IMPLEMENTING GUIDELINES
FOR
THE GUARANTY PROGRAM FOR ABANDONED/UNFINISHED BUILDINGS

I. Concept

The guaranty program for abandoned/unfinished buildings is intended to encourage banks to extend construction loans to developers for the completion of abandoned/unfinished residential buildings with the credit risk cover and tax incentives of the HGC guaranty.

The program was conceived in order to allow for the conversion of idle and incomplete buildings into residential structures that may be sold as condominiums or leased out as apartment buildings or dormitories.

This program shall be included among the allowable purposes for developmental guaranty lines extended to HGC accredited banks.

If the funds to be used for completion are to be raised thru the issuance of Residential Asset-backed Securities (RABS), Promissory Notes, or other similar instruments and securities, the guaranty of HGC may be applied for. These implementing guidelines shall serve as the template when considering such applications. The final approval shall be given by the HGC Board of Directors in such cases.

II. Eligibility Requirements

1. Location and Physical Condition of the Building

1. Location : The building must be located within Metro Manila and urban centers where demand for condominiums and dormitories are high;

2. Age of Building : The building has been idle/abandoned for not more than 10 years and the remaining useful life should not be less 20 years, as certified by the building official and structural engineer, in order to match the financial term of the loan and the guaranty;

3. Building must be free of illegal occupants;

4. The structural, mechanical and electrical soundness of the building must be certified by licensed engineers and other professionals;

5. The building must comply with existing building regulations, including height restrictions and fire protection mechanisms. Clearances from the following regulatory bodies must be secured

    - Local building official
    - Housing and Land Use Regulatory Board
    - Air Transportation Office

2. **Title to the Property and Property Taxes**

    1. Title to the property must be registered in the name of the borrower/developer, free from liens and encumbrances.

    2. Should there be liens on the property and claims from unpaid creditors, contractors, suppliers and buyers, the developer shall be responsible for the settlement of the same, either in cash or issuance of promissory notes, which are payable upon completion and satisfactory marketing of the building or assignment of completed units or future sales of the building. The remaining collateral/assets should be sufficient to cover the new loan.

    3. A notice to the public shall be published in three (3) leading newspapers to advise all creditors, unpaid contractors, suppliers and buyers to register their claim on the property/project within a specified period. At least 3 consecutive publications should be made in 3 leading newspapers.

    4. All registered claims shall be supported by original documents for authentication and validation. Claims which are not registered within the prescribed period shall not be honored.

    5. A Memorandum of Agreement (MOA) shall be executed by the developer with the unpaid creditors and other claimants indicating the amount to be settled and the terms of settlement. The MOA must include provisions on (1) waiver of creditors and claimants from pursuing any legal measures that may impede or prevent the completion of the building, (2) superiority of HGC's full recovery of exposure to the project over other claimants in the event of loan default and guaranty payment.

6. The MOA shall be annotated to the title prior to any loan release.

7. All real estate property taxes are paid prior to guaranty coverage or before the start of construction. Thereafter, the property taxes must be updated.

III. Collateral

1. Primary Collateral : A first real estate mortgage (REM) on the project site and improvements shall be required.

2. Additional Collateral : Contract receivables covering other completed projects may be accepted as additional collateral subject to such terms and conditions as may be imposed by HGC. Real estate properties other than the project site shall be eligible as collateral provided they meet the following requirements:

   - Property is fully developed, located in a prime area and registered in the name of the borrower;
   - The property has an existing right of way;
   - The appraised value of the property is sufficient to meet the LCR requirements for guaranty coverage;
   - All taxes are updated and the property is free from liens and encumbrances;
   - The mortgage is annotated on the title.
   - The collateral cover shall be 200%

IV. Maximum Loan Amount and Utilization

1. Maximum loan amount shall be 100% of the estimated cost to complete but not to exceed the lowest of the following:

   - 50% of the collateral value and;
   - 3x the net worth of the proponent.

2. If the maximum loan amount is not equivalent to the cost of completion due to limitations indicated above, the developer must present a verifiable fund source for its equity stake to complete the building.

