

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

Resolution No. 2007 - 109

A Resolution Supporting Amendments to NMSA 1978, §§ 7-37-1 through 7-38-8 (1973)(as amended) to Recognize That Affordable Liens and Appreciation Share Liens Under County and Municipal Ordinances Mandating Affordable Housing Are Not Taxable to the Owner of Properties Burdened By Such Liens, and to Authorize Funds from the Affordable Housing Fund (Fund 231) to Alleviate Potential Fiscal Impact on County Affordable Housing Residents During FY07-08.

WHEREAS, the Board of County Commissioners of Santa Fe County adopted its Ordinance No. 2006-02, which requires that affordable housing be created in connection with development projects within the northern and central area of the County;

WHEREAS, Ordinance No. 2006-02, like other affordable housing ordinances that are becoming more common in the State of New Mexico, will provide housing opportunities for current and future residents within a broad range of incomes, thereby bringing additional benefits such as increased property valuation and social stability;

WHEREAS, pursuant to Ordinance No. 2006-02, an "Affordable Mortgage or Lien" is created at the time of the first sale of an affordable home pursuant to the Ordinance;

WHEREAS, the amount of the Affordability Mortgage or Lien is determined by the difference between the price paid for the home by the Affordable Buyer and the market value of the home at the time of sale;

WHEREAS, thereafter, the Affordability Mortgage or Lien is owned by the County and is not forgiven;

WHEREAS, revenue from the Affordability Mortgage or Lien is used to support affordable housing in the County;

WHEREAS, pursuant to Ordinance No. 2006-02, an "appreciation share lien" is also created at the time of first sale of an affordable home pursuant to the Ordinance, in which the County owns a portion of the appreciation of the affordable home that accrues between the time of its first sale to an Affordable Buyer and the time the home is sold;

SFC CLERK RECORDED 08/01/2007

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WHEREAS, the County's appreciation share lien declines over a period of ten years until, in the eleventh year following the first sale to an Affordable Buyer, the County's appreciation share lien is satisfied and released;

WHEREAS, during the period when the Appreciation Share Lien is in force, it is owned by the County and is not forgiven except through the passage of time;

WHEREAS, many low-to-moderate income Santa Fe County residents have purchased Affordable Homes that are governed by Ordinance No. 2006-02, or its predecessor, the Community College District Ordinance, Ordinance No. 2000-12;

WHEREAS, the Property Tax Division of the Taxation and Revenue Department has taken the position with to the Affordability Mortgage and Lien and the Appreciation Share Lien that the value of these liens is part of the full value of a home and taxable to the home owner, and that no portion of these liens is government property which is not taxable;

WHEREAS, it appears to the Board that both types of liens are government property and not properly taxable to the owner of an affordable home by operation of Ordinance No. 2006-02 and by operation of Ordinance No. 2000-12;

WHEREAS, if these liens remain taxable, an adverse financial impact will exist on buyers of homes governed by the County's affordable housing programs, and the adverse financial impact will affect the long-term affordability of affordable homes , and thereby imperil the County's affordable housing program; and

WHEREAS, the financial impact of the decision that such liens are taxable will be greatest on the low to very low-income residents of the community participating in the County Affordable Housing Program and will frustrate the County's efforts to create affordable housing in the community.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Santa Fe County resolves, as follows:

1. The Board of County Commissioners requests that Legislation be introduced and enacted in the next Legislative session that clearly provides that affordability mortgages and liens, appreciation share liens, and other similar instruments that assure long-term affordability of homes in affordable housing programs, are not taxable to the owner of an affordable home.
2. The Board directs staff to determine whether direct support by the Board of County Commissioners for affected residents is authorized under the Constitution and relevant Laws of the State.

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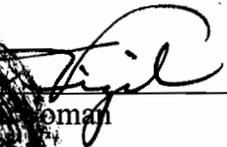
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3. If staff determines that direct assistance is authorized under the Constitution and relevant Laws, staff is directed to implement an application and reimbursement process to assist property owners of affordable housing units purchased through the County's Affordable Housing Program.

4. If staff determines that direct assistance is authorized under the Constitution and relevant Laws, the Board of County Commissioners hereby authorizes the expenditure of \$20,000 from the Affordable Housing Fund (Fund 231) to assist affordable housing residents affected by the impact of the real property tax assessments of the affordably priced units.

PASSED, APPROVED AND ADOPTED this 31th day of July, 2007.

BOARD OF COUNTY COMMISSIONERS



Virginia Vigen, Board of County Commissioners



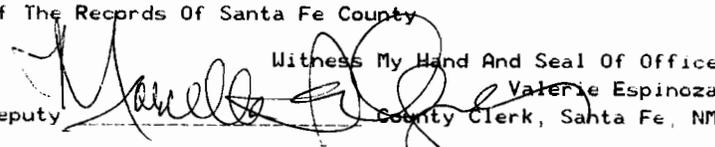
Valerie Espinoza, Santa Fe County Clerk



APPROVED AS TO FORM:



Stephen C. Ross, Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
BCC RESOLUTIONS
PAGES: 3
I Hereby Certify That This Instrument Was Filed for
Record On The 1ST Day Of August, A.D., 2007 at 14:20
And Was Duly Recorded as Instrument # **1494248**
Of The Records Of Santa Fe County
Witness My Hand And Seal Of Office

Deputy Valerie Espinoza
County Clerk, Santa Fe, NM

SFC CLERK RECORDED 08/01/2007