

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
CITY AND COUNTY OF HONOLULU

HOUSING AND COMMUNITY DEVELOPMENT
REHABILITATION LOAN PROGRAM
RULES AND REGULATIONS

I. PURPOSE

These rules for the Housing and Community Development Rehabilitation Loan Program ("Program") are adopted pursuant to the Hawaii Administrative Procedures Act, Chapter 91, Hawaii Revised Statutes, and are intended to set forth the essential elements to implement Chapter 5, Article 33, Revised Ordinances of Honolulu, 1978, "Housing and Community Development Rehabilitation Loan Revolving Fund" and to facilitate the provision of City rehabilitation loans.

II. DEFINITIONS

Unless otherwise clear from the context or specifically provided by law, the words, phrases and/or abbreviations used herein shall be defined as follows:

1. Applicant - A person or an entity who has applied for a loan under the Program and is presumed to be eligible.
2. Commercial Property - A parcel of land used for commercial or mixed commercial and residential purposes.
3. Common Elements - Portions of a condominium property which are owned and utilized by all condominium unit owners.
4. Concentrated Revitalization Area (CRA) - Neighborhoods designated by DHCD for comprehensive improvement and rehabilitation treatment.
5. Condominium Property - Property where owners have undivided interest in the common elements and individual interest in a dwelling unit.
6. Condominium Unit - Individually-owned dwelling unit on a condominium property.
7. Co-operative Property - Property owned by a corporation where individuals with stocks in the corporation receive proprietary lease of an apartment.
8. Deferred Payment Loan - A loan wherein monthly payments are deferred for a specified period.

9. Deficiencies - Conditions on a property that do not meet the Housing Quality Standards, applicable City and State codes, and standards established for a City project.
10. DHCD - City Department of Housing and Community Development.
11. Director - Director of DHCD.
12. Disaster - Storm, flood, fire or other natural or man-made catastrophe that cause substantial damage to property.
13. Dwelling Unit - A room or rooms connected together constituting an independent housekeeping unit and containing a single kitchen.
14. Family - One person or two or more persons living together in a household who are normally related by blood, marriage or adoption.
15. Gap-Group Income - Adjusted gross income which falls within 81 to 110 percent of the median income with adjustments for family size.
16. General Property Improvements (GPI) - Improvements to a property over and above work to correct deficiencies.
17. Household - A single family, two or more families, or any other group of related or unrelated persons who occupy and share a single dwelling unit.
18. Housing Quality Standards (HQS) - The acceptability criteria for housing units established for the Section 8 Existing Housing Program.
19. HUD - U. S. Department of Housing and Urban Development.
20. Incipient Conditions - Conditions on a property that may soon become deficiencies if not corrected.
21. Investor-Owned Property - Property where the owner is not an occupant.
22. Low-Income - Adjusted gross income which falls within 51 to 65 percent of the median income with adjustments for family size.
23. Major Appliances - Cooking range, refrigerator and hot water heater.
24. Median Income - Median income for the City of Honolulu as determined by HUD for the Section 8 program.

25. Moderate (Mod) Income - Adjusted gross income which falls within 66 to 80 percent of the median income with adjustments for family size.
26. Monthly Housing Expenses - Payments for mortgage principal and interest, property tax and homeowner's insurance.
27. Owner-Occupied Property - Property where the owner is an occupant of one of the units.
28. Property Owner - Fee owner, lessee on long-term lease (10 years or more) or purchaser under Agreement of Sale.
29. Rental Agreement - An Agreement between the borrower and the City outlining terms and conditions of a loan for a rental property.
30. Rental Property - Property where at least 50% of the units are occupied by tenants with incomes not exceeding moderate income limits. In the event federally-funded loans are utilized, tenants within the moderate-income limits must occupy at least 51% of the units.
31. Residential Property - Property where the predominant use is for residential purposes.
32. Very-Low Income - Adjusted gross income which falls within 50 percent of the median income with adjustments for family size.

III. ELIGIBILITY REQUIREMENTS

1. The following properties are eligible for a loan under the Program: (a) owner-occupied properties including condominium units where the owner's income, as defined in Exhibit I, does not exceed the gap-group income limits; (b) rental properties; (c) all properties in a CRA; (d) condominium properties or cooperative properties where at least 51 percent of the units on the property are occupied by families with incomes not exceeding mod-income limits; (e) properties damaged by a disaster; and (f) commercial properties which (1) are designated in the Chinatown Historic Preservation Plan and the Hawali Register of Historic Places to be of historic and architectural value and situated in downtown Honolulu or (2) principally benefit low and moderate income persons and families.
2. Applicants shall have adequate capacity to repay the loan.

