Strengths, Challenges and Opportunities

An Assessment of Affordable Homeownership Programs in San Mateo County

Produced by Joshua Abrams, Tiffany Eng, Rick Jacobus and Colby Dailey

September 2010

Produced as a project of Cornerstone Partnership

The Cornerstone Partnership is a peer network for homeownership programs that preserve long-term affordability and community stability, helping more hard-working people buy homes today, maintain those homes and keep them affordable in the future. The Cornerstone Partnership is a program of NCB Capital Impact funded by the Ford Foundation.

For more information contact

Colby Dailey
Cornerstone Partnership
1333 Broadway, Ste. 602
Oakland, CA 94612
510/496-2202
cdailey@ncbcapitalimpact.org

Copies of these tools are available for download on the Cornerstone Partnership website at www.affordableownership.org.

Table of Contents

I. Executive Summary and Recommendations

NCB Capital Impact, a national community development financial institution, has spent the last year developing tools to help better manage affordable housing programs. As part of this work, experts in the field conducted an assessment of affordable ownership housing programs in San Mateo County, California to offer guidance for the jurisdictions as well as to test the assessment instrument. Eleven jurisdictions and one nonprofit were interviewed individually in spring 2010. The assessment contained a number of open ended questions and approximately sixty yes/no questions about whether jurisdictions follow certain best practices, which were identified by NCBCI based on several prior years of work with stakeholders nationwide.

There were two primary types of programs, home purchase assistance loan programs and below market rate homes (BMRs). Program BMR portfolios ranged in size from fewer than five homes to over 150 homes. Loan program portfolios ranged from five to almost 200 loans. These programs have been an effective way to provide affordable housing in one of the most expensive real estate markets in the country.

The assessment found that programs followed between 23 and 81 percent of the best management practices. Practices associated with the front end of programs (such as providing affordability and marketing) were more likely to be followed than those associated with the back end of programs (such as evaluation and monitoring).

Larger programs were much more likely to follow best practices. Most small and midsized programs do not have the safeguards in place to ensure the public investment is always protected. This is primarily due to the limited staffing and resources available for very small programs.

Jurisdiction staff members report that the programs are popular with the general public and participants. Additionally, program administrators have shown flexibility and an ability to adapt to changing times.

The biggest shared challenge is to ensure that the affordability of the homes is protected. For example, only a few of the programs communicate with homeowners regularly (at least annually), and many do not have adequate monitoring to avoid problems such as defaults. Consequently, some of the programs reported loss of homes (i.e. they are now market rate homes) and it is likely that additional programs have lost homes and do not know about it at this time.

San Mateo County Strengths and Challenges

San Mateo County programs are doing an excellent job of ensuring their programs are affordable to low and moderate income buyers. Because there is such a large difference between market rate prices and affordable housing prices, there is a tremendous demand for the programs.

Additionally, San Mateo County's affordable homeownership programs seem to be doing a good job of ensuring that homebuyers understand price restrictions or loan terms. Almost all of the jurisdictions have written material with examples to help explain the programs and the resale restrictions.

One key factor that influences programs in San Mateo County is programs' limited staff resources. In most cases, jurisdictions do not have sufficient resources for support, monitoring or enforcement. They have the ability to respond to problems, but not to be proactive. This can put the affordability protections at risk. Moreover, because administrators' schedules are already stretched, their available time for running the programs is limited. As a result, most program administrators have not identified clear program goals, do not evaluate program outcomes over time, and do not track the equity earned by homeowners.

Jurisdictions generally have a mechanism for enforcing lender notification of default, but would benefit from having clearer procedures regarding what types of loans are appropriate for program participants.

Recommendations

Based on the results of this study, jurisdictions should explore opportunities to cooperate on the management of affordable housing programs. While policy setting should remain at a local level, some aspects of project administration can be easily shared to reduce costs, increase capacity, and gain efficiencies of scale.

Jurisdictions should also compare their practices to the short list of "high impact" practices summarized below. These practices are commonly followed by higher capacity programs within the county, but wider implementation of these 12 key policies is necessary to adequately protect the public investment and protect homebuyers.

12 High Impact Practices

1. The program has stated goals and objectives.
2. The program has incorporated ongoing evaluation into program design.
3. The program has a written marketing plan.
4. The program makes special efforts to connect with difficult to reach populations.
5. The program tracks ongoing affordability of assisted homes and the amount of homeowner equity gains at resale.
6. There is a backup sales strategy for homes that do not sell within a specified timeframe.
7. All owners are contacted by mail annually to remind them of program requirements.
8. There are written policies on repairs required at resale.
9. The program has adequate staffing available for support, monitoring & enforcement.

10. The program has written mortgage criteria describing what types of loans are permitted.
11. The program has written procedures for responding to a notice of default.
12. All buyers receive a concise disclosure document that summarizes the program guidelines and resale restrictions in plain language.

Currently, jurisdictions follow between 25 and 80 percent of these high impact best practices. Specifically, the three smallest programs follow less than half (45 percent) of the high impact best practices and the three largest follow over 70 percent.

II. Background

NCB Capital Impact

NCB Capital Impact (NCBCI), a national community development financial institution, is in the process of launching a national initiative funded by the Ford Foundation intended to improve the quality of management and oversight of homeownership homes with long-term affordability restrictions.

Working with Fannie Mae, NeighborWorks America, Habitat for Humanity International, the National CLT Network, and the National Housing Conference, NCBCI convened a series of day long workshops including 100 experienced affordable homeownership practitioners to outline a broad set of voluntary standards to guide local homeownership programs. Participants identified general principles and specific practices that programs can use to make the most of public investment in affordable homeownership and avoid many common problems.

DRAFT STEWARDSHIP PRINCIPLES

These principles are intended to guide the implementation of programs that invest public or philanthropic resources to reduce the cost of homeownership and seek to preserve this public investment for maximum impact. The draft principles fall into six categories – the full list of principles is available at www.affordableownership.org.

IMPACT-DRIVEN: SET & TRACK GOALS THAT REFLECT COMMUNITY PRIORITIES
Affordable homeownership programs should reflect a thoughtful and informed balance of community priorities grounded in a careful analysis of objective data on market conditions and needs.

TARGETED: FOCUS ON BUYERS WHO NEED HELP BUT ARE LIKELY TO SUCCEED
Scarce public resources for affordable homeownership should be targeted toward households that need it and would be unable to afford ownership without support but are in a strong position to succeed in ownership over time.

BALANCED: BUILD WEALTH FOR OWNERS WHILE PRESERVING THE COMMUNITY INTEREST
Every program should attempt to maximize the impact of public funding by balancing the interests of individual homeowners and the broader community.

MANAGED: STEWARD THE PUBLIC INVESTMENT TO ENSURE LONG TERM BENEFIT
Public investment in affordable homeownership should be actively and professionally managed for maximum community benefit over the long term.

SAFE: ENSURE SOUND MORTGAGE FINANCING
Every program should ensure that private mortgage financing is safe, appropriate and consistent with the goals of the program. In addition to helping buyers make informed decisions, the program should protect the public interest by preventing predatory loan products and avoiding foreclosures whenever possible.

UNDERSTANDABLE: EDUCATE BUYERS ON PROGRAM REQUIREMENT
Every program should provide written materials and training to help buyers understand program requirements and should actively verify homeowners' understanding prior to sale.

NCBCI built a library of hundreds of program documents from established affordable homeownership programs around the country and engaged a team of consultants to identify common elements and key features. Drawing on these sources, NCBCI created an assessment tool which evaluates the extent to which a program is implementing over 60 different best practices. San Mateo County agreed to serve as a test pilot for NCBCI's assessment tool.

San Mateo County

San Mateo County has an established history of producing permanently affordable housing. Together, various public and private agencies in San Mateo County have created over 10,000 community-assisted homes (i.e., affordable housing subsidized in some manner), over 1,000 of which are owner occupied homes, more than half with long-term price restrictions. The public cash investment in this housing asset is over $100 million. Public and private subsidies together total over $300 million and have current market value over $1 billion. Additionally, San Mateo County also has a long tradition of inter-jurisdiction cooperation.

