



## Board Report

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**File #:** 19-0595, **Version:** 1

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- a. Receive request from Executrix, Peggy Silvestri, of the Epie L. Fresquez and Tomasa M. Fresquez Estate to forgive the accrued interest on her deceased parent's CalHome loan in the amount of \$18,990.41 and their HOME loan in the amount of \$63,152.89 accrued through July 31, 2019; and
- b. Deny the request from Executrix, Peggy Silvestri, of the Epie L. Fresquez and Tomasa M. Fresquez Estate to forgive the accrued interest on her deceased parent's CalHome loan in the amount of \$18,990.41 and their HOME loan in the amount of \$63,152.89 accrued through July 31, 2019; or
- c. Provide further direction to staff as appropriate.

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

- a. Receive request from Executrix, Peggy Silvestri, of the Epie L. Fresquez and Tomasa M. Fresquez Estate to forgive the accrued interest on her deceased parent's CalHome loan in the amount of \$18,990.41 and their HOME loan in the amount of \$63,152.89 accrued through July 31, 2019; and
- b. Deny the request from Executrix, Peggy Silvestri, of the Epie L. Fresquez and Tomasa M. Fresquez Estate to forgive the accrued interest on her deceased parent's CalHome loan in the amount of \$18,990.41 and their HOME loan in the amount of \$63,152.89 accrued through July 31, 2019; or
- c. Provide further direction to staff as appropriate.

### **SUMMARY:**

On June 21, 2006, the County's Housing Loan Committee approved a rehabilitation loan to replace Epie L. Fresquez and Tomasa M. Fresquez' existing home at 419-A Hyland Drive, Salinas, CA 93907 with a 3-bedroom, 2-bath manufactured home. Two (2) funding sources were utilized for their loan request-- 02HOME-0620 and 04CalHOME originating from the Housing and Community Development Department of the State of California (HCD). Agreement terms for repayment of the loan principal and interest was deferred until such time as the property was either sold or transferred to someone other than a spouse or original co-borrower, or the borrowers ceased to occupy the unit as their primary residence, whichever came first. Ms. Tomasa M. Fresquez passed away first on October 3, 2010, and Mr. Epie L. Fresquez placed his property in a revocable living trust. Mr. Fresquez passed away June 1, 2011. At the time both Mr. and Mrs. Fresquez passed away, the total rehabilitation loans, principal and interest, became due and payable.

The County of Monterey followed the Housing Rehabilitation Program Policies and Guidelines, dated October 2004, in administering the CALHOME and HOME requirements. These Policies were followed and included the guidelines for Underwriting, Loan Approval, Occupancy, Loan Management, and Loan Repayment/Payoffs and Recapture. Staff reviewed the Program Policies and Guidelines and the Owner-Occupied Rehabilitation Promissory Note, Recorded Deed of Trust and Security Agreements to determine if the 2004 guidelines were adhered to in the documents and that the documents were signed and recorded by Epie and Tomasa Fresquez, to implement the Program Guidelines. Staff verified that County and State Guidelines were followed and Epie L. Fresquez and Tomasa M. Fresquez signed documents and these were recorded by Monterey County.

Epie L. Fresquez and Tomasa M. Fresquez signed a Promissory Note that was secured by a recorded Deed of Trust on July 17, 2006. Page two of the Promissory Note details the terms of Repayment in Full and page four of the recorded Deed of Trust detail that both the interest and principal are due upon the event the Borrower

ceases to occupy the Home as his or her principal place of residence and any Transfer of the property and Owner Occupancy Requirements.

The Recorded Owner-Occupied Rehabilitation Deed of Trust for the CALHOME program was recorded on December 15, 2006. This Recorded Document that was signed by Epie L. Fresquez and Tomasa M. Fresquez on December 15, 2006, also detailed the repayment terms that the Borrower shall promptly pay, when due, the principal and interest on the Note and such other charges and amounts in the Deed of Trust.

Prior to loan closing, while Epie and Tomasa Fresquez were alive, they requested that their son, Epie Fresquez, Jr, live with them in the household. Due to program income requirements, staff needed to ensure that their son was income qualified and they would meet the program income requirements with three adults in the household. In a letter with a date of July 26, 2005, Gretchen Markley, Monterey County housing staff, sent a letter to Epie and Tomasa Fresquez a response to their request to have their son, live in the unit. The letter requested a signed affidavit from the unemployed son stating that he is not employed along with copies of the Social Security information. A letter dated October 29, 2012 from Gretchen Markley to Ms. Silvestre provided formal notice that the documents were received and Epie Jr., would be able to reside in the property without triggering repayment of her deceased parent's rehabilitation loan.