IV. MAXIMUM AMOUNT, TERM AND INTEREST RATE OF LOAN

1. Maximum Amount - The maximum amount of the loan shall be as established by the DHCD but shall not exceed, when

combined with existing liens on the property, ninety percent (90%) of the appraised value of the fee property or leasehold property after rehabilitation.

2. Maximum Term - The maximum term of the loan shall be the lowest of (a) fifteen years; (b) three-fourths of the remaining economic life of the property after rehabilitation; or (c) the remaining term of the lease for leasehold property.
3. Interest Rate
 - (a) Interest rates shall be established by the DHCD. For loans to owner-occupied properties, interest rates shall be based on income and family size.
 - (b) The family size in establishing the interest rate for a loan shall include the following individuals regularly residing in the household: (1) those over 18 years of age with an interest in the property and their spouses; (2) those over 18 years of age without an interest in the property but dependent on the head of household for support, care and supervision; and (3) those below 18 years of age.

V. UNDERWRITING STANDARDS

1. The assessed value of the property shall be used to determine the liens to value ratio. If the existing liens together with the loan amount exceed 90 percent of the assessed value, a market appraisal shall be obtained by the applicant.
2. Monthly loan payments shall be made on all loans but principal payments may be reduced or deferred for owner-occupied properties: (a) for the term of the loan for very-low income borrowers; or (b) for a period not to exceed two (2) years if (1) the total monthly housing expenses exceed thirty five percent (35%) of the monthly income for low-income borrowers and forty five (45) percent of the monthly income for moderate income borrowers and (2) the existing liens together with the rehabilitation loan do not exceed 75% of the value of the property.

VI. LOAN SECURITY

All loans shall be secured by mortgage, promissory note, co-signor or other security agreements or a combination thereof as approved by DHCD.

VII. ITEMS ELIGIBLE FOR FUNDING

1. Rehabilitation Work

- (a) Any work necessary to correct deficient conditions identified by a City inspector.
- (b) Improvements or alterations to accommodate the needs of handicapped or disabled persons.
- (c) Work on deficient common elements on condominium and cooperative properties.
- (d) Repair or replacement of a major appliance.
- (e) Correction of incipient conditions.

Note: The cost of certain items related to rehabilitation work shall not exceed the maximum prices indicated on a list to be periodically issued by DHCD. Items exceeding the maximum prices shall be considered General Property Improvements.

2. General Property Improvements (GPI)

Applicants within low and moderate income limits may borrow up to thirty three and one-third percent (33-1/3%) of the cost of rehabilitation work for GPI provided loan payments are not reduced or deferred. Items determined by DHCD to be luxury shall not be eligible for funding.

3. Energy Conservation Devices

Purchase and installation of energy conservation devices such as solar system and heat pump.

4. Miscellaneous Items

- (a) Title investigation and reports.
- (b) Credit investigation and reports.
- (c) Legal, appraisal and other loan documentation and recording fees.
- (d) Architect, engineer's fees.
- (e) Insurance premiums (Initial payment only)

VIII. OWNER DO-IT-YOURSELF

1. An applicant may obtain a loan under the Program to purchase materials to be installed by the applicant on the following conditions: (a) evidence is shown that the applicant can perform the work and that the work can be accomplished within one year from the date of approval of the loan; (b) progress payments are to be made only upon installation of materials and not exceeding three payments (the initial payment shall be for not less than 1/3 of the loan amount for materials); and (c) self-help work will not interfere with or delay work which is under contract and funded by the Program.

2. In the event an applicant intends to correct some of the deficiencies by himself/herself using his/her own funds, assurances shall be received by DHCD that the work will be completed in a timely manner. If the work to be funded by the applicant can be completed independent of the work being funded by a City loan, the former work shall be substantially completed before City loan funds are expended.