In late 2009, NCBCI approached the Department of Housing in San Mateo County about a possible partnership. NCBCI hoped to find a good test site for its affordable housing management assessment tool. San Mateo County, with its diverse network of programs and providers, from large to small, and from urban to suburban, provided a pilot area. Additionally, many jurisdictions had never completed a robust assessment of their affordable housing programs, so there was an opportunity for the municipalities to benefit as well.

The following jurisdictions participated in the assessment:

1. Belmont
2. Brisbane
3. East Palo Alto
4. Habitat for Humanity Greater San Francisco (nonprofit)
5. Menlo Park
6. Pacifica
7. Redwood City
8. San Bruno
9. San Carlos
10. San Mateo City
11. San Mateo County – Loan Program
12. San Mateo County – BMR Program
13. South San Francisco

ABOUT 21 ELEMENTS

21 Elements is a multi-year, multi-phase housing policy collaboration project between all twenty-one San Mateo county jurisdictions, along with partner agencies and organizations. It is a forum for sharing resources, successful strategies and best practices. It has continued to grow to meet the changing needs of jurisdictions since its inception in 2006.

PHASE ONE (2006–2008) — HOUSING NEEDS ALLOCATION

Jurisdictions negotiated the redistribution of the countywide housing production allocation, in preparation for their Housing Element updates.

PHASE TWO (2008–2009) — HOUSING ELEMENT UPDATES

21 Elements organized a peer learning group of municipal planning staff involved in preparation of Housing Elements, developed the 21 Elements website (www.21elements.com) and the Housing Element Update Kit, which supplied material to help jurisdictions complete their Housing Element.

PHASE THREE (2009–2013) — HOUSING ELEMENT IMPLEMENTATION

Phase Three involves jurisdictions cooperating as they implement eight high-value projects. Areas of cooperation include updating emergency housing zoning rules, encouraging well designed mixed use/infill development, and identifying ways to reduce housing production reporting requirements.

PHASE FOUR (2010-2013) – HOUSING AND SUSTAINABILITY

Among other topics, the next phase will assist jurisdictions as they include the greenhouse gas reduction requirements associated with SB 375 into their housing plans.

21 ELEMENTS IS SPONSORED BY THE CITY/COUNTY ASSOCIATION OF SAN MATEO COUNTY AND THE SAN MATEO COUNTY DEPARTMENT OF HOUSING

Assessment Tool and Process

The first part of the assessment was a review of the programs that jurisdictions offer, including their size, target market, funding sources, management structure, and other important characteristics.

In addition to a number of open ended questions, jurisdictions were asked about which of approximately 60 different specific best practices they were currently implementing in their affordable homeownership programs. They could answer *yes*, *no* or *needs improvement* for each practice. These questions corresponded to the principles of best of practice developed by NCBCI (listed on page 21). Jurisdictions were provided sample policies and procedures for best practices they were not currently following. *Please see the Appendices for information on how to get copies of the Assessment, sample policies or other tools.*

The assessment included questions such as:

- Does the program have a written policy and procedures manual?
- Does the program have a marketing plan?
- Does the program's outreach material clearly explain the resale pricing formula to potential buyers?
- Does the program have a way to systematically track information on the buyers, the transactions and the homes?

Assessment Tool in San Mateo County

In spring 2010, NCBCI staff contacted staff members from jurisdictions in San Mateo County to find out if they would be interested in participating in an assessment pilot. In total, eleven jurisdictions and Habitat for Humanity Greater San Francisco agreed to help pilot the assessment tool. *For simplicity, this summary refers to all participating entities as "jurisdictions", even though Habitat's program is included as well. In addition, there were separate interviews and assessments for the County BMR program and the County Loan program which lead to the total of 13 program assessments summarized in this memo.*

The process began with jurisdiction staff collecting pertinent background material, such as administrative handbooks, policy manuals, sample legal documents, etc. NCBCI staff then met with each jurisdiction and conducted an approximately two hour interview. In some cases, follow up was needed to clarify points or get more information. Based on these interviews NCBCI wrote confidential individual jurisdiction assessment memos as well as this countywide summary.

Because San Mateo County is the pilot location for the assessment, it is not possible to compare the results to programs in other parts of the country. However, anecdotal evidence suggests that generally the trends observed in the county hold true for many places, yet in some cases there is more capacity to run programs well in San Mateo County than in other regions.

III. San Mateo County Programs

Description of Programs

There is a wide range of programs to support homeownership in San Mateo County. They vary in many aspects such as size, level of institutionalization (e.g., formal or *ad hoc*), and maturity (e.g., from new initiatives to legacy programs that are no longer active). Broadly speaking, there are two major activities: homes that are sold for below market prices (referred to as BMRs) and purchase assistance loans to help reduce mortgage payments or down-payment requirements for buyers.

Below Market Rate Housing

Many jurisdictions have inclusionary housing, redevelopment agencies or other programs that create BMR homes. Most of these programs started in the 1990s, but some jurisdictions have added them more recently. In total 15[i] out of 21 jurisdictions in San Mateo County have inclusionary housing programs. The assessment documented the size of ten of these programs, which collectively have created 314 homes. Additionally, approximately 41 homes are in the development pipeline, but growth has slowed considerably with the current downturn in the real estate market. The largest of these programs has almost 70 homes while the smallest has less than five homes. Because many jurisdictions are not expecting significant new growth in the coming years, many of the programs are inactive or marginally active. Besides inclusionary housing ordinances, the largest source of BMRs is Habitat for Humanity, which has produced over 150 homes and has approximately 45 homes in the development pipeline.

Most of the programs target moderate income buyers – households at or below 120 percent of the area median income (AMI), but some reserve a percentage of their homes for very low income households (at or below 50 percent of AMI).

Loan programs

Nine jurisdictions have purchase assistance loan programs, totaling over 500 homes in their combined portfolios. However, a number of these programs currently are not making new loans, primarily due to a lack of funding. The loan portfolios range from under 10 to almost 200. The median is just under 25.

The loans vary widely in how they are structured. Some are forgivable, some are silent (no payments required until the property is sold), and some charge interest and require monthly payments starting immediately. The largest loans can be for up to $200,000, but the majority fall between $75,000-$100,000. These loans are occasionally referred to as "Down payment Assistance Loans" even though in some cases the dollar amount of the loan may be larger than a traditional down payment (which is usually ten to twenty percent of the purchase price). Interest rates also vary from zero percent to five percent. Most of these loan programs incorporate either shared appreciation procedures or resale restrictions. Some of the programs reserve loans for applicants who are buying BMR homes, effectively providing program participants with the benefits of more than one program.

Best Practices in the County

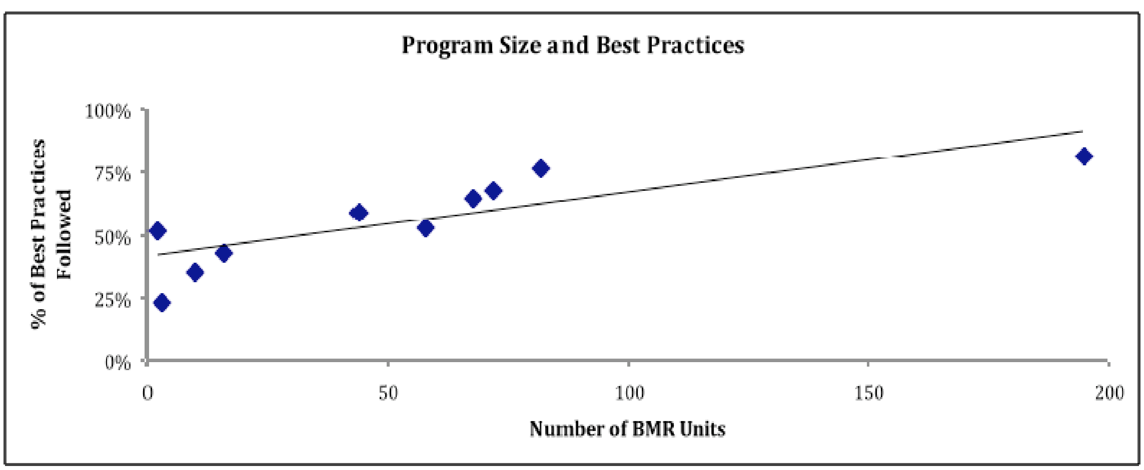
Range of Best Practices

The number of best practices that jurisdictions are following ranged widely from a low of 13 to a high of 45 out of a total of 60 questions on the comprehensive assessment tool that are conducive to simple yes/no answers. Conversely, the number of best practices that jurisdictions are not following ranged from nine to 43. In percentage terms, jurisdictions followed between 23 and 80 percent of best practices. In almost all cases, there were some best practices that were not applicable to a given program, and these were not included in the percentage calculations.

