



# Clayton Homebuyer Assistance Program

## OVERVIEW

The purpose of this program is to strengthen partnerships and to expand the supply of decent, safe, sanitary and affordable housing in Clayton County. The Jonesboro Housing Authority (JHA) and the Clayton County Board of Commissioners are joining forces to implement Clayton Homebuyer Assistance Program (CHAP) for the extremely low, low and very-low income families who want to live in Clayton County and who also qualify for homeownership under the HOME Program guidelines.

First-time homebuyers may receive a deferred payment, zero interest loan (soft second mortgage) for down payment, closing costs and/or prepaid items, for up to \$5,000. The second mortgage is designed to work with 95 or 97% loan-to-value first mortgages such as FHA loans, 203(K) loans, the Fannie Mae Community Home Buyer Program and other private conventional loans where applicable; however, first-time home buyers with 100% loan-to-value are not eligible to receive closing costs assistance.

CHAP is a deferred payment soft second mortgage loan. The loan is forgiven after 60 months. No payments are due on the CHAP loan; however, the loan is paid in full if one of the following circumstances occurs within the first 59 months of the loan:

- Original borrower transfers the property;
- Borrower no longer uses the property as his/her primary residence; and the
- First mortgage with the primary lender is refinanced or satisfied.

Homes purchased under the HOME CHAP funds must meet the U.S. Department of HUD HOME Investment Partnerships Program definition of affordable, standard housing for the applicable period of affordability and must be the primary residence of the borrower after the mortgage closing.

## PROGRAM DESCRIPTION

### Preferences

Applicants must meet basic criteria for FHA, Fannie Mae, etc. home loans and must show repayment ability regardless of preference. Preferences for HOME funding under (CHAP) are as follows:

- (1) Eligible families with children;
- (2) Eligible families;
- (3) Displaced homemakers;
- (4) Single parents; and

(5) Mobile home owners

A *displaced homemaker* may be eligible for (CHAP) even if the borrower owned a home with their spouse, provided that the borrower is no longer married to this spouse and no longer owns a principal residence, or has any interest in the previous principal residence. A displaced homemaker is an adult who has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family and is unemployed or underemployed and is experiencing difficulty obtaining or upgrading employment. However, as required with all applicants, the displaced homemaker must show loan repayment ability.

A *single parent* may be eligible for (CHAP) even if the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse, provided that the single parent no longer owns a principal residence, or has any vested interest in the principal residence. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom he/she has sole or joint custody, or she is pregnant.

*Mobile home owners* who own or owned as a principal residence during the three years preceding the closing of a CHAP loan and whose structure was not permanently affixed to a permanent foundation in accordance with local codes or was not in such codes for less than the cost of construction a permanent structure may be an eligible applicant for (CHAP).

The maximum loan amount for each borrower is \$5,000.

**Borrower's Funds**

The borrower must provide a minimum of \$500.00 towards the purchase price to purchase his/her home. The borrower's funds that will be required will be based on the purchase price of the home and specified in the sales contract.

**Eligible Costs**

Closing/settlement costs and financing costs for first mortgage loans that are to be paid by the borrower cannot exceed the limits established in this policy. No additional charges, discount points, or fees, directly or indirectly, in connection with or due to the CHAP loan cannot be assessed by the lenders, builders, developers, real estate agents, or any other party associated with the purchase of the home.

*Eligible settlement costs to be paid by the purchaser for the first mortgage and CHAP loan are limited to the actual amounts expended for the title examination, title insurance, attorney fees, credit reports, termite inspections, surveys, courier fees related*

*to closing, appraiser fees, filing and recording fees, transfer tax and intangible taxes, mortgage insurance and the home inspection. An origination fee of no more than one (1) percent of the first loan amount is an eligible settlement cost.*

*CHAP funds may be used to assist with securing a first mortgage of up to 97% loan-to-value. The amount used for down payment depends on the type of loan obtained.*

*Pre-paid items such as the amounts required by the first mortgage lender to be deposited in the escrow account for property taxes, hazard insurance and homeowner association or condominium fees and prorated interest expenses up to the first payment date, not to exceed actual costs, are eligible closing costs.*

*To increase affordability, CHAP funds may be used to buy down the prevailing mortgage interest rate on the first mortgage. The funds may not be used to pay for fees associated with sub-prime loans when the borrower will qualify for a market-rate mortgage.*

The CHAP loan *is not* assumable. The CHAP loan must be paid, or recaptured, upon transfer of the property. The JHA will issue release of liability upon an acceptable transfer of the property. Subsequent buyers of the property may apply for a CHAP loan. Approval of such loan is based on approval of the borrower's application, income eligibility and availability of the CHAP funds.

There is no penalty for pre-payment of the CHAP loan.

If the property is sold within the first 59 months of homeownership, an amount equal to the CHAP assistance will be *recaptured*. The full CHAP subsidy will be recaptured, or if the net proceeds are less than the full amount of the CHAP subsidy, the net proceeds will be recaptured to be used to assist other low to moderate-income homebuyers. Net proceeds are equal to the sale price minus loan repayment and closing costs. If there are insufficient net proceeds from the sale of the property to repay the existing first mortgage and the CHAP mortgage, the JHA may, at its discretion, forgive all or a portion of the shortfall amount. The JHA reserves the right to recapture the debt through civil litigation.

*If the property is refinanced* during the affordability period of the first five years, the CHAP loan must be paid in full. However, the JHA reserves the right to make exceptions to this policy in such cases as refinancing of the first mortgage lowers the interest rate improving the affordability of the home of the family.