IX. REHABILITATION POLICIES

1. Except for disaster loans, an applicant shall correct all conditions on a property identified as a deficiency by a City inspector.
2. The total cost of rehabilitation work shall not exceed seventy five percent (75%) of the replacement cost.
3. Rehab work funded by a City loan shall meet or exceed the standards required by DHCD and shall be done by a licensed contractor. Contractors shall be licensed by the State of Hawaii, bondable, not be on the Federal debarred list, and not be suspended by DHCD for failing to satisfactorily fulfill obligations under any previous rehabilitation work funded by a City loan. Contractors shall submit documentation indicating proof of their bonding capacity at the time of bid submission. An applicant may waive the bond requirement for work not exceeding amounts established by the Director, provided the applicant submits a statement indemnifying the City from any liability for incidents that may arise from the waiver.
4. An applicant may negotiate with a contractor and obtain a proposal for rehabilitation work. DHCD shall review all negotiated proposals as to reasonableness of price and if determined that the price is not acceptable, the applicant shall be given the following options: (a) negotiate further with the contractor to reduce the price; (b) accept the proposal as submitted provided the amount of the loan is limited to DHCD's cost estimates; (c) request another contractor of the applicant's choice to submit a proposal; or (d) place the work out for competitive bidding.
5. An applicant may request DHCD to obtain bids from contractors through competitive bidding. Under competitive bidding, the applicant shall have the right to reject any or all bids. If a contractor other than the low bidder is selected, the loan amount shall be limited to the amount of the low bid unless the low bid is determined by DHCD to be invalid or the applicant provides justifiable reasons for not selecting the low bid.

6. Work estimated to cost over \$100,000 shall be formally advertised.
7. Applicants may be reimbursed for work completed prior to approval of a loan if the following conditions are met: (a) the work is eligible; (b) the property is inspected by a City rehab inspector prior to commencement of work; (c) the cost of the work is reasonable; (d) the contractor is licensed; and (e) the loan is approved.

X. CONTRACTOR DISQUALIFICATION

1. If a contractor violates or fails to fulfill obligations and requirements of the Program, DHCD may suspend the contractor from participating in the Program for such period as deemed appropriate by DHCD. The contractor shall be given written notice of the suspension and shall be entitled to a formal hearing.
2. In the event the contractor disputes any action taken by DHCD, such contractor may submit a written complaint to DHCD so that the dispute may be discussed at an informal hearing and settled without a formal hearing. If the contractor is not satisfied with a written summary of the proposed disposition of the dispute, he shall be advised of his rights to a formal hearing as outlined under Section XI.

XI. FORMAL HEARING ON DISPUTE

1. Request for a Formal Hearing

The contractor must submit a written request for a formal hearing to the Director within twenty (20) calendar days after receipt of the written summary of the informal hearing.

2. Form and Content of Written Request

The written request shall contain the following:

- (a) Name, address and telephone number of the complainant.
- (b) A designation of the specific statutory provision rule, or order in question, together with a statement of the dispute involved.
- (c) A statement of the contractor's position on the issues of the dispute.
- (d) A memorandum of points and authorities, containing a full discussion of reasons or legal authorities in support of such position or contention.
- (e) The action or relief sought.

3. Person Conducting Formal Hearing

The Director, or his duly authorized representative, shall conduct the formal hearing.

4. Notice and Conduct of Hearing; Judicial Review

The notice and conduct of formal hearing and the request for judicial review shall be made pursuant to Chapter 91, Hawaii Revised Statutes.

XII. DISASTER LOANS

1. Purpose - Disaster loans are provided to make repairs on residential properties affected by a disaster.

2. Eligible Property - Any property situated in an area that has been adversely affected by a storm, flood, fire or other disaster and determined by the President, Governor, Mayor or Director that government assistance is warranted.

3. Eligible Applicant:

Any owner of a residential property affected by a disaster.

4. Priority - Disaster loan applications shall be given top priority and shall be processed on a "first-come, first-served" basis.

5. Eligible Work - Eligible work may include but are not necessarily limited to the following:

- (a) Replacement or repair of damages to real property.
- (b) Replacement or repair of damaged flooring, including installed carpeting.
- (c) Replacement or repair of major appliances which are damaged or rendered inoperable.
- (d) Relocating and reposting structures on the same parcel. Expenses may include cost of moving the structure and the owner's household belongings.
- (e) Measures to protect property from damage.

6. Interest Rates and Loan Amounts - Interest rates and maximum loan amounts shall be as established by the DHCD.

7. Limitations and Conditions

(a) Costs covered by insurance, Red Cross or federal disaster programs shall not be funded by a City loan.

- (b) In situations of a disaster declaration by the President, applicants for a City disaster loan must show evidence that they are unable to obtain assistance from federal disaster programs including grants and loans from the Small Business Administration or have needs beyond those funded by federal disaster programs.
- (c) GPI shall not be permitted.
- (d) The loan shall be paid in full in the event the applicant obtains a financial settlement or award from the City or any other government agency for items covered by the loan.