Note: While the percentage calculation of best practices that are followed gives a rough sense of how well a program is run, it is limited because best practices are not weighted according to their importance. Consequently, the number should be thought of as only a rough indicator of a well managed program, but not a grade or score. In addition, comparing programs with this rough tool is not intended to suggest that every program *should* be implementing every one of our suggested best practices. Many programs have made a conscious decision not to implement certain practices that were included in the assessment. In some cases programs have decided that the practice is not appropriate due to certain local circumstances. More commonly programs have decided that the benefits of implementing the practice were not sufficient to justify the time and expense required. Jurisdictions can make a sensible choice to spend limited public resources on other things. Nonetheless, the overall pattern of answers seems to provide an accurate picture of the extent of each program's capacity and to point to appropriate areas for future development.

Size and Best Practices

With a high degree of consistency, larger programs were more likely to follow best practices than small programs. While this may not seem surprising, the extent of this phenomenon is telling. Almost without fail, the larger the program the more likely it is to follow best practices.



The three smallest programs (in terms of number of BMRs) followed the fewest best practices, while the three largest followed the most[ii].

SIZE	BEST PRACTICES FOLLOWED (AVERAGE)
Three largest programs	75%
Three smallest programs	39%
Countywide	56%

This pattern holds true even when examining only the "high impact" best practices that the authors highlight in the recommendations section below. For these practices, the three smallest programs followed less than 44 percent of the best practices and the three largest followed over 70 percent.

To some extent the correlation between program size and best-practice administration may be due to a common underlying factor, a local revenue source dedicated to affordable housing. Jurisdictions that receive CDBG or HOME funds directly, and those with mandated set-asides from redevelopment agency tax proceeds, have more money to subsidize production and more money for program administration.

Best Practice by Category

Generally, jurisdictions are following more best practices on the front end of BMR or loan processing (e.g. providing affordability, setting up programs, marketing homes, etc) versus the back end (e.g. support, enforcement, default/foreclosure protection).

Jurisdictions tended to follow best practices at high rates for topics that are needed to start programs, find eligible participants, and complete transactions (sales or rentals). For example, ten of 11 programs have pricing that is affordable to the target market (and the eleventh program only partially does), and all the programs have procedures to ensure buyers are eligible. Countywide, jurisdictions followed approximately 75 percent of best practices for topics related to affordable pricing and setting sale and resale prices.

One area for improvement is that of post-purchase support, monitoring and enforcement, where jurisdictions tended to follow fewer best practices than in other topic areas. Countywide, jurisdictions followed 35 percent of these best practices. The low percentage reflects the fact that only two out of ten jurisdictions communicate regularly with home owners to remind them of the resale terms or to see if they have moved. Similarly, only three of 12 jurisdictions have plans to address homeowner violations. As discussed below, having regular post purchasing communication and monitoring is important because it helps reduces problems like illegal sales, and detects issues quickly if they occur.

Common Strengths

Providing Affordable Housing

One of the greatest common strengths of the San Mateo County affordable ownership housing programs is simply that they are producing affordable housing in one of the most expensive real estate markets in the country. Despite the market, the programs are growing and have a solid grounding in local and State law. Many of the jurisdictions started with a program in the Housing Element of their General Plan to consider adopting inclusionary housing, which led to studies, and in many cases led to the creation of the programs. Similarly, the loan programs were often identified as a need in the housing plans and then studied and funded. Participation in this assessment study continues this trend, as many jurisdictions, in their most recent update of their respective Housing Element, committed to conducting program evaluations of their affordable ownership programs.

In general, jurisdictions are continuously building expertise and adapting their programs to be more effective. This is particularly the case for those with larger programs. For example, Redwood City's current program structure, called Move Up, supports home buyers as they transition from rental homes to BMR homes and then to market rate housing.

Lack of Complaints

As a whole, the programs have not seen significant complaints or problems. There have not been a significant number of appeals or challenges. Staff members feel that the programs are generally well received by the community and they believe affordability restrictions on homes are not being lost.

Flexibility

The programs tend to be flexible and capable of meeting changing conditions. The rules governing the programs empower staff to adapt the programs as needed. Often, the programs grow organically, developing more explicit procedures in response to problems that arise. While foreseeing and avoiding problems is always preferred, when this is not possible flexibility is important. An interview with the County loan program administrator offered an example of how the evolution and change happens, "We have added disclosures [for program participants] along the way. I had someone tell me, 'You didn't tell me about (the processing fees),' and I said, 'You signed a disclosure.'"

Menlo Park's administrator described how they have developed guidelines over time:

> We've had five [program] updates over the last 10 years. For instance, we just changed the wording on what a "sellable condition" is for a home because a person who was reselling a house in the program was upset that we wanted the home in pristine condition, like anyone else would selling a home. So we made [the wording] more specific.

Good Accounting on Loans

The homes with active loans are usually well tracked and well documented. For loans that are paid back before the time of sale, jurisdictions know quickly if there is a problem because monthly payments stop. One jurisdiction's explanation captured how the best practice can be sacrificed because of limited resources:

We used to send out a notification asking for current address and phone number. It served as a type of monitoring. One time, I am going down this list looking at mailing addresses and I see, Boston, Massachusetts…We had to make them take their loan off. We gave them a long lead time to get it done but we explained, "You can't do this - you're not living there." They eventually refinanced and paid us off. [I believe] they did not realize that they were not allowed. They just did not realize…We have not done that mailing in a long, long time because we don't have the staffing to do it.

Common Challenges

Many of the challenges stem from the small size of some of the programs. Jurisdictions with only a small number of homes often can not spend time developing policies and procedures. Many months can pass between infrequent transactions that require staff members to devote attention or resources to managing the program. These long breaks mean that procedure can be forgotten. The challenges are:

Stewardship

One of the biggest challenges across programs is ensuring that the affordability guarantees on homes remain in place. Most jurisdictions do not have the staff resources to regularly communicate with home owners, so there can be a long period without any communication. During this time, many things can go wrong. For instance, a home could be sold or refinanced at market based prices. Further, adequate systems are often not in place to allow programs to respond to problems once they are detected. For example, eight out of 11 jurisdictions have no written procedures for what to do if they receive a Notice of Default from a homeowner's first mortgage lender.

Aside from homes being illegally sold at market prices, short sales[iii] and foreclosures can cause the lost of affordability. As one program that lost two homes to short sales said, they "…just had to eat it." If the jurisdiction is fortunate, it can recapture the money it is due, but if it is not, it loses the investment completely.

In some jurisdictions, poor record keeping has contributed to problems. Because years can pass without any communication between the jurisdiction and the homeowner and/or the bank, the extent of the problem is very difficult to estimate. This dilemma is summed up by a quote by one of the program administrators:

> If we've lost units, we don't know we have… In the years we have had the program we have done no monitoring or enforcement. As our portfolio has grown, it is very worrisome that we have no clue what is going on out there.

Having regular communication between home owners and the jurisdictions is one of the most important changes that jurisdictions could make. Habitat provides a good example of how to maintain ongoing communication. They send newsletters twice a year and offer classes on issues like home maintenance and finding a reliable contractor. They also know the homeowners in many of the homeowner associations (HOA) and can ask a new participant at a HOA meeting, "Who are you? Where do you live?"