In 2012, after the passing of Epie L. Fresquez and Tomasa M. Fresquez, housing office staff received a request from the borrowers' trustee/Executrix, Peggy Silvestri, that her sibling Epie Fresquez, Jr., continue to occupy the rehabilitated property as his primary residence. Epie Jr. was living with (and caring for) the parents at the time they passed. In order to accommodate this request, County staff required approval from HCD. The funds originated from HCD's HOME and CALHOME programs funds and staff needed to ensure that the program requirements would still be met, including the occupant meeting low-income requirements. After staff received HCD approval, Peggy Silvestre received formal notice that HCD approved the request provided that Epie Fresquez, Jr. continued to occupy their parent's home and the property remained in the parent's Revocable Living Trust in the letter referred to above dated October 29, 2012 and in an email dated August 7, 2012 from Raymond Victor, Program manager CalHOME Program, Department of Housing and Community Development to Jane Barr. The August 7<sup>th</sup> email stated that CalHOME reviewed the information provided by County staff and formally agreed that Eppie Jr., would be able to continue to reside in the property. Housing office staff provided the terms, principal amounts and accrued interest to date of the two loans to Ms. Silvestri. Ms. Silvestri was also informed that pre-payments may be made at any time prior to the due date. No payments have been made to the County on these two loans.

Housing staff was informed of a code violation on the Fresquez property on December 18, 2017. Ms. Silvestre was notified of the code violation and in communication with housing staff regarding the violation in emails dated December 18, 2017. In these emails, Ms. Silvestre informed housing staff that the unit was without homeowner's insurance because an illegal wall built out of unfinished sheetrock was erected in the living room. Staff then determined that the Fresquez property was in violation of the HOME Program loan regulations due to the lack of insurance and maintenance of the property. It was further determined that the property was cluttered with abandoned vehicles and debris and that additional individuals were living the home without County approval and contrary to HCD requirements.

Ms. Silvestri came into compliance with the code violations on December 21, 2017 by removing a trailer full of garbage, abandoned vehicles, other bulky items and an illegal wall in the living room built with unfinished sheetrock. Ms. Silvestre in an email dated April 5, 2018 said she had until April 26, 2018, approximately one year later to get the people who moved in after she cleared the property to pack up and leave the house so that she would be able to fix it up and put the house up for sale to pay off the loans to the County.

Ms. Silvestri has listed the property for sale and in a meeting with County staff on July 11, 2019, she stated she has an offer on the property. In a letter from Ms. Silvestre to Supervisor Phillips dated June 29, 2019, Ms. Silvestre stated that she hired a real estate agent and agreed to list the property for \$365,000 and they were advised to drop the price to \$330,000 and did not get a buyer. Ms. Silvestre emailed Rosa Camacho-Chavez on March 28, 2019, that she has had a difficult time paying clean-up crews and removing illegal squatters on the property and the painting and repairs required on the property. Ms. Silvestre is concerned that her brother will become homeless and have no money to move into an apartment.

**DISCUSSION:**

On March 28, 2019, Ms. Peggy Silvestre submitted a request to the housing office requesting that the County forgive the interest on the two loans. She stated that she has been receiving low purchase offers on the property and that she has been investing money out of her pocket to put the property in a saleable condition. On April 30, 2019, Ms. Silvestri submitted additional documentation regarding the additional costs to fix and clean up the house and clear the code violations and place her parents' home up for sale. County staff reviewed these documents and the history of the property to make a determination on Ms Silvestre's request.

The HOME loan funds were issued on July 13, 2006. The CalHome loan funds were issued on December 5, 2006. Both loans have a 3.00% simple interest rate and are deferred for 30 years. The borrowers have not made any payments. Both loans are due and payable in full in 2036, if the approved occupants were residing in the unit.

HOME program loan balance

Principal \$161,217.00  
Interest through July 31, 2019 \$63,152.89  
TOTAL \$224,369.89

CalHOME program loan balance

Principal \$50,000  
Interest through July 31, 2019 \$18,990.41  
TOTAL \$68,990.41

The total principal balance on the two loans is \$211,217.00. The total interest on the two loans through July 31, 2019 is \$82,143.30. **The total (interest and principal) owed to County of Monterey through July 31, 2019 is \$293,360.30.**

The attached Estimated Seller's Statement from Chicago Title Company shows that the Balance Due to Seller at closing is \$6,081.02.