XIII. LOANS TO COMMERCIAL PROPERTIES

1. Eligibility - A City loan may be made to an owner of a commercial property which (a) is situated in downtown Honolulu and has been designated in the Chinatown Historic Preservation Plan and the Hawaii Register of Historic Places to be of historical and architectural value by the Federal, State or City governments or (b) employs or services families who are predominantly within the moderate income category.
2. Interest Rates and Loan Amounts - Interest rates and loan amounts shall be as established by DHCD.
3. Limitations
 - (a) Loan funds shall be used only to correct deficiencies identified by a City inspector. Financing of special trade construction, trade fixtures or furniture shall not be permitted.
 - (b) For loans to commercial properties with dwelling units, at least 51% of the units must be rented to families within the moderate income category.
 - (c) The maximum loan to value ratio shall be 75% of the appraised value.

XIV. REFINANCING OF EXISTING DEBTS

A City loan to owner-occupants may include funds for refinancing existing debts secured by a property provided that the debts are outstanding balances of City rehabilitation loans previously made to the same applicant for the same property.

The interest rate and terms for the loan that includes funds for refinancing shall be based on the current income of the applicant. Refinancing shall be at the option of the applicant.

XV. SUBORDINATION OF MORTGAGE. Mortgage subordination requests shall be considered when funds are used for the following purposes:

1. Refinancing an existing mortgage loan which has a senior lien to the City's loan, where no new funds, except for closing costs, are to be advanced to reduce the interest rate and/or payments.
2. Making necessary improvements and repairs to upgrade the property or to meet the special needs of the occupants such as bathroom and bedroom additions for larger families and removal of architectural barriers for handicapped persons. Luxury items such as swimming pools or barbecue pits are not permissible. In the event the improvements are eligible under the Program and the total cost plus the existing rehabilitation loan fall within the maximum loan limits, another rehabilitation loan may be offered to the borrower.
3. Unusual or continuing medical expenses for chronically ill or disabled members of the family.
4. Expenses for advanced education. The child must be a full time student carrying 12 or more credit hours.
5. Special situations as approved by DHCD.

XVI. BANK ACCOUNTS. The City Director of Finance may establish any account deemed necessary and required for the Program. The following bank accounts have been established:

1. Director of Finance, H & CD Imprest Fund

Payments are made to contractors, homeowners and vendors from this account. A maximum amount of \$200,000 may be maintained in the account at any one time. Authorized signers on the account include: Director, Deputy or authorized designate of DHCD and Fiscal Officer or Assistant.

2. Director of Finance, H & CD Trust Fund

This account is to deposit all funds from approved loans and borrower's funds and is under the control of the City Treasury. Funds from this account are used to replenish the H & CD Imprest Fund.

3. Director of Finance, H & CD Revolving Loan Fund

This is a revolving account to deposit all warrants issued by HUD and loan repayments and is under the control of the City Treasury.

XVII. LOAN SETTLEMENT.

On loans secured by mortgage, the borrower shall provide the following:

1. A certified copy of the homeowner's or fire insurance policy providing coverage of at least eighty percent (80%) of the value of the improvements on the property.
2. Sufficient evidence that real property taxes and special assessments are current.

Proper documentation to encumber and establish a lien against the property shall be duly recorded.

XVIII. LOAN COLLECTION.

1. Monthly payments shall be due and payable on the first day of each month with the date of the first payment to be determined at time of loan settlement.
2. If a loan is secured by a mortgage, the borrower may be required to include an amount for real property taxes, homeowner's or fire insurance, etc., with each monthly payment.
3. A late charge, not to exceed the maximum as established by law, may be assessed on any unpaid amount fourteen (14) days past due.

XIX. PAY OFFS.

1. No prepayment penalty shall be assessed.
2. Authority for Cancellation, Release or Endorsement of Documents shall rest with the Director or his designated representative.

XX. AUDIT.

An audit of the program shall be conducted by the City Department of Finance at intervals as deemed necessary and required by the Director of the City Department of Finance.

