



# HOMEBUYER

## RESALE AND RECAPTURE POLICIES

The City of Bellingham provides financial assistance to low-income homebuyers and homeowners. The source of the financial assistance is federal HOME and CDBG funds allocated to the City, as well as Housing Levy funds approved by voters. City financial assistance for homebuyer activities could include Levy, HOME and CDBG funding.

Participating Jurisdictions (PJs) undertaking HOME-assisted homebuyer activities, including any projects funded with HOME Program Income (PI), must establish written resale and/or recapture provisions that comply with HOME statutory and regulatory requirements, specifically the provisions in 24 CFR 92.254, and further articulated in CPD Notice 12-003. These provisions must also be set forth in the PJ's Consolidated Plan. The written resale and/or recapture provisions that a PJ submits in its annual Action Plan must clearly describe the terms of the resale and/or recapture provisions, the specific circumstances under which these provisions will be used (if more than one set of provisions is described), and how the PJ will enforce the provisions for HOME-funded ownership projects. HUD is required to determine whether the PJs resale or recapture requirements are appropriate and approve them in writing.

The City of Bellingham provides additional funding for homebuyer activities from the voter-approved Housing Levy. The Levy homebuyer program does not require restrictions on resale, but does provide additional financial assistance to homebuyer projects, which have resale restrictions for a period of at least 50 years.<sup>1</sup>

The purpose of this section is to provide the "resale" and "recapture" policies of the City of Bellingham. The City has four programs to assist homeowners or homebuyers:

1. First Time Homebuyer Program - down payment or closing assistance to new homebuyers. The financial assistance is a direct benefit to the homebuyer.
2. Homebuyer Development - the city provides financial assistance to a developer who sells homes to qualified low-income homebuyers.
3. CLT Homebuyer Program – assistance paying for the cost of land owned by a nonprofit Community Land Trust (CLT) associated with homes sold to low-income homebuyers. The city investment would remain in the land as subsequent sales of the home on that land continue to benefit low-income homebuyers.
4. Homeowner Rehabilitation Program - the city provides financial assistance to owners of existing homes to repair and rehabilitate their home. HOME Rules do not require continued affordability requirements associated with rehabilitation assistance to owner-occupants.

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<sup>1</sup> Non-resale restricted homes are eligible for assistance up to a maximum of \$30,000 per household, and resale restricted homes are eligible for assistance up to a maximum of \$40,000 per household.

## Resale

This option ensures that the assisted units remain affordable and occupied by a low-income household over the entire affordability period. The restrictions and affordability period are set forth in a funding agreement and restrictive covenant. Upon sale of the property by the initial homebuyer during the period of affordability, the subsequent homebuyer must be a low-income household (80% AMI or below) that will occupy the property as their principal residence. The initial homebuyer must receive a fair return on their investment.

The Resale method is used in the following cases:

1. Development Subsidy: Where HOME, CDBG or Levy funding is provided directly to a developer (including a Land Trust) to reduce development costs, thereby making the price of the home affordable to the buyer. These funds are not provided directly to the homebuyer, but are a "development subsidy" that enables the homes to be affordable to a low-income homebuyer.
2. Downpayment Assistance with Land Trust Homes: Where HOME, CDBG or Levy funding is provided to assist a homebuyer in acquiring a home, with or without rehabilitation, on land leased from a community land trust (e.g. Kulshan Community Land Trust).
3. Levy Funds with 50-year Resale: Where Levy funding is provided based on a representation that sales will be restricted to qualified low-income homebuyers for 50-years, thus making additional financial assistance from the City available.

