settlement.

Most households with five year sales restrictions are unlikely to convert to the shared appreciation model, since they are free to sell their property at full market value once the sales restriction expires. However, some of these households might choose the shared appreciation option, especially if their increased monthly loan repayment of $125 causes a financial hardship.

Staff considered at least three other options for resolving MIPAP issues. These included:

1. *Leaving the sales restrictions on older loans as they are*. This option would retain 131 properties in the affordable homeownership stock; which would be consistent with the original intent of the program. This option, however, is perceived as inequitable because households who borrowed small loan amounts are being held to a higher affordability standard than other borrowers with larger loans.

2. *Canceling the sales restriction on pre-September 2000 loans*. Canceling the sales restriction without receiving some consideration in return would be deemed a gift to the owner which the County has no authority to do.

3. *Lowering the real estate tax assessment on the older loans to reflect the lower, restricted "control price"*. The County does not have legal authority to lower the tax assessment on these properties. This solution requires significant new state legislation and possibly a state constitutional amendment to create a new class of property to justify the different tax treatment.

A summary table listing three options for loan repayment is included in Attachment 1.

AFFORDABLE HOUSING POLICY: This program meets the following County Affordable Housing Goals and Targets:

- Goal 7. Increase the rate of homeownership throughout the County, and increase homeownership opportunities for low and moderate income households.

Staff believes that additional funds generated by households either selling or refinancing their properties out of the current financial commitment will help to bolster the MIPAP revolving fund.

COMMUNITY COMMENT: Staff has had ongoing dialogue with the Homeownership Subcommittee of the Housing Commission regarding the proposed program change. On August 6, 2009, the Subcommittee voted unanimously to approve the program change. On August 20, 2009, the Housing Commission approved the program change with a vote of 5-0 and two abstentions.

FISCAL IMPACT: There is no net impact on the County's General Fund, because MIPAP is funded with CDBG and HOME resources. Repaid MIPAP loans and net appreciation share will be used to fund subsequent loans for qualified low and moderate income households.

ATTACHMENT 1

AVERAGE OF ALL LOANS PRIOR TO SEPTEMBER 2000

Original MIPAP Loan	$ 8,986
Original Sales price of Property	$117,145
MIPAP as a percent of Sales Price	7.67%
Current Market Value	$317,938
Controlled Sales Price	$205,399
Difference between Market and Controlled Price	$112,539

COMPARISON OF RETURNS AND REPURCHASE PRICE FOR VARIOUS MIPAP LOAN TERMS

MIPAP Loan Term Revisions	Appreciation Share		Cost to County to Repurchase
	Owner[1]	County	
Option 1: Do nothing; original MIPAP terms apply	$79,268	$8,986	$196,412
Option 2: Cancel the sales restrictions	$191,806	$8,986	$308,952
Recommended Option: Shared Appreciation Model	$167,417	$33,376	$284,562
Difference in cost for the County to Repurchase the Property under the Shared Appreciation Model compared to the Original MIPAP restricted sales price			$88,150

Note: Basic analysis does not consider transaction costs, principal paid, adjustments for home improvements, interest charges on MIPAP loans, etc.

[1] Owners would also receive their equity in the home when they sell – the amount of principal paid on the first mortgage.