Often problems are not detected for many years. For example, one homeowner had a low interest loan through an affordable housing program. After she paid it off she assumed that resale restrictions no longer applied to her home, but this was not true. The original owner/borrower sold it on the open market and, six years later, the new owner tried to sell it. Luckily for the City, the restrictions showed up on the new title report. In the end, after a lawsuit the first title company paid the City its legal fair share of the appreciation. The City lost the home, but at least was able to recapture the excess proceeds funds.

A few jurisdictions have good practices to prevent these problems. For instance, several jurisdictions record an Excess Proceeds Deed of Trust because they believe escrow officers are more likely to notice this relative to other measures. South San Francisco, among others, records a simple, easy to understand two-page Notice of Affordability Restrictions that summarizes the lengthy affordability restriction document.

Programs provide good stewardship by making sure that homes are appropriately maintained over time, for example by ensuring that program participants are ready for the responsibility of owning a home or by requiring homeowners insurance. Some jurisdictions have had trouble because home owners were not prepared for the cost of Home Owners Association dues or for the maintenance standards expected in neighborhoods. Maintenance is especially important because community members can form opinions about the merits of affordable housing programs based on one bad neighbor. Habitat for Humanity provides a good model for preventing problems by providing new owners with classes and education related to maintenance and home repair.

Sustaining Programs Over Time

Most programs have no sustainable mechanism for funding program administration over time. These programs are generally included within local housing department administrative budgets. However, as programs grow and produce affordable owner occupied homes that require monitoring and administration over long periods of time, the staffing demands can potentially exceed available resources.

Problems associated with lack of resources may get worse over time. Homes that were created by a redevelopment agency will have to be monitored by another entity once the agency ages out of existence[iv]. This concern was captured by one participant who said:

> [While not much monitoring has happened to date,]… right now we can afford to contract or hire someone or find some way to pay for it because we have a robust Redevelopment Agency. But at some point that agency is going to fade away… There is a big worry how the maintenance of some of the programs is going to be funded and I have no idea how we can make it self-supporting.

Intentionality

Presumably, jurisdictions define their target markets thoughtfully. However, few programs record their strategic goals—which buyers to target and why—or systematically measure progress toward strategic goals. Because significant public and private subsidies are involved, it is important to identify the best use of those funds and to be able to track outcomes. For example, should the jurisdiction prioritize large homes or small ones? Will the program be open to anyone, target current residents, or be open only to certain groups such as those who work in the jurisdiction but live elsewhere, public safety employees, teachers, etc.? Once the target market is identified, the resources and restrictions can be appropriately targeted. However, because there is such a huge demand for affordable housing in San Mateo County, the easier route is to be less intentional with targets.

Only four of the 13 participating jurisdictions report that they conducted market research for their programs, which often serves as a first step for planning. While most programs receive community feedback informally, only one jurisdiction has a formal community outreach plan. Seven out of the 13 jurisdictions report that they have conducted some level of evaluation of their program, but most of these are not comprehensive and none involve tracking the longer term outcomes that the programs are achieving, the impact that these scarce housing resources are having on neighborhoods or the change that they make in the lives of the buyers.

Emerging Challenges in a Depressed Real Estate Market

Historically, because market rate housing has cost sufficiently more than affordable homes, it was never a problem to sell (or resell) BMR homes at the approved prices. With the dramatic decline in home prices, this may no longer be true in some locations. Jurisdictions should have contingency plans in case homes can not sell in the required amount of time. Currently only four of the ten jurisdictions with BMR programs currently have such plans.

IV. Recommendations

Greater Inter-program Cooperation to Achieve Economies of Scale

The study results suggest that, given the realities of limited government resources, it simply may not be possible for small jurisdictions to do an excellent job of administering and monitoring affordable owner occupied homes. The results suggest that a certain minimum scale may be necessary before it is practical for a program to implement certain practices - including some that appear very likely to result in significantly improved outcomes for both homebuyers and the community.

The obvious solution to this challenge is for programs, especially smaller programs, to band together and develop some level of shared administrative capacity. By pooling resources, a shared program could achieve essential economies of scale which would make it practical to implement more of the best practices and relieve some of the work load on overtaxed local housing departments.

Based on the interviews, most jurisdictions are receptive to the idea of cooperating on basic tasks. One factor driving this may be the small numbers of BMR homes many jurisdictions administer. One program administrator summarized it as follows:

> [It is about] efficiency. There is no scale. It is ridiculous for us to hire someone to do this [run the program]. We just don't have the scale for it… I think we need a countywide solution…We have a lot of cities and we need to figure out how to do it together because we can't all be doing it individually.

Stakeholder suggestions for cooperation fell into two broad categories: 1) outreach and marketing activities like awareness raising, and distributing information to the public, and 2) the management and monitoring of affordable homes.

Possible shared public marketing and outreach activities include:

- Maintaining an interested buyers list
- Developing outreach material for homes
- Home buyer education
- Verifying that applicants meet income and other eligibility guidelines.
- Assisting potential buyers through the process of securing appropriate first mortgage financing
- Ensuring that homebuyer mortgage loans are safe and appropriate and comply with local program rules.
- Coordinating the process of selling individual inclusionary homes
- Coordinating the process of reselling BMR homes
- Maintaining a list of occupied, available and upcoming homes (including AB 987/redevelopment homes), and a list of accessible homes
- Developing a list/description of programs with notes about the status (active/inactive)

Shared management and monitoring activities include:

- Maintaining ongoing contact with homeowners and sending annual letters
- Verifying owner occupancy
- Monitoring homes to identify potential illegal refinancing or sales
- Working with the Assessor's Office to expand the program to alert the jurisdictions when homeowners transfer their homestead exemption
- Coordinating communication with homeowners who have decided to sell their homes
- Processing sales or resales

It is useful to separate the policy level decisions, which should remain at a jurisdiction level, and the implementation, which can happen cooperatively. In fact, some de facto coordination is already happening. The County administers four programs in addition to two of its own. Another four programs are administered by one of two private companies, First Home, Inc. or HomeBricks. Moreover, many jurisdictions use standard documents developed in an earlier cooperative effort called the Countywide Homeownership Investment Program (CHIP). Ten years ago a large CHIP working group— municipal staff, private lenders, mortgage brokers and real estate brokers who specialized in serving first-time homebuyers, and private homebuyer program administrators—met to improve program administration, introduce the use of shared-appreciation mortgages, and form a method or entity for joint program administration. The final step was not accomplished, but returning to that task may now be timely given the degree of consolidation, the existence of the 21 Elements project as a problem-solving framework and the emergence of the countywide housing trust fund (HEART), a joint powers authority to which all 21 jurisdictions belong.

One of the major challenges of a cooperative solution will be paying for shared services. Currently, individual jurisdictions assign these responsibilities to existing staff. Outsourcing some functions could reduce the need to hire additional staff as a program grows but it will be difficult for any program to pay an outside entity to take over responsibilities currently performed by existing staff. Many of the housing department budgets are too tight to absorb any fees paid to a third party administrator. Where it is relatively easy to add additional responsibilities to already overburdened internal staff, assigning the same responsibilities to an external entity requires that funds for these services be explicitly identified and set aside. There is not likely to be any short term silver bullet to overcome this challenge. However, over the longer term, building fee income into the design of these programs can make it far easier to outsource ongoing implementation and take advantage of economies of scale.

One common starting point for inter-jurisdiction collaboration is in marketing. A reason for that is that building a marketing fee into the budget of each new project or charging a marketing fee upon resale of BMR homes is fairly simple. Marketing is time consuming and happens sporadically, so it is difficult for smaller programs to undertake proactively, but pooling these marketing fees through a single countywide entity potentially allows the individual programs to realize significant cost savings. Collaboration through hiring a single marketing contractor who could coordinate a marketing effort promoting affordable homeownership in general (including proactive outreach to minority and limited english speaking commuities) and through building one central database of eligible homebuyers could supplement efforts to market individual homes.