**Enforcement of Resale Provisions.** The resale policy is enforced through the use of a Funding Agreement and Restrictive Covenant signed by the homebuyer and developer, if applicable, at closing. The Funding Agreement and Low-Income Homebuyer Covenant will specify:

1. Affordability Period. The Resale policy is enforced for the affordability period as set forth below:
  - a. If HOME funds are used, the length of the affordability period is based on the total amount of HOME funds invested in the unit (see HOME Rules). The typical affordability period for HOME-assisted homebuyer units is 10 years (\$15,000 to \$40,000 of HOME assistance per- unit).
  - b. If Levy funds are used that are subject to Resale restrictions, the affordability period is 50 years.
  - c. If CDBG funds are used, the affordability period is no less than five years, or as set forth in the Funding Agreement and Low-Income Homebuyer Covenant.
  - d. If more than one source of funds are used to assist the homebuyer, the home may be subject to multiple affordability periods. Where multiple affordability periods exist in a home, resale of the home will be restricted to the longest period set forth in the Funding Agreement and Low-Income Homebuyer Covenant.
2. Initial Homebuyer Requirement. The initial homebuyer must occupy the home as their principal residence, and no temporary or permanent sublease or rent is allowable. Principal residence means residing for more than 183 days of each year in the home.

3. Condition of Property. The homeowner must maintain the property in good repair in order to meet the minimum housing and property standards set forth in the Funding Agreement. These standards must be met at the time of resale to a qualified low-income homebuyer.
4. Subsequent Homebuyer Requirements and Reasonable Range of Low-Income Homebuyers. The home must remain affordable to a reasonable range of low-income households. The affordable price includes housing cost for mortgage principal, interest, taxes and insurance of not more than 35% of the gross monthly income for a household between 50 and 80% of the area median income for Bellingham, Washington. The initial homebuyer may not sell the home during the affordability period except to a purchaser who will occupy the home as their principal residence and whose household income is at or below eighty percent (80%) of area median income, adjusted for household size, in Bellingham, Washington. The City must be responsible for verification and qualification of the subsequent buyer's income.
5. Security. Any funds invested in housing that does not meet the affordability requirements must be repaid. The City will secure their financial interest in the affordability requirements through a Deed of Trust, Recoverable Grant Agreement and/or Promissory Note that will ensure repayment in the event that the affordability requirements are not met.

In the event of foreclosure, the City might be at risk of losing the City's financial interest in the home. If the financial investment includes HOME assistance, the City will be required to repay the funds to the HOME Investment Trust Fund Treasury account or the local account. In order to minimize the City's risk for repayment in the event of foreclosure, the City will adhere to the following policies:

- a. If the City's investment is a development subsidy, the City will require the developer to provide other suitable security or assurance that the funds will be repaid to the City.
- b. If the City's investment is to a homebuyer on property leased from a Community Land Trust, the City will require the Community Land Trust to also secure the loan with a Deed of Trust, Recoverable Grant Agreement and/or Promissory Note.

**Fair Return on Investment.** Homeowners which sell City-assisted housing are provided a fair return on their investment, while ensuring that the home is sold to another income qualified household.

The fair return is calculated as follows. The homeowner that sells their home may receive their original contribution (down payment plus principal paid down on their first mortgage) from sale proceeds, plus the value of any credit-eligible improvements paid by the homeowner minus the value of any significant deferred maintenance or damage. The calculation is further described below:

1. Cash downpayment. The amount of cash paid by the homebuyer to acquire the property in excess of closing costs. In the event the borrower borrows funds for closing cost, this may be a negative number.
2. Amount paid to principal. The amount of cash paid by the homebuyer that is credited to principal on the mortgage(s).
3. Capital improvements. The addition of livable space (bedroom, bathroom, finished basement, finished attic space, the addition of a garage (either attached or detached)) shall be considered a Qualified Capital Improvement. In order to receive credit for a Qualified Capital Improvement

prior to commencing construction, the homebuyer must submit to the City (or leaseholder if a community land trust) detailed plans, itemization of expected costs and permits for the proposed construction. The City (or leaseholder) must agree to the scope of the proposed construction and timeline for completion, in addition to the future affordability of the improvements for subsequent resale to qualified low-income homebuyers. 50% of the cost of the qualified Capital Improvements that were agreed to in advance by the City or community land trust shall qualify as Capital Improvement Credit.

