



Down Payment Assistance

Details to consider • Fair Housing implications • Anti-aid Amendment

ELEMENTS OF A DOWN PAYMENT ASSISTANCE PROGRAM

- Generally assistance through down payment programs offer a zero interest, deferred payment, five or 10 year term loan. A five year loan is generally forgiven after five years and a 10 year loan after 10 years. If the borrower sells the home before the loan is forgiven, there is a “recapture” formula written into the loan agreement.
- Income limits of eligible applicants is generally determined by the funding source. For programs funded by the Community Preservation Act, the cap would be households earning up to 100% of the area median income (AMI).
- Many programs are for first time homebuyers (someone who hasn’t owned for the past three years).
- Particularly if the program targets first time homebuyers, requiring First Time Homebuyer classes, and perhaps even a post purchase class, is prudent.
- Programs may specify the type of home that qualifies (e.g., one, two, and three-family or condos) and that the house must be located in a particularly community. The buyer is also expected to be an owner-occupant and live in the house as a primary residence.
- Similar to other programs, an asset limit of \$75,000 often applies and the buyer may need to put a minimum amount of the sale price down (e.g., 1.5%).
- Minimum credit score (e.g., a minimum score of 660 is required in Boston).

FAIR HOUSING IMPLICATIONS

The Federal Fair Housing Act, passed in 1968, speaks to the challenges that many groups of people have in finding reasonable housing in many of our communities.

All individuals, companies and municipal entities are covered by the Fair Housing Act.

There are two key concepts to consider:

1. **Disparate Impact** — Discrimination is not just direct (e.g., refusing to rent to a person of color). Communities can also create policies and programs that create a disparate impact on some people to find housing.
2. **Affirmatively Further Fair Housing** — Communities are obligated to actively work to decrease residential segregation, lack of housing choice and disparities in housing needs.

ANTI-AID AMENDMENT TO THE MA CONSTITUTION

No grants, contributions or donations of public funds or resources may be given to a private non-profit organization for the purpose of directly supporting or assisting its operations.

There must be a public interest that is expressed with an:

1. Affordable restriction
2. Lease agreement
3. Recapture formula

Payment for programs and services should be made after services are provided.