The most pressing need for shared services, however, appears to relate to monitoring homes after sale. Clearly many programs could benefit from a countywide program that maintained a list of BMR homes, contacted each owner annually to verify owner occupancy and monitored the properties for illegal refinancing or resale. Combined monitoring activities provide very significant economies of scale. Setting this kind of system up for a very small number of homes would be impractical but once such a system is up and running, each additional home in the system would add only a very small marginal cost. While each program likely would have to budget some modest annual cost for each home that the countywide entity was to monitor, jurisdictions can explore whether the cost of monitoring could be reduced or eliminated entirely by a countywide effort.

A number of viable models for shared program administration exist. In San Mateo County, it could materialize as a new special purpose consortium, could be folded into an existing collaborative entity, such as the countywide housing trust fund HEART, or be some hybrid of new and existing entities. Further, any one of the jurisdictions could be designated to perform the shared activity and, in essence, act as an independent contractor to the other jurisdictions.

Twelve High Impact Practices

NCBCI's draft assessment tool poses questions based on more than 60 different industry "best practices". These best practices range from the relatively minor administrative details (such as whether a program has a written conflict of interest policy) to those practices that are highly indicative of a program's fairness or effectiveness (such as appropriate disclosure of affordability restrictions to buyers). As such, not all of these best practices are weighted equally in importance.

In this section the report highlights 12 practices that are not currently being implemented consistently which could have the greatest impact on the quality and sustainability of San Mateo County's homeownership programs. For each of these practices the report presents, side by side, an outline of national best practices and a summary of current practice in San Mateo County. All of the best practices are derived from industry stewardship principles, which, in order to put this next section in context, are described below.

NCB Capital Impact convened three separate day-long meetings including 100 experienced affordable homeownership practitioners in order to formulate a broad set of principles of effective stewardship for affordable owner occupied homes. In the course of these meetings, 300 best practices were suggested but in the end these practitioners were able to articulate a set of higher-level guiding principles which fell into six categories. Practitioners suggested that programs which invest public funds to make homeownership affordable, whatever their size or structure should focus more on *these six* general areas of performance.

1. Impact-Driven: Set & Track Goals that Reflect Community Priorities
2. Targeted: Focus on buyers who need help but are likely to succeed

3. Balanced: Build Wealth for Owners While Preserving the Community Interest
4. Managed: Steward the Public Investment to Ensure Long Term Benefit
5. Safe: Ensure Sound Mortgage Financing
6. Understandable: Educate Buyers on Program Requirement

With these principles in mind the authors of this report selected 12 practices that were currently being implemented by San Mateo County's stronger affordable homeownership programs but were far from universal. While no one program is currently implementing all of these practices, the presence of these 12, to some extent, are indicative of the most effective programs.

Principle 1: Impact-driven

Set and Track Goals that Reflect Community Priorities

Affordable homeownership programs should reflect a thoughtful and informed balance of community priorities grounded in a careful analysis of objective data on market conditions and needs.

	HIGH IMPACT PRACTICES
1.	The program has stated goals and objectives Most affordable homeownership programs successfully achieve multiple objectives. But not all program designs advance all objectives equally well. To ensure that the program design selected successfully advances the community's priorities, the key policy objectives of the program need to be identified and prioritized. This identification and balancing of program objectives should be informed by an analysis and discussion among stakeholders of the multiple objectives that affordable homeownership programs often seek to serve.
2.	The program has incorporated ongoing evaluation into its design. In addition to measuring program outputs (number of families assisted, dollars invested, etc.) programs should seek to measure their success in meeting the key program objectives that they have identified. At a minimum, every program should track initial and ongoing affordability, the success of the program in helping participants build assets, the average length of residency for owners, the share of sellers who subsequently purchase homes without assistance, the growth or decline in the value of public investment and the cost of ongoing stewardship. Ongoing evaluation should also incorporate an assessment of homebuyer satisfaction with the program. This would provide a formal feedback look for the buyers to evaluate the program's effectiveness.

San Mateo County Analysis

The two key factors that influence programs in San Mateo County are limited staff resources and an extremely high demand for affordable housing. These two factors result in most program administrators not investing in the identification of clear program goals or evaluating program outcomes over time. In fact, only three out of 13 programs have clearly stated goals and evaluations that are used for program design. The result is that, while it seems likely that these programs are having the kinds of results that policymakers had expected, there is really no way to be sure. If the programs are there to serve important social objectives, the policymakers need to be more explicit about what those goals are and the administrators need to track the results to determine whether the goals have been met. Nonetheless, many of the programs have informal feedback mechanisms and the flexibility of programs in their ability to respond to specific problems is a sign that they are in fact receiving regular feedback.

EAST PALO ALTO WAS ONE OF THE CITIES THAT HAD STATED OBJECTIVES FOR THEIR HOUSING DEVELOPMENT DIVISION

FISCAL YEAR 2009-2010 OBJECTIVES

To increase the number of affordable Below Market Rate (BMR) houses for first-time home buyers in the City of East Palo Alto by 10%, from current of 68 to 75 units.

To increase the supply of affordable rental housing units in East Palo Alto by 25% from current of 198 to 248 units.

To provide $20,000 worth of closing cost grant assistance to first-time home buyers in the City's BMR Housing Program.

To promote financial literacy home-buyer educational programs for BMR and other first-time home buyers.

To attend Planning Commission meetings, as required, to assist in shaping policies for proposed housing projects under review.

To review preliminary plans, as required, which are submitted to the City by residential developers

Principle 2: Targeted

Focus on buyers who need help but are likely to succeed

Scarce public resources for affordable homeownership should be targeted toward households that need it and would be unable to afford ownership without support but are in a strong position to succeed in ownership over time.

HIGH IMPACT PRACTICES

3. The program has a written marketing plan.

   Every program should engage in an ongoing, open and transparent marketing effort that targets the specific local populations likely to benefit and is consistent with fair housing goals. Programs should maintain a list of interested buyers that is independent of specific properties or projects.

4. The program makes special efforts to connect with difficult to reach populations.

   The history of fair housing programs suggests that in the absence of "affirmative marketing" efforts to limited-English speaking and other minority populations, these families are significantly less likely to benefit from affordable housing opportunities. This kind of proactive outreach is especially challenging for small programs but it need not be expensive or time consuming. In some cases a single partnership with the right nonprofit organization or marketing firm can ensure that all local families have a fair chance to benefit from scarce affordable homes.

San Mateo County Analysis

San Mateo County programs are doing an excellent job of ensuring their programs are affordable to low and moderate income buyers. Because there is such a large difference between market rate prices and affordable housing prices, there is a tremendous demand for the programs. However, the ready supply of buyers has encouraged some jurisdictions to be less proactive than they should be about publicizing the programs. While most large programs have a marketing plan, most small programs do not. Additionally, very few of the programs make special efforts to reach difficult to reach populations, with the exception of providing information in languages other than English.

A marketing plan template was provided to each of the jurisdictions that does not currently have one (the marketing plan can be found at www.21elements.com). Additional program observations include:

- All jurisdictions have policies in place for setting affordable pricing, and most use the same definition for "affordable housing cost" (CA Health and Safety Code Section 50052.5)
- The larger programs maintain a central list of potential buyers, but the smaller ones do not, which is not surprising given how infrequently homes become available.
- Most have not done a target market analysis and no jurisdictions have a written community outreach plan.
- Most programs have written eligibility criteria, but no appeals process. An appeals process is important to ensure that program applicants have recourse in the event that they feel that they have been treated unfairly, and to reduce the likelihood of lawsuits.
- Most jurisdictions do not require homebuyer education.

Principle 3: Balanced

Build Wealth for Owners While Preserving the Community Interest

Every program should attempt to maximize the impact of public funding by balancing the interests of individual homeowners and the broader community. There is no one correct approach to how equity building should be shared between homeowners and jurisdictions, but the final decision should be made after a thoughtful process.