4. Capital Systems Replacement. For the purpose of qualifying as a Capital Systems Replacement the roof, plumbing (excluding fixtures), foundation, electrical (excluding fixtures), heating, sewer line, insulation, or windows, shall be considered Capital Systems if at least fifty percent (50%) of the Capital System is replaced and the new Capital System has an expected life-span of at least 30 (thirty) years. The addition of alternative energy production system(s) shall qualify for credit under this passage. In order to receive a credit for Capital Systems Replacement, the homeowner must consult with the City or community land trust prior to replacing a Capital System and agreement must be reached between the homeowner and City/community land trust regarding the scope and cost of the proposed replacement. The intention of this credit is to encourage and create incentives for homeowners to maintain the functionality of these systems and to increase the quality of energy efficiency, durability and ease of maintenance over time while simultaneously maintaining affordability. Provided all conditions of this paragraph and the agreement between the City/community land trust and homeowner described herein are met, the following payment schedule shall apply:

# of Years Between Capital System Replacement & Sale			
	<10 Years	Between 10 – 20 Years	More than 20 Years
% of Cost to be Credited	100%	50%	0%

Replacement of less than fifty percent (50%) of any Capital System will be considered repair and the cost of such a repair will not be eligible for credit under this section.

5. Fair Return Multiplier. The City will apply a multiplier of 1.5% on the total of the homeowner's cash payments outlined in items 1-4 of this subsection. This multiplier is based on an analysis of the adjusted Washington State Employment Security Department, median hourly wage data for all industries for Whatcom County. The City monitors this data annually and analyses the changes over time; the City also compares this data to the annual adjusted averages of the Quarterly Census of Employment and Wages for Whatcom County, the HUD-based median family incomes for the Bellingham MSA, and the American Community Survey median household income for the Bellingham MSA. All of these indices have adjusted rolling averages below 1.5% (and more typically below 1%). The Washington State median hourly wage data set represents a third-party objective index. The decision to use a fixed rate multiplier based on a round-up of the rolling average of this data over time reflects the City's desire for the multiplier to be fair, objective, consistent, transparent, and easy to calculate for the homeowner.

An Example Calculating Fair Return on Investment. The following is an example of how fair return on investment would be calculated.

Category	Description	Eligible Cost
Downpayment	The homeowner put \$2,500 towards downpayment in excess of closing costs.	\$ 2,500
Principal	Over five years, the homeowner paid \$4,500 that was credited to principal on their mortgage on the property.	\$ 4,500
Capital Improvements	The homeowner added a garage after receiving prior approval. The cost of the garage was \$15,000, and 50% of that cost was eligible as credit.	\$ 7,500
Capital Systems Replacement	The homeowner replaced the roof with 30-year roofing in the past year. The cost of the roof was \$4,750.	\$ 4,750
Multiplier	Index-based multiplier of 1.5% over the 5 years the property was owned by the initial homeowner.	\$ 1,444
<b>TOTAL FAIR RETURN ON INVESTMENT TO HOMEOWNER</b>		<b>\$ 20,694</b>

Example:

The homeowner purchased the home for \$300,000, which includes subsidies provided by the City and other affordable housing providers. The original homebuyer's primary mortgage was \$210,000, plus an additional deferred loan of \$35,000 from the City. It has been determined that the homeowner's fair return on investment is \$20,694.

In order to realize a fair return to the original homeowner, the sales prices must be at least \$230,694 (\$210,000 mortgage and \$20,694 fair return on investment). In order to ensure that the home is affordable to a reasonable range of low-income homebuyers, the City determined that the sales price would have to be between \$175,000 and \$270,000.

Sale Price	\$ 245,000
Mortgage	- 189,000
Fair Return on Investment	- 20,694
City Investment	- 35,000
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Additional Equity Available	\$ 306

In most homebuyer projects in Bellingham, the home is on land leased by Kulshan Community Land Trust (KCLT). KCLT works to ensure that the home remains affordable in perpetuity and stays in the land trust. KCLT's groundlease is consistent with the City's Resale Policy. Community land trust homes are an important link in the housing chain, as they provide a middle ground between renting and traditional homeownership (via the private non resale-restricted market).