3. Loan Utilization : The loan must be used solely for construction. No part of the loan can be used for land acquisition or settlement of property obligations and soft costs.

4. Loan Releases : Releases of the loan shall be based on progress accomplishment. The loan-to-value ratio of 50% must be maintained at all times.

For this purpose, the value of collateral is defined as follows:

Collateral = appraised value of land and improvements less value of all amounts to be settled arising from previous loans, unpaid creditors, suppliers and buyers

Example:

Proposed Loan Amount	:	P 100 M
Appraised Value of Land and Improvements	:	200 M
Total Unpaid Claims/ previous loans	:	50 M

Collateral Value = P 200-50 = P 150 M

Loan to Value Ratio : 100/150 = 67 % > 50% (minimum LTV)

This application will not be accepted for guaranty.

5. Realizable Value at Completion

The sales value of the building at completion should be 200% of the aggregate value of the new loan, plus the value of claims from previous creditors, suppliers and buyers.

V. Equity on the Project

The equity shall include payment of all existing loans, pre-operating expenses, such as: permits and licenses, taxes, technical plans, professional fees for engineers/architects/designers and mobilization costs. Construction costs that cannot be financed by the loan shall also form part of the equity. All pre-operating and construction expenses should be paid prior to loan release.

VI. Loan Term

The term of the loan shall coincide with the projected selling period as indicated in the cash flow projections, but not to exceed two (2) years for a single abandoned building.

VII. Financial Viability

The cash flow projections should indicate sufficiency of funds for payment of loan and other creditors. Profit margin after provision for income tax should not be lower than 20%.

VIII. Credit Supervision and Monitoring

Credit supervision involves the monitoring of the technical, marketing and financial aspects of the project during its implementation with the purpose of ensuring the completion of the same and repayment of the loan. The bank shall undertake credit supervision and monitoring of the project in accordance with HGC guidelines and subject to submission of quarterly reports to HGC.

IX. Qualifications of the Developer

1. The developer-borrower should have a "AAA" rating from Philippine Contractors Accreditation Board (PCAB) and must have undertaken construction of similar projects for the last 3 years.

2. It must have a proven record of success in undertaking real estate projects.

3. It must have a good credit standing among financial institutions, trade suppliers and other government housing agencies.

4. The developer has no adverse record.

X. Performance Bond

The developer shall be required to post a performance bond with a reputable bonding company to ensure completion of the building. The performance bond shall have a term of two-years.

XI. Funding Commitment Line for Buyers

The developer must have an approved funding commitment line for its buyers from HDMF or other financial institutions to ensure payment of the loan within two (2) years.

XII. Features of the Guaranty

1. Guaranty Coverage : Bond

2. Premium : 2% per annum **(minimum)**

3. Call on the Guaranty : a call shall be made upon default in payment, defined as non-payment of six (6) monthly amortizations, provided the building is complete and units are ready for occupancy.

4. Events for Cancellation of the Guaranty

   The guaranty shall be cancelled due to the following reasons:

   - inability to sell based on marketing plan
   - breach of warranties
   - violation of settlement agreement with creditors
   - attachment of new liens/ encumbrances on the title of the property
   - bankruptcy and insolvency of the developer

5. Enrollment Procedures and Documentation (Please refer to attached process flow

   - The bank shall accept and evaluate loan applications in accordance with HGC guidelines for abandoned buildings;
   - Upon loan approval, the credit approval sheet together with all the supporting documents shall be forwarded to HGC for enrollment against the existing developmental line and shall be subject to HGC's pre-audit.
   - The scope of HGC's pre-audit of the account covers the following:

     a) Compliance with implementing guidelines and collateral requirements.
     b) Track record and credit-worthiness of borrower.
     c) Financial viability of project
     d) Marketability of project

   - The initial loan release will only be made upon approval of the guaranty on the loan.
   - Only banks with developmental guaranty lines shall be allowed to extend loans for the completion of abandoned buildings.