HIGH IMPACT PRACTICES

5. The program tracks the ongoing affordability of assisted homes and the amount of homeowner equity gains at resale.

   Each program should track the average seller's net asset gain and each home's ongoing affordability when homes resell to verify that the program is achieving the intended balance between asset building and affordability over time and under changing market conditions.

6. There is a backup sales strategy for homes that do not sell within a specified timeframe.

   Each program should have a contingency plan that allows owners to eventually sell their homes even when an appropriate income eligible buyer cannot be located. A backup sales strategy is needed to protect home owners, particularly in down markets, and to protect jurisdictions from losing homes if they do not sell in a reasonable time. While there were not reports of difficulties in reselling BMR homes in San Mateo County, other Bay Area jurisdictions have found that some owners have been unable to locate income qualified buyers (often because potential buyers have been unable to qualify for mortgage financing). In some of these cases buyers have been prevented from selling their BMR homes for extended periods of time. With some foresight programs can avoid this potential problem by adopting a policy allowing eventual sale of BMR homes at market prices with the sponsoring agency recapturing the difference between the BMR price and the market price. In this way the program can avoid trapping owners while still protecting the public investment.

San Mateo County Analysis

Jurisdictions generally do not track the equity earned by homeowners because it is not an explicit program goal. More commonly their goal is to provide affordable housing, so that is what they track. However, building equity is an important consideration and jurisdictions should analyze it, even if they chose to prioritize long term affordability.

One challenge is that the assumptions used in calculations about affordability are often not explicitly defined. There are many variables, like utilities, inflation, etc., that can be calculated in different ways. According to one interviewee, "It is very subjective: by changing the assumptions you can change the price [dramatically]." This lack of clarity can lead to problems including disagreements, delays and lawsuits.

Jurisdictions that lacked a back-up sales strategy were provided with a sample policy (sample policy can be found at www.21elements.com).

Additional observations include:

- All programs record requests for Notice of Default, but only one jurisdiction has a written process for responding.
- Most jurisdictions believe they have not lost any homes, but because of the lack of monitoring they do not know for sure.
- Generally, jurisdictions are not connecting buyers to additional resources beyond County Mortgage Credit Certificate Program or second loans. Combining the jurisdiction program with other resources could stretch funding further.

BALANCING GOALS: HOMEOWNER EQUITY AND LONG TERM AFFORDABILITY

When we started our ownership program 20 years ago we had the dual goal of supporting both affordability and owner equity gain, and felt confident our program would be a win-win in this regard. I would love to say that this is still true; however given the changing real estate and lending markets over the years, we have essentially given up on the goal of equity gain and focused on our primary goal of long term affordability. We have simply not figured out how to do both, although we are happy to report that many of our buyers have indeed moved up and out into the open market. I think that our program was instrumental helping them achieve this, but many of those folks were in the right place at the right time. We have revised our programs numerous times to address the changing markets, and truly tried to do both, but given the large amounts of City subsidy put into our First Time Buyer program, and the huge discrepancy between affordable and market rate pricing for our BMR units, we have focused on long term affordability. This is a conscious decision and although not written anywhere it has been the direction supported by staff and Council over the years as we have constantly tweaked our program.

City of San Mateo's Affordable Housing Program Manager

Principle 4: Managed

Steward the Public Investment to Ensure Long Term Benefit

Public investment in affordable homeownership should be actively and professionally managed for maximum community benefit over the long term.

HIGH IMPACT PRACTICES

7. All owners are contacted annually by mail to remind them of program requirements.

   The program should maintain an ongoing relationship with assisted homeowners and should, at a minimum, contact each owner by mail annually to remind them of program requirements. Programs that are investing high levels of subsidy per home should expect homeowners to provide annual documentation of owner occupancy.

8. There are written policies on repairs required at resale.

   BMR programs have an interest in ensuring that assisted homes are well maintained over time and that future buyers receive the homes in good condition. When resale prices are set by formula, a selling homeowner may not have sufficient incentive to perform basic repairs before selling the home. For this reason, programs must develop clear, written policies about the condition of homes at the time of resale and how required repairs will be identified. A clear policy outlined in advance can avoid misunderstandings, arguments and potentially lawsuits.

9. The program has adequate staffing available for support, monitoring & enforcement.

   Both loan and BMR programs require some level of ongoing monitoring, support and enforcement in order to protect the public investment. The long term outcomes for these programs depends on adequate staffing being available to perform these key functions. Funding for adequate ongoing stewardship should be identified at the outset of every program. To the greatest extent practical, funding for ongoing stewardship should come from fees and other sources that will grow along with the program workload.

San Mateo County Analysis

In most cases, jurisdictions do not have sufficient resources for support, monitoring or enforcement. They have the ability to respond to problems, but not to be proactive. One specific example that comes up often is that of owners renting homes that are supposed to be owner occupied. Most jurisdictions do not allow BMR homes to be rented, but they have no regular communication with homeowners to remind them of this policy, or to learn if it is violated. One potential solution is to work with the County Assessor's office, which already (occasionally) notifies jurisdictions of changes of mailing addresses associated with BMR homes. Jurisdictions should, at a minimum, send a letter to every homeowner at least once a year asking owners to certify that they still live at the property. Doing so has the added benefit of allowing jurisdictions to receive word from the post office that mail is being forwarded.

There is a clear distinction between the management of loan programs and BMR homes. Most jurisdictions carefully track loan payments and know the exact status of those homes. In contrast, some programs do not even have a centralized, computerized list of BMR homes. Years can pass without jurisdictions communicating with homeowners. Consequently, these BMR homes are at risk.

Generally, programs report that they have not experienced many problems with monitoring or enforcement, but that may be because they are not looking closely. In the assessment, most jurisdictions (ten out of 13) feel that they have adequate resources for monitoring and support; however, their conclusion is based on the minimal work they do now. The programs that were currently implementing the greatest number of best practices were, surprisingly, among the most likely to report that they had too little staffing. It is likely that there are problems that have not been noticed because jurisdictions are not looking closely enough. The problems can range from the relatively small (someone is illegally renting their home), to the large (the home has been sold at market value and the program has not been notified). Ongoing communication with homeowners, at least annually, is a key mechanism for preventing problems.

Additionally, in many cases, jurisdictions lack written operating procedures, or the operating procedures are minimal or out of date. For example, almost half of the jurisdictions do not have clear policies about either the condition of the home or the repairs needed at the time of resale. Many jurisdictions do not have standard forms or checklists and end up reinventing procedures as needed.

One important consideration for the future is what will happen when Redevelopment Areas age out of existence. Right now, the Redevelopment Agencies provide an important source of funding and stability, but the responsibility will need to be transferred to other entities that are currently less well funded.

Staff turnover and loss of institutional knowledge remains a problem, especially in small programs where all the knowledge resides with one person who works on housing issues part-time. According to the manager of one program, "That is one of the problems, institutional knowledge and succession. If I were to leave, the City would be in serious trouble picking up the program." While departing managers are often committed to a smooth transition, the risk remains, as demonstrated in one small jurisdiction where the only guidance for the new program administrator was a one page email from the staff person who had left.

Additional observations include:

- All programs have mechanisms to ensure resale buyers are eligible.
- Most programs are not explicit about the repairs required or the expected condition of home at resale, resulting in problems in some places.
- Most programs do not provide post-purchase support or services. Some provide informal assistance upon request.
- Most do not remind owners about the resale conditions after closing.
- Most jurisdictions do not currently monitor homes for compliance and have not identified specific issues that will trigger a physical inspection.
- Most jurisdictions do not have enforcement plans, nor do they audit paper files. However, most administrators believe they have adequate staffing for enforcement.
- About two thirds of jurisdictions have written procedures manual.
- Most administrators consider their programs to be adequately staffed- especially due to low volume and current activity levels. They often do not have a separate budget for BMR-specific administration.

CASE STUDY: NAPA COUNTY

Five Napa County jurisdictions have been cooperating on the management of below market rates homes since the 1980s. Currently there are over 3,000 units that are managed in this arrangement. The effort has proven to be successful in saving money and promoting best practices, but the vehicle, a Joint Powers Authority, may not have been the best choice.