The City must ensure a fair return on investment, but the homebuyer must also understand that other restrictions (including market forces) might cap how much appreciation the owner might achieve in a

resale of their home. The City may assist another homebuyer in purchasing the housing by allowing the existing financial assistance to be assumed, or by providing additional financial assistance to purchase the home. If the City provides additional financial assistance, a new affordability period will begin for the new homebuyer.

## Recapture

Under recapture provisions, financial assistance must be repaid if it is provided directly to the buyer or the homeowner. Upon resale the seller may sell to any willing buyer at any price. The written agreement and promissory note will disclose the net proceeds percentage if any that will be allotted to the homebuyer and what proceeds will return to the PJ. Once the funds are repaid to the PJ, the property is no longer subject to any low-income affordability restrictions. The funds returned to the PJ may then be used for other eligible activities. The Recapture method is used in the following cases:

1. Homebuyer Loans: Where HOME, CDBG or Levy funding is provided directly to a qualified low-income homebuyer to make the home affordable, where the home does not have additional resale restrictions through a community land trust (e.g. Kulshan Community Land Trust).
2. Condominium Units: Where HOME, CDBG or Levy funding is provided to a qualified low-income homebuyer purchasing a housing unit pursuant to the Condominium Act (RCW 64.34).

Recapture provision will be enforced by a written funding agreement signed by the homebuyer and the City and/or intermediary as well as a recorded Deed of Trust that is the security instrument for the subordinate loan promissory note.

The recapture model that applies is "Recapture entire amount". This model recaptures the entire amount of the City's investment into making the home affordable to the homebuyer. The amount recaptured cannot exceed the net proceeds of the sale, if any. The amount to be recaptured includes outstanding principal, plus any interest owed (if any), on the City's financial assistance. The principal amount subject to recapture is only the direct subsidy benefitting the homebuyer, which is the loan of HOME, CDBG or Levy funds to the homebuyer.

**Net Proceeds Calculation.** Net proceeds are the sales price minus superior loan payment (other than City funds) and any closing costs. The sale must be to a bona fide third party unless a value is determined by an appraisal satisfactory to the City, or the property was purchased through condemnation proceedings.

An Example Calculating Recapture. The following two examples compare the amount to be recaptured by the City based on Net Proceeds.

	Scenario 1	Scenario 2
Sale Price	\$ 225,000	\$ 225,000
less superior debt	- 144,500	- 185,000
less closing costs	- 7,000	- 7,000
less City debt	- 35,000	- 35,000
Net Proceeds to Owner	\$ 38,500	-\$ 2,000
Adjusted City funds to be recaptured	0	33,000
Adjusted Net Proceeds to Owner	\$ 38,500	0

## City of Bellingham

### Home Sales - Market Analysis (2021)

#### All Single Family Sales

Statistics 2021 (Jan - Dec)	
Number of Sales	1270
Total Value	\$768,978,969
Minimum Value	\$ 165,000
Maximum Value	\$ 7,310,000
Mean Value	\$ 605,495
Median Value	\$ 545,000
<b>95% of Median Value</b>	<b>\$ 517,750</b>

#### Single Family Sales Only (No Condos)

Statistics 2021 (Jan - Dec)	
Number of Sales	947
Total Value	\$635,638,881
Minimum Value	\$ 165,000
Maximum Value	\$ 7,310,000
Mean Value	\$ 671,213
Median Value	\$ 590,000
<b>95% of Median Value</b>	<b>\$ 560,500</b>

#### Condo Only Sales

Statistics 2021 (Jan - Dec)	
Number of Sales	323
Total Value	\$133,340,088
Minimum Value	\$ 173,000
Maximum Value	\$ 2,000,000
Mean Value	\$ 412,818
Median Value	\$ 361,000
<b>95% of Median Value</b>	<b>\$ 342,950</b>

