



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 18-803, Version: 1

Approve and authorize the Auditor-Controller to write off \$14,791.62 in delinquent principal, and to forgo collection of approximately \$28,244.30 in interest, as of August 31, 2018, on a Home Improvement/Rehabilitation Loan made to Guadalupe G. Vasquez and Maria Vasquez at 10300 Seymour Street, Castroville, CA 95012, as uncollectible debt

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Auditor-Controller to write off \$14,791.62 in delinquent principal, and to forgo collection of approximately \$28,244.30 in interest, as of August 31, 2018, on a Home Improvement/Rehabilitation Loan made to Guadalupe G. Vasquez and Maria Vasquez at 10300 Seymour Street, Castroville, CA 95012, as uncollectible debt.

SUMMARY:

The County received grant funds in the early and mid-1980's to run housing rehabilitation programs. Day-to-day operations were handled by the Housing Authority with Bank of America (BoFA) as the fiscal agent. The Board is asked to authorize the Auditor-Controller to write off one Home Improvement/Rehabilitation Loan as uncollectible debt due to unusual circumstances that make collection unlikely.

DISCUSSION:

The County, through various housing grant programs, has implemented the housing rehabilitation and first time homebuyer loan programs since the early 1980s. Since the County funded its first housing loan, the County has approximately \$14 million dollars with to more than 150 loans. The rehabilitation loan program has been funded through grants allocated to the County by the California Department of Housing and Community Development.

On May 11, 1982, on behalf of the County of Monterey, Bank of America made a loan to Guadalupe G. Vasquez and Maria Vasquez. The loan was extended to fix plumbing leaks, mitigate fungus infection and termite damage, repair structural damage including but not limited to the roof and the garage, fumigate the structure, etc. BoFA formally assigned the Promissory Note and Deed of Trust to the County of Monterey on July 23, 1982. PARLAP, Inc. then became the Trustee of the Deed of Trust and Promissory Note. The owners passed away in 2006 and left the property to their children. The current owners (sons and beneficiaries) refinanced the home in 2006, and at that time, PARLAP, Inc. erroneously reconveyed the County's loan and property was transferred to the beneficiary without encumbrance. This occurred without the authorization of the County and the County was not notified of this until sometime in 2011. According to the Promissory Note in file, the beneficiaries should either have been qualified to assume the loan or the rehabilitation loan should have been paid off at the time of refinance.

County staff have worked diligently with the borrowers' sons, their attorney, the title company that performed the refinance and recorded the Deed of Reconveyance of the County's loan, and County Counsel, to try to obtain repayment, but all attempts were unsuccessful. The current owners believe the loan has been closed, and the title company states that it is not responsible for the Trustee (PARLAP, Inc.'s) erroneous reconveyance of the County's lien.

Pursuant to Monterey County Code section 5.16.030(B), County Counsel has determined that it is in the best interest of the County to write off this loan as there is little to no possibility of collecting the outstanding loan balance under these circumstances for several reasons. The Trustee, PARLAP, Inc., had the authority to reconvey the property subject to the loan and did so in 2006, twelve years ago. The effect of that reconveyance was that the current property owners took title to the property free and clear of the debt owed to the County. Even if that reconveyance was erroneous or fraudulent, the current owners in such a situation were entitled to rely on the reconveyance as a bona fide purchaser for value and the County, as the Beneficiary no longer holds a property interest in the land. As such the County has no option to foreclose on the property to recover the loan and the County's sole remedy would be to file a lawsuit against PARLAP, Inc. However, even if the County were to pursue damages against PARLAP Inc., the applicable statute of limitations would likely stand as a substantial barrier to succeeding in any such suit. Additionally, the added expense of collection efforts in these circumstances could easily offset recovery, resulting in a net loss to the County.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed the loan and associated documents and determined that recovery is unlikely.

FINANCING:

These actions will have no impact on the General Fund. The recommended action will recognize the loss of \$14,791.62 in principal and \$28,244.30 in interest, that will not be repaid to Fund 013 (Community Development) Organizational Unit 8199.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The County's Housing Programs have provided homeownership and home improvement opportunities in the unincorporated areas of Monterey County to Low or Moderate income households. Currently, the County has program income funds for the First Time Homebuyer Program.

Mark a check to the related Board of Supervisors Strategic Initiatives

☒ Economic Development

☐ Administration

☒ Health & Human Services

☐ Infrastructure

☐ Public Safety

Prepared by: _____
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Approved by: _____
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Attachments:
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