Housing and Economic Development Housing Program Manager, Anastacia Wyatt, reviewed the file as well as program guidelines, and determined there is no provision to forgive any of the interest on Epie L. Fresquez and Tomasa M. Fresquez' existing CalHome and HOME loans. The recaptured funds, including interest, would be placed into the housing fund for the County which would help other low-income households in need. The original intent of these loans was to ensure Mr. and Mrs. Fresquez could replace their home in order to age in place and live out their years. The borrowers' son, Epie Fresquez, Jr., has lived in the home with his parents when the home was replaced and continued to benefit from living in the unit since the father passed away in 2012 without making a payment on the County loans. Other liens on the property include defaulted property taxes and sewer fees due to the County Tax Collector of approximately \$3,700.

County staff including Nicholas Chiulos, Assistant County Administrative Officer, Anastacia Wyatt, Housing Program Manager, and Rosa Camacho-Chavez, Housing Program Analyst met with Ms. Silvestre on July 11, 2019. At this meeting, Ms. Silvestre again requested that the County forgive the accrued interest on the loan so that she would have cash from the sale.

Ms. Wyatt followed up in a phone call with Ms. Silvestre on July 12, 2019 to see if Epie Fresquez Jr., was a veteran and would qualify for veteran benefits. Ms. Silvestri confirmed he was not a Veteran. Ms. Wyatt also asked if Peggy Silvestre had called the Housing Resource Center to initiate entering her brother into housing services. Peggy Silvestre said she knew how to apply for these programs and her brother was going to move to Fresno to be closer to his other sister.

**OTHER AGENCY INVOLVEMENT:**

The County Counsel Office has reviewed the CalHome and HOME loan documents, and this report.

**FINANCING:**

There is no fiscal impact on the General Fund. Any repayment of the CalHome loan (Fund 013, Community Development Reuse, CAO041, Unit 8517) is considered Program Income and can only be used for CalHome eligible affordable housing projects. Repayment of the HOME loan (Fund 013, Community Development Reuse, CAO041, Unit 8517) is considered HOME Program Income and can only be used to finance new HOME eligible, affordable housing projects.

Housing office staff could not find any records of previously forgiven loan balances to other borrowers. The Housing and Economic Development division has eighty-three (83) HOME loans and three (3) CalHOME loans as of the end of fiscal year 2017-18. Principal balance of the HOME loans at the end of last fiscal year was \$8,678,513.65 and CalHOME was \$150,000. All loans are carrying a 3.00% simple interest rate and they all mature at different dates.

Forgiving the interest on these loans could be a precedent setting act that would endanger the integrity of the revolving loan programs and future income for County housing programs.. The County Department of Social Services, Aging and Adult Services coordinates with Housing and Economic Development to provide opportunities for seniors to age in place. Epie L. Fresquez and Tomasa M. Fresquez were able to spend their last years in a new home on their property without paying any interest or principal with the intent that upon their death it would be repaid in full.

The County would like to continue to maintain its program guidelines and follow them in order to provide the same opportunity for other elderly residents throughout the County.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

The County's Housing Rehabilitation Program has provided home improvement opportunities in the unincorporated areas of Monterey County to Low income households.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- Administration
- X Health & Human Services
- Infrastructure

\_\_ Public Safety

Prepared by: \_\_\_\_\_  
Anastacia Wyatt, Housing Program Manager, Ext. 5387

Approved by: \_\_\_\_\_  
Nicholas E. Chiulos, Assistant County Administrative Officer, Ext. 5145

Attachments:

Board Report

Exhibit A - Copy of Est Seller's Stmt and Costs Incurred by Peggy Silvestri, Executrix of the Estate

Exhibit B - Copy of Email dated 3.28.19 from Peggy Silvestre

Exhibit C - Copy of HOME loan payoff thru 7.31.19

Exhibit D - Copy of CalHome loan payoff thru 7.31.19

Exhibit E - Copy of email dated April 5, 2018

Exhibit F - Copy of Letter from Peggy Silvestre to Sup John M. Phillips dated 6.29.19

Exhibit G - Copy of Email from Jane Barr to HCD dated 7.30.12

Exhibit H - Copy of letter dated 11.2.11 from Gretchen Markley to Peggy Silvestri

Exhibit I - Copy of letter dated 10.12.12 from Gretchen Markley to Peggy Silvestri

Exhibit J - Copy of email dated 8.7.12 from Jane Bar to Peggy Silvestri

Exhibit K - Copy of email dated 12.18.17 from David Spaur to Elizabeth Ruiz