#### All 2-Unit Sales

Statistics 2021 (Jan - Dec)	
Number of Sales	49
Total Value	\$32,437,943
Minimum Value	\$ 318,000
Maximum Value	\$ 1,550,000
Mean Value	\$ 661,999
Median Value	\$ 647,000
<b>95% of Median Value</b>	<b>\$ 614,650</b>

#### All 3-Unit Sales

Statistics 2021 (Jan - Dec)	
Number of Sales	3
Total Value	\$2,670,000
Minimum Value	\$ 710,000
Maximum Value	\$ 1,185,000
Mean Value	\$ 890,000
Median Value	\$ 775,000
<b>95% of Median Value</b>	<b>\$ 736,250</b>

#### All 4-Unit Sales

Statistics 2021 (Jan - Dec)	
Number of Sales	12
Total Value	\$12,550,100
Minimum Value	\$ 648,000
Maximum Value	\$ 1,975,000
Mean Value	\$ 1,045,842
Median Value	\$ 1,050,000
<b>95% of Median Value</b>	<b>\$ 997,500</b>

*Sales are within City of Bellingham City Limits from Jan 2021 through Dec 2021*

*Data obtained from Whatcom County Assessor Sales Data. "Qualified" sales only (SWD only, no Quit Claims or mobile homes included)*

*Median value as determined by HUD/CFR Regulations (To determine the median, take the middle sale on the list if an odd number of sales, and if an even number, take the higher of the middle numbers and consider it the median. After identifying the median sales price, the amount should be multiplied by 0.95 to determine the 95 percent of the median area purchase price.)*



**City of Bellingham**  
Home Sales - Market Analysis (2021)

Single Family Sales By Bedroom Count (No Condos)

Statistics 2021 (Jan - Dec)				
	1-2 Bedroom	3 Bedroom	4+ Bedroom	Total
Number of Sales	204	525	218	947
Total Value	\$115,172,050	\$339,464,260	\$181,002,571	\$635,638,881
Minimum Value	\$ 197,132	\$ 211,000	\$ 165,000	\$ 165,000
Maximum Value	\$ 7,310,000	\$ 1,605,475	\$ 2,500,000	\$ 7,310,000
Mean Value	\$ 564,569	\$ 646,599	\$ 830,287	\$ 671,213
Median Value	\$ 490,000	\$ 586,500	\$ 730,000	\$ 590,000
<b>95% of Median Value</b>	<b>\$ 465,500</b>	<b>\$ 557,175</b>	<b>\$ 693,500</b>	<b>\$ 560,500</b>

## City of Bellingham - 2021 Rental Market Study & Rent Payment Standard

	<a href="#">Efficiency</a>	<a href="#">One-Bedroom</a>	<b>Two-Bedroom</b>	<a href="#">Three-Bedroom</a>
Rent**	\$ 1,100	\$ 1,195	\$ 1,600	\$ 2,220
Utility allowance*	\$ 52	\$ 58	\$ 74	\$ 127
FMR	\$ 1,152	\$ 1,253	\$ 1,674	\$ 2,347
<b>Payment Standard (rounded)</b>	<b>\$ 1,150</b>	<b>\$ 1,250</b>	<b>\$ 1,675</b>	<b>\$ 2,350</b>

\* based on Bellingham Housing Authority energy efficient, all electric unit in a complex of 4 units or more (see Utility Rates worksheet). NOTE: utilities are not included in calculations below

\*\* based on median rent of all available units during 30 day period beginning 7/30/2021, with highest and lowest and highest priced units (outliers) removed

### HUD Final FY 2021 FMRs By Unit Bedrooms

<a href="#">Efficiency</a>	<a href="#">One-Bedroom</a>	<b>Two-Bedroom</b>	<a href="#">Three-Bedroom</a>
\$907	\$972	\$1,245	\$1,782