Jurisdictions have coordinated on a number of activities, including:

- **Administering and monitoring restricted affordable units, rental and homeownership**
- **Monitoring and operating farm worker housing**
- **Administering affordable and first time home buyer loan programs.**

Jurisdiction staff reported that the participating jurisdictions all benefited from having a single contract which resulted from the Joint Powers agreement. The program administrators could easily take best practices from one program and use them to improve other programs. For example, administrators could use the regulatory documents from one city as a template for another city instead of having to expend resources for lawyers to draft new documents. However, the program staff reported that each of these affordable homeownership programs had their own procedures, which made monitoring and administration time consuming and challenging.

In addition, the Joint Powers Authority added unnecessary costs. Specifically, the entity had to have insurance, audits, boards, etc. all of which had to be paid collectively by the municipal governments. The current plan is to have jurisdictions contract with the Housing Authority of the City of Napa to jointly administer the programs.

Principle 5: Safe

Ensure Sound Mortgage Financing

Every program should ensure that private mortgage financing is safe, appropriate and consistent with the goals of the program. In addition to helping buyers make informed decisions, the program should protect the public interest by preventing predatory loan products and avoiding foreclosures whenever possible.

HIGH IMPACT PRACTICES

10. The program has written mortgage criteria describing what types of loans are permitted.

    Because public investment is generally at risk in the event of foreclosure, programs have a responsibility to prevent buyers from using high risk loan products. Each program should adopt a clear policy regarding allowable mortgage products (for both purchase and refinancing loans) that allows owners flexibility to obtain competitive financing while protecting the public interest.

11. The program has written procedures for responding to a notice of default.

    Inevitably, some homeowners will experience financial difficulty but the affordable homeownership program's investment need not be jeopardized when homeowners run into problems. A small number of programs record affordable housing restrictions which survive foreclosure, but even where the restrictions are extinguished by foreclosure, if a program is notified of a default prior to foreclosure and is able to quickly take action, loss of public investment can be avoided in nearly all cases. However, responding quickly to homeowner defaults requires some level of planning and preparation in advance.

San Mateo County Analysis

Jurisdictions often have a mechanism for enforcing lender notification of default, but would benefit from having clearer procedures regarding what types of loans are appropriate for program participants.

Just because a bank is willing to make a loan does not mean the loan is appropriate, as was demonstrated by recent trends in mortgages that included balloon payments and interest only loans. Foreclosures, in addition to all the other negative effects, can cause an affordable home to be lost. Less than half of jurisdictions (five out of 11) have written mortgage criteria, an important basic step. In contrast, almost all programs have a mechanism to enforce the lender notification of default and policies on refinancing. However, many of the jurisdictions do not have written procedures for dealing with the notice of default once they receive it. Furthermore, by the time a jurisdiction receives notice, there is not always time to respond before the foreclosure.

Most jurisdictions do not have a list of "approved" lenders, but all respond and/or approve mortgages within a reasonable timeframe. This is consistent with the finding that programs are more active during the front end (such as initiation process), than the back end (such as compliance and monitoring) of program processing.

Jurisdictions that currently lack an allowable mortgage policy were provided with a sample policy which spells out allowable loan provisions and qualifying ratios, prohibits certain types of (potentially predatory) loan products and requires that mortgage lenders acknowledge the goals and restrictions imposed by the program.(A sample policy can be found at www.21elements.com).

Principle 6: Understandable

Educate Buyers on Program Requirements

Every program should provide written materials and training to help buyers understand program requirements and should actively verify homeowners' understanding prior to sale.

HIGH IMPACT PRACTICE

12. All buyers receive a concise disclosure document that summarizes the program guidelines and resale restrictions in plain language.

    In addition to providing buyers with complete legal documents, each program should provide each buyer with a one to two page plain language disclosure document which highlights key affordability requirements including any owner occupancy requirements, price restrictions, purchase options or loan repayment requirements. The potential buyers should also review simple, clear financial models illustrating the program's price restrictions or recapture provisions. These documents should be reviewed with buyers in person prior to closing.

San Mateo County Analysis

San Mateo's affordable homeownership programs seem to be doing a good job of ensuring that homebuyers understand price restrictions or loan terms. Almost all of jurisdictions have written material with examples to help explain the programs and the resale restrictions. Nearly all programs require owners to participate in some kind of orientation session that includes a discussion of program rules, resale restrictions, etc. Only about two-thirds of programs take the extra precaution of having these restrictions explained by a neutral third party, a precaution that helps ensure that buyers receive an unbiased explanation. Most importantly several programs lack a clear and concise plain language summary of key restrictions and requirements. – a relatively simple and practical precaution that should be realistic for even very small programs to provide.

NCBCI staff provided a sample of such a plain language document to the programs that currently lack one (the plain language document can be found at www.21elements.com).

V. Assessment Tool and Results by Question

A draft of the Comprehensive Assessment tool is included below. Where useful, numeric tallies of the actual responses are included.

INTRODUCTORY QUESTIONS				
What are the names of the programs that the jurisdiction offers?				
Describe the programs.				
What year were they started?				
What year were they updated?				
Who is the main contact person?				
How many units are there currently and how many are created annually?				

BUSINESS PLANNING	YES	NO	NEEDS IMPROVMT	N/A
SUSTAINABLE PROGRAMS				
Does the program have a written policy and procedures manual?	8	4	1	0
Does the program have a written mission statement?	8	5	0	0
Does the program have stated goals and objectives? If yes, how does the program track its progress toward meeting its goals and objectives?	-	-	-	-
Has the program clearly identified its service area and target markets(s)?	-	-	-	-
Has the program conducted marketing research to determine the need for its services and/or products?	4	8	0	0
Is the program adequately staffed? How many FTEs are dedicated to the program(s)?	10	3	0	0
Does the program have legal counsel that that specializes in affordable home ownership programs?	-	-	-	-
Has the program developed a budget to project its operating revenues and expenses for the next few years?	4	9	0	0

Has the program staff made a conscious decision to--or not to--charge participants and/or developers program fees? If yes, describe to what extent are program administrative costs covered by fees.	12	1	0	0
PUBLIC ACCOUNTABILITY	**YES**	**NO**	**NEEDS IMPRVMT**	**N/A**
Is there public support and awareness of the program?				
Do you have a community outreach plan?	1	12	0	0
Does the program incorporate ongoing evaluation into the program design? Please describe how the program has changed in response.	5	7	0	0
Does the program incorporate homebuyer evaluations into the program design? Please describe.	-	-	-	-
Does the program conduct annual reporting or auditing? Please describe.	-	-	-	-
Does the program have a way to systematically track information on the buyers, the transactions and the units? Please describe.	-	-	-	-
Does the program have a clear conflict of interest policy? For example, a policy which details who is not eligible to apply?	5	7	0	0
Does the program have stated goals and objectives	7	5	0	0
AFFORDABLE PRICING	**YES**	**NO**	**NEEDS IMPRVMT**	**N/A**
How are sales and resale prices determined? Does the Program create a chart of unit sizes/prices that is updated annually (or periodically)? Or is there a program policy that details the formula to set prices for each unit?	-	-	-	-

When did the program last review and update its formula?	-	-	-	-
Does the program ensure that the prices are affordable to the program's target market, absent other subsidies (second loans, grants)? How? Does the formula use an income level below the maximum eligibility level?	-	-	-	-
Has the program been able to sell units to buyers well below the maximum income level? Or are buyers' incomes primarily at or just below the maximum allowable income eligibility?	-	-	-	-
Has the program been able to sell new and resale units within a reasonable timeframe? If not, please describe challenges.	-	-	-	-
Does the program link homebuyers to additional resources? If yes, describe. (For example down payment assistance, credit repair, homebuyer education…)	8	4	0	1
Does the program ensure that the prices are priced competitively below market rate? For example, how does the program ensure that prices are far enough below market?	-	-	-	-
The program ensures prices are affordable to a range of buyers	10	1	0	2
The program maintains chart of unit/sizes/prices	3	4	0	1
The program has policy setting formula	9	1	0	1