Should *foreclosure of the property occur*, repayment of the CHAP loan will result through net proceeds from the property disposition. If the sale of the property is insufficient to repay the CHAP loan, civil litigation may be considered by the JHA.

The buyer is committed to a *period of affordability* in obtaining CHAP loan assistance. The period of affordability is the first five years of the loan. In the event that

the property is disposed of in any manner during the first five years of the loan, the CHAP loan must be repaid in its entirety. When the CHAP loan is repaid to the JHA, all restrictions imposed by the period of affordability are released.

### **JHA Responsibilities**

The JHA shall maintain records in accordance with the Agreement executed with the Clayton County Board of Commissioners and in accordance with HOME fund regulations. At a minimum, the JHA shall maintain records and documentation for CHAP as follows:

- Homebuyer income verification for compliance with HOME Program maximum income limits; employment verification; credit report, etc.
- Certified Appraisal less than 90 days old at the time of loan closing;
- Principal residence requirement;
- Maximum purchase price restrictions (95% of median in the area);
- Compliance with the recapture requirements;
- Location of home in Clayton County; and
- Approval of JHA policies and procedures for the HOME CHAP for the Clayton County HCD Program.

### **Lender Responsibilities**

Primary responsibilities include, but are not limited to:

- Referring potential CHAP applicants to Jonesboro Housing Authority for instructions and an application;
- **Advising borrowers that they must pay \$100 to Jonesboro Housing Authority for a home inspection. The home MUST PASS the inspection prior to loan closing and that it must be acceptable according to the property standards established by the CHAP Program. If the home is a New Construction that has never been occupied, you must provide a Certificate of Occupancy;**
- **Cancellation of Home Inspection : This fee may be returned only if the lender submit a written cancellation notice at least 24 hours prior to scheduled appointment, along with proof of receipt;**
- Providing the Jonesboro Housing Authority with a complete application package that includes the mortgage application, good faith estimate, sales contract and other items on the Lender Checklist; **PLEASE DO NOT FAX DOCUMENTS**
- **Notifying the Jonesboro Housing Authority of the closing date at the earliest possible time and at least seven days prior to closing so documents can be executed;**

- Providing the HUD-1 Settlement Statement to the Jonesboro Housing Authority at least 48 hours prior to loan closing; **HUD must show that borrower may not receive any money at closing**
- Allowing a minimum **five** working days from the CHAP approval date to close the loan;
- Ensuring that all closing contingencies are cleared at least 24 hours prior to loan closing; and
- Ensuring that the closing attorney executes the closing of the CHAP second mortgage simultaneously with the closing of the first mortgage, including the execution of the security deed and promissory notes. It is also the responsibility of the lender to advise the applicant of the primary residency requirements. These requirements are:
  - Within 60 days after loan closing, the borrower must occupy the mortgaged property as the primary residence.
  - The applicant/borrower will not be allowed to rent the property subsequent to loan closing.
  - The applicant/borrower may rent the property back to the seller for up to, but not exceeding, 30 days.
  - Borrowers are not allowed to rent a HOME-assisted property under hardship situations.

### **Attorney Responsibilities**

Designated attorneys must:

- Disburse loan proceeds in accordance with closing instructions;
- Provide a settlement statement to the Jonesboro Housing Authority within 24 hours prior to loan closing;
- Ensure that the borrower and seller execute all legal documents and instruments required by the lender and the Jonesboro Housing Authority to protect the security interests of Clayton County and the Lender;
- Conduct and produce a copy of the Title Search;
- **Ensure proper recording of the legal instruments in the Clayton County public records; this means that the closing attorney agrees to file the deed on the behalf of Jonesboro Housing Authority.**
- **The attorney will BILL Jonesboro Housing Authority for the recording fee.**
- **The Deed must show “True and Certified Copy”**
- **There will be no intangible tax charged**
- **The HUD must show that Borrower does not receive money at closing**
- **The HUD must show (CHAP) Clayton Homebuyer Assistance Program providing the gift funds**
- Submit an original and two copies of the closed package within 24 hours (2 business days) of closing to the Jonesboro Housing Authority; and
- Provide recorded original documents to the Jonesboro Housing Authority within six weeks of loan closing.

## **Buyers Agent Responsibilities**

- **Advising borrowers that the home MUST PASS inspection prior to loan closing and that it must be acceptable according to the property standards established by the CHAP Program. If the home is a New Construction you will not need an Inspection from JHA. New Construction that has never been occupied, you must provide a Certificate of Occupancy from the builder;**
- Agent must ensure that ALL utilities are on, prior to the Jonesboro Housing Authority Inspection.
- Agent must inform Borrower status of inspection.
- Agent must inform Housing Authority of repairs, if any in a timely manner. This ensures that repairs are completed and property reinspected. Inspection must pass prior to closing.
- **The property must be “Move In Ready” condition. The buyer should not be responsible for any repairs prior to the purchase of the property.**

## **Information for Agents and Lenders**

Please be advised: This statement does not apply to borrowers approved for a 203K loan. Should the property be a Bank Owned or Foreclosed property that may be in need of repair. This may not be a good choice for the CHAP borrower. If the seller is not willing to do any repairs, and the borrower want that particular property. The borrower will not be able to use the CHAP funds. The home MUST PASS (JHA) Inspection. Should you have any questions please contact the CHAP Coordinator.