XIII. Warranties of the Developer and the Bank

A. Developer

- A performance bond is secured from a reputable bonding company to ensure completion of the building and shall be renewed annually until completion date
- The structural, mechanical and electrical soundness of the building is certified by licensed engineers.
- All licenses and permits are in order
- All property taxes are paid and updated
- All other unpaid creditors, suppliers and buyers have agreed to be last in the priority of payments and shall be paid in the form of PNs or completed units, including the funder of the first REM already annotated on the titles
- There is a verifiable funding source for its equity stake to complete the building
- The construction personnel to be assigned to the project have the capability and technical skills to undertake construction
- The materials and workmanship are of the highest standards of quality
- The construction timetable and marketing of the units shall be followed
- The Guarantor shall be rendered free from any liability or responsibility for non-payment of the guaranty on the loan if the building is not completed

B. Bank

- The titles are clean and registered in the name of the developer-borrower
- Fund releases are made in accordance with HGC's policy on LTV ratio and work accomplishment requirements
- Releases of funds and titles/CCT are in accordance with the policies set by the program and are properly documented
- Periodic status reports of project accomplishments shall be prepared and submitted to HGC
- The payment of loan/ monthly amortizations are strictly covered
- The procedures and policies on account management of the project are adhered to
- Request for fund releases and redemption of titles are made in accordance with the policies and guidelines set for the program
- Periodic appraisal and validation of work accomplishments is done by licensed engineers

XIV. Documentary Requirements

a. Letter Enrollment ;
b. Guaranty premium/audit/enrollment fee;
c. MOA with creditors, if applicable;
d. Loan Documents

- BANK Credit Approval/Evaluation Sheet including loan application forms signed by the respective Borrowers
- Certified true copies of transfer certificates of title (TCTs) of the collateral registered in the name of the Borower
- BANK's Appraisal Report
- BANK's Credit Investigation Report

e. Project Documents

- Project Feasibility Study
- HLURB/LGU Development Permit/ Building Permit
- HLURB's License to Sell
- Cash flow Projections
- HLURB Mortgage Clearance
- ECC Clearance, Clearances from licensed engineers for the structural soundness of the building, Clearances from government regulatory offices
- Certification on the number of years the building has been abandoned/unfinished and the remaining useful life as certified by the building official and structural engineer
- Performance Bond
- Vicinity Map
- Accomplishment Report
- Take-out commitment/buyer's financing

f. Borrower's Profile

- Articles of Incorporation
- Audited Financial Statements (latest)
- List of ongoing/completed projects showing the following information:

  1. location
  2. project cost
  3. status of completion
  4. sales status

SCOPE OF PRE-AUDIT OF DEVELOPMENTAL LOAN

A. Project Requirements

1. Site is suitable for housing in accordance with HGC guidelines
2. Presence of Access Road or Right of Way
3. Within 5 kilometers from socio-economic facilities (i.e., schools, place of worship, public market/commercial center, health facilities)
4. Project design is in accordance with HLURB standards
5. Price of lots and housing units are within the allowable limits of HGC
6. Development Permit is granted by HLURB.
7. Clearances from government regulatory agencies have been secured (ECC, DAR, ATO, etc.)
8. Structural soundness and fire safety of the building from licensed professionals are verified.

B. Collateral Requirements

1. The properties are registered in the name of the borrower, free from liens and encumbrances
2. Valuation of collaterals was conducted in accordance with HGC standards
3. Loan to Collateral values are met
4. Acceptance and valuation of additional collaterals comply with HGC guidelines

C. Track Record and Credit Worthiness of Borrower

1. The borrower/developer has a proven track record in housing
2. Borrower has no adverse record
3. Credit dealings with banks/funders are very satisfactory
4. Borrower has no adverse record with any of the housing agencies

D. Financial Viability of the Project

1. Cash flow projections show sufficiency of funds to pay the loan and all project liabilities.
2. The project is able to generate funds to pay all project costs and expenses
3. The construction schedule can meet the sales projections
4. Profit margin after provision for income tax should not be lower than 20%.

E. Marketability of the Project

1. The project has a verifiable market
2. The project has a marketing plan to ensure flow of funds and payment of The loan.
3. A buyers' take-out financing facility is in place
4. The price of the units are within the range of competitors.