MARKETING AND SELECTION

FAIR MARKETING	YES	NO	NEEDS IMPRVMT	N/A
Who is responsible for developing and updating the marketing plan?	-	-	-	-
The Program/Organization	-	-	-	-

Does the program have a marketing plan?	-	-	-	-
When did the program last update the plan?	-	-	-	-
Does the program require submission of marketing plans prior to commencement of marketing efforts?	-	-	-	-
Does the program have written guidelines for developers or a template or example of an appropriate plan?	-	-	-	-
Does the program require submission of marketing plans prior to commencement of marketing efforts?	-	-	-	-
Is there a marketing plan. If so, who is responsible for implementing the marketing plan?	5	6	0	0
Does the marketing plan describe special efforts to reach difficult to reach populations? If yes, what are they?	2	6	0	2
Does the program ensure that Limited English Speaking Applicants can understand the program and are able to apply? If yes, describe.	7	3	0	0
Does the program maintain a centralized interest list of potential buyers? If yes, on average how many people are on the list?	6	7	0	0
Does the program set a maximum timeframe for marketing homes to eligible buyers? If yes, describe.	6	3	0	2
Has the program established a backup sales strategy for unsold units? If yes describe. If no, describe how the program would respond to unsold units.	4	6	0	2
Is there a mechanism in place to ensure that the back up sales strategy does not result in a disproportionate financial gain to the seller? If yes, please describe.	7	2	0	1
TRANSPARENT SELECTION	**YES**	**NO**	**NEEDS IMPRVMT**	**N/A**
Who manages the screening and selection of buyers?	-	-	-	-
If not the program, does the program contract with an independent third party (not private developers)?	-	-	-	-
If there are third party contracts, are roles and expectations clearly spelled out in the contract?	-	-	-	-

Do applicants attend a workshop or one on one orientation in which the program, guidelines and restrictions are described?	-	-	-	-
Does the program clearly explain to applicants the method and process by which buyer applications are ranked, selected and approved?	-	-	-	-
Does the program have a disclosure document that summarizes the program guidelines and resale restrictions in plain language for the buyer? If Yes, does the program review it in person with the buyer in advance of closing?	-	-	-	-
Does the program have a written list of homebuyer eligibility criteria made available to all applicants?	11	1	1	0
Do you have a homebuyer application? If yes, does it include a checklist of documents required to be submitted?	-	-	-	-
Does the program have a checklist to track applicant documents received?	-	-	-	-
Does the program have any selection preferences? If yes, please describe. If yes, has it ensured that its selection preferences, if any, are consistent with fair housing, local and state laws?	6	7	0	0
Does the program have a policy that ensures that units are allocated to households of the appropriate size? If yes, describe.	5	5	1	1
Does the program ensure that applicants with special needs have priority in applying for accessible units? If yes, describe.	4	5	0	2
Has the program established an appeals process for applicants who feel that they have been treated unfairly or to challenge the program administrator's decisions?	1	10	1	0
The eligibility criteria reflects policy goals	7	1	0	0
The program clearly explains selection process to applicants	11	2	0	0

RESALES	YES	NO	NEEDS IMPRVMT	N/A
Describe your resale pricing formula. Is it linked to an index? What are the variables affecting pricing?	-	-	-	-
Does the program's outreach material clearly explain the resale formula to potential buyers?	7	4	0	1
Does every buyer participate in a workshop or one-to-one meeting at which the resale formula is explained with examples?	8	1	0	2
Is it explained by program staff or a neutral third party?	6	3	0	2
Does the program periodically evaluate the effectiveness of the resale formula in meeting the program goals?	6	1	0	2
Has the program successfully maintained affordability over time? If yes, how do you know?	-	-	-	-
Does the program track how much equity homeowners have accumulated? If yes, how do you keep track?	2	9	0	1
Does the resale formula include credits for capital improvements? If so, please describe.	11	0	0	1
Does the resale formula include deductions for damages or needed repairs? If so, please describe.	-	-	-	-
How are eligible buyers for resale units identified?	-	-	-	-
Does the program ensure that homes are resold only to eligible borrowers?	12	0	0	1
Does the Program have written policy describing the required condition of the home at resale?	6	4	0	1
Does the Program have a process for inspecting the units prior to transfer and ensuring that required repairs or made?	-	-	-	-

MORTGAGE FINANCING

REFINANCING AND CASH OUT	YES	NO	NEEDS IMPRVMT	N/A
Do the program restrictions (deed restrictions/ground leases) contain clear policies on refinancing or home equity loans? If yes please describe policies.	5	6	0	1
What steps are taken to ensure that homeowners comply with these requirements and avoid noncompliant loans?	-	-	-	-

Has the program had problems with illegal re-financing? Please describe.	-	-	-	-
The program maintains a current list of approved lenders	5	7	0	1
The program has its own underwriting criteria in addition to first lender	4	8	0	0
The program has clear policies on refinancing and/or lines of credit	12	1	0	0
The program knows if there has been illegal financing	5	5	0	1
The program has written procedures for reviewing/approving mortgages	5	5	0	1
The program has clear policy on homebuyer education requirements	7	5	0	0
The program has a checklist for required documents to be submitted for approval	7	5	0	0
The program has a checklist for documents received after closing	6	6	0	0
The program can review and respond to requests for approval in reasonable timeframe	11	0	0	1
DEFAULT AND FORECLOSURE	**YES**	**NO**	**NEEDS IMPRVMT**	**N/A**
Does the program generally subordinate their restrictions to the first lender?	-	-	-	-
Does the program have the right to cure a default, or first right of purchase in the event of foreclosure?	-	-	-	-
Does the program have a mechanism in place to require and enforce lender notification of default?	11	1	0	1
If/when notice is received, does the program have written procedures for responding to a notice of default? If not, how would the program respond?	2	8	1	1
Has the program "lost" units due to foreclosure or other reasons? If yes, how many? Please describe the outcome.	3	9	0	1
The program restrictions survive foreclosure	4	8	0	1
SUPPORT, MONITORING AND FINANCING	**YES**	**NO**	**NEEDS IMPRVMT**	**N/A**
Does the program provide post-purchase support? If yes, describe types of support and services offered.	4	9	0	0

Does the program communicate regularly with owners about the terms of the regulatory agreement? If yes, how and how often?	2	10	0	1
Has the program determined the frequency with which it will monitor program compliance? If yes how frequent?	5	8	0	0
Has the program determined what documentation it will require in compliance certification?	5	7	0	0
Does the program have an enforcement plan describing steps that staff will take in the event of various forms of homeowner violations?	3	9	0	0
Has the program identified any conditions that would trigger a physical site visit rather than paper monitoring? If yes, please describe.	2	10	0	0
Do the program's resale restrictions include sample program forms as exhibits? For example, an annual certification form, notice of intent to transfer, request for refinance, etc.	-	-	-	-
Does the program have adequate staffing for support, monitoring and enforcement?	10	3	0	0
Has the program established a schedule for auditing its own paper files to ensure completeness?	3	8	0	0

WRAP UP	**YES**	**NO**	**NEEDS IMPRVMT**	**N/A**
Which of the issues we've discussed are most relevant and/or important to the program right now?	-	-	-	-
What changes to the program are currently in process?	-	-	-	-
Is there anything else you would like to share?	-	-	-	-

[i] Not all of the jurisdictions took part in the assessment, and not all of the programs are active.
[ii] There are numerous ways to analyze the data in terms of the best practices of large and small programs. The patterns hold if you look at various sizes groups (rather than the three largest and smallest programs). Another method to analyze the data is portfolio size (including both rentalhomes and BMR homes), and the pattern of larger programs following more best practices holds in this case as well.
[iii] Short sales refers to sales where the bank or mortgage lender allows the home to be sold for less than the balance due on the mortgage.
[iv] California law allows Redevelopment Agencies to be active in an area for up to 40 years, depending on conditions.