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EXHIBIT I

COMPUTATION OF INCOME FOR RESIDENTIAL LOANS

A. The annual gross income shall include incomes of individuals who meet all of the following criteria: (a) reside on the property to be rehabilitated; (b) over 18 years of age; and (c) have an interest in the property. Annual gross income shall not include incomes of individuals who meet the foregoing criteria but are full-time students (i.e., twelve credit hours or more for advanced education) or are dependent on the head of household for support, care or supervision. Incomes shall include:

1. (a) Income from full-time occupations, i.e., 30 hours or more per week of at least six months duration; (b) income from part-time occupation of less than 30 hours per week but more than 12 months duration. Any income from occupation of less than 30 hours per week and 12 months duration shall apply 50%.
2. Self-employment income - Net profit exclusive of intangibles (good will, depreciation, etc.).
3. Partnership income - Partner's share of net profit exclusive of intangibles.
4. Rental income - Gross rent minus 5% vacancy factor less operating expenses (repairs, maintenance, taxes, etc.) excluding intangibles.
5. Actual income derived from all assets.
6. Contribution by others for payment of household expenses.
7. Income from all other sources (social security, child support, alimony, pensions, disability, etc.) which is likely to be consistently received for at least two-thirds of the term of the loan. Any income to be received for a lesser duration shall apply 50%. (Use 18 years of age as termination date for child support and supplemental social security child support payments.)

B. The following shall not be included in the computation of income:

1. A spouse's income if the spouse is not residing and does not intend to reside on the property.
2. Funds received for foster care of children.
3. Allowances paid by employer for business related expenses.

Exhibit I Computation of Income for Residential Loans
Page 2

- C. The following expenses may be deducted from income:
1. Unusual or continuing medical expenses for chronically ill or disabled members of the family (e.g. dialysis treatment, etc.) that are not reimbursed by medical insurance or other payments.
 2. Expenses for child care (both parents must be employed full-time).
 3. Special expenses for education or required health care (e.g. retarded child, handicapped).
- D. Income for underwriting purposes.
1. Earnings of co-makers who sign the promissory note but who do not have an ownership interest in the property may be included as "stable monthly income" for the purposes of underwriting even if their earnings are not considered in determining a borrower's eligibility.
 2. Income from alimony, child support, separation maintenance payments or public assistance need not be included by co-makers for the purposes of underwriting.

CERTIFICATION

I, MICHAEL N. SCARFONE, Director of the Department of Housing and Community Development of the City and County of Honolulu, do hereby certify:

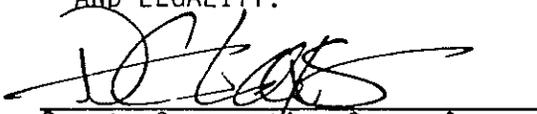
1. That the foregoing is a full, true and correct copy of the Rules and Regulations of the City Rehabilitation Loan Program of the Department of the Housing and Community Development, City and County of Honolulu, which were adopted on August 24, 1990, following a public hearing held on August 24, 1990; and

2. That the Notice of Public Hearing on the foregoing Rules and Regulations included the substance of such Rules and Regulations and was published in the Honolulu Advertiser and the Honolulu Star Bulletin on August 8, 1990.

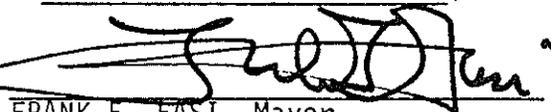


MICHAEL N. SCARFONE, Director
Department of Housing and Community
Development
City and County of Honolulu

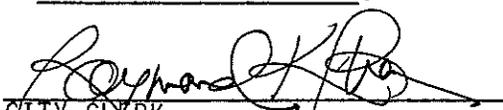
APPROVED AS TO FORM
AND LEGALITY:


Deputy Corporation Counsel

APPROVED this 9th day of
October, 1990


FRANK F. FASI, Mayor
City and County of Honolulu

Received this 15th day of
October, 1990


CITY CLERK

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MINUTES OF A PUBLIC HEARING ON THE RULES AND
REGULATIONS FOR THE REHABILITATION LOAN PROGRAM ADMINISTERED
BY THE CITY HELD ON FRIDAY, AUGUST 24, 1990.

Pursuant to a Notice of Public Hearing published by the Hawaii Newspaper Agency, Inc. on Wednesday, August 8, 1990, said hearing held at the conference room at 51 Merchant Street of the Department of Housing and Community Development on August 24, 1990 was called to order at 2:00 p.m. by Winfred Lum of the Department of Housing and Community Development.

Present at the hearing were Henry Murakami and Norman Tam from the Department of Housing and Community Development.

No interested persons attended the hearing to give testimony. Mr Lum officially closed the hearing at 2:30 p.m.

Respectfully submitted,



WINFRED LUM
Rehabilitation Branch Chief
Department of Housing and
Community Development