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Housing For Persons With Special Needs Housing Challenges and Solutions

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HOUSING FOR PERSONS WITH SPECIAL NEEDS
HOUSING CHALLENGES AND SOLUTIONS

The job of an attorney helping with special needs clients and a trustee of a special needs trust extend much further than just giving simple legal advice or managing a trust. When this type of a job is undertaken, the attorney and trustee become more than just someone that the beneficiary turns to, they also become a trusted advisor for the entire family. As such, the attorney and/or trustee must know a wide variety of information and have multiple resources for all of the needs of their client and to assist the client's family with the client.

One of the questions that frequently arises is whether or not a beneficiary, the trust or the family should purchase or remodel a home. When those types of questions arise, the attorney or trustee will need to know not only if the home ownership or improvement is a good idea, but also how the client or client's family will pay for the purchase or improvement. The question of whether or not a beneficiary should own a house was previously addressed at the 2020 University of Texas Special Needs Conference in a paper entitled Home Sweet Home. But once that question is answered, then the funding of the purchase or improvement becomes the issue. Many times, due to the nature of the beneficiary's disability, one or more of the family members cannot work, leaving it hard for them to acquire an appropriate house or improve the house that they live in to accommodate the person with disabilities. The information contained herein will outline the programs and loans available to such families and act as a resource for the attorneys and trustees servicing them.

DEFINITIONS

The following terms are commonly used in the banking and real estate communities:

1. **CLOSING COSTS** - Costs and expenses buyers and sellers incur in addition to the sales price. Closing costs can include, among other things, escrow fees, loan origination costs, surveys and recording costs

2. **CONVENTIONAL LOAN** – a loan designed for individuals that meet the income, asset and credit rating tests established by the lender. These types of loans traditionally require a twenty percent down payment and are not guaranteed or insured by the federal government.

3. **FANNIE MAE** – Federal National Mortgage Association. A publicly traded company created in 1938 by Congress. Fannie Mae does not originate mortgages but does guarantee them so that banks will make loans to qualified individuals.

4. **FHA** – Federal Housing Administration – FHA is the largest insurer of residential mortgages in the world. FHA insure loans through various lenders so that low to medium income individuals can still obtain financing.

5. **FREDDIE MAC** – Federal Home Loan Mortgage Corporation. A stockholder owned, government sponsored enterprise chartered in 1970 by Congress to keep money flowing to mortgage lenders. Freddie Mac purchases loans from banks.

6. **HUD** – US Department of Housing and Urban Development. HUD is responsible for the operations of the FHA.

. **PMI** – Private Mortgage Insurance. A type of insurance that conventional mortgage lenders require when homebuyers put down less than 20% of the home purchase price.

LOANS FOR HOME PURCHASES

One of the most complicated components of purchasing or improving a house for low-income or individuals with a disability is finding a loan that will accommodate their financial situation. However, there are several options for such individuals depending on the income level and credit score of the person wanting to purchase the home and/or the location of the home. Below are some of the loans available to people that have a hard time getting a conventional loan.

1. **HOME READY PROGRAM and HOME POSSIBLE ADVANTAGE LOAN** – The HOME READY PROGRAM through FANNIE MAC and the HOME POSSIBLE ADVANTAGE LOAN through FREDDIE MAC are government sponsored loans designed for creditworthy low-income buyers.

These loans feature down payment requirements as low as 3% of the Sales Price. For individuals with little to no savings, this can be a way for them to obtain a house without having to pay a large amount at closing. Plus, in Conventional Loans, the individual must use his/her own money for the down payment. For these two mortgages, the individual may have the money for the down payments gifted or granted.

Another attractive feature of these loans is that the PMI is generally lower than in traditional loans. This means that the individual will pay less monthly payments to the bank, making the loan more affordable.

When a buyer is obtaining a conventional loan, the buyer is typically responsible for all loan origination costs and approximately one-half of the Closing Costs. When a buyer is financing the transaction through the Home Ready Program or the Home Possible Advantage loan, that buyer can negotiate with the Seller to have the Seller to pay Closing Costs so longs as the Closing Costs don't exceed three percent (3%) of the purchase price. If a good sales price has already been achieved, the purchaser should ask for this rather than asking for the sales price to be reduced further.

Exhibit A attached hereto is the Fannie Mae flyer for the HOME READY PROGRAM. Exhibit B attached hereto is the Freddie Mac flyer for the HOME POSSIBEL ADVANTAGE program.

For more current information, the following are the websites for these loans:

Website for HOME READY PROGRAM: singlefamily.fanniemae.com/originating-underwriting/mortgage-products/homeready-mortgage

Title search: Housing for Persons with Special Needs - Housing Challenges and Solutions

Also available as part of the eCourse
2021 Special Needs Trusts eConference

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