

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
June 5, 2009
Information Items



COMMUNICATIONS

Information

I. COMMUNICATIONS

A. Corporate Marketing and Outreach

- a) During April and May, Communications and Special Needs staff worked together to market the newly expanded online affordable rental housing locator (www.FloridaHousingSearch.org). Marketing materials (fact sheet, post card, flyers, etc.) were created and distributed to the media, local governments, housing authorities, elected officials, landlords, and other affordable rental housing providers and advocates. An article on the Locator was written and will appear in the following publications:
 - (1) Florida League of Cities (FLC) *Quality Cities* Magazine
 - (2) Department of Elder Affairs *Elder Update* Newsletter
 - (3) Florida Supportive Housing Coalition *FLSHC* Newsletter
- b) Also, newsletter briefs have been printed in the FLC *Datagram* and Florida Association of Counties (FAC) *News and Notes*.
- c) Bill Aldinger, supportive housing coordinator, and Cecka Rose Green, communications director, appeared on WCTV's *Live @ Five* television segment in Tallahassee on May 8 to promote the Locator. Staff also may write an op-ed piece to be placed in newspapers in target counties.
- d) Communications staff is continuing to work on a "Going Green" Web site for Florida Housing, which will serve as a resource guide to help homebuyers, housing providers and advocates throughout the state *go green* in their affordable homes or rental properties. The site should be live sometime this year.
- e) Communications and Single Family staff is finalizing the 2009 Lenders Appreciation Awards Dinner, which is scheduled to be held on Friday, June 12, 2009, at the Peabody Orlando. Staff will also be making a final decision for our 2010 dinner by June 2009.

FISCAL
Information

II. FISCAL

A. Operating Budget Analysis for April 2009

- a) The Financial Analysis for April 30, 2009, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending April 30, 2009, is attached as [Exhibit B](#).

GUARANTEE

Information

III. GUARANTEE

A. Guarantee Program Capacity ([Exhibit A](#)).

MISCELLANEOUS

Information

IV. MISCELLANEOUS

A. American Recovery and Reinvestment Act of 2009

1. Background

The American Recovery and Reinvestment Act of 2009 (ARRA), signed into law on February 17, 2009, includes the following provisions related to the Low Income Housing Tax Credit Program:

- (1) Tax Credit Exchange Program (Exchange) - The ability for allocating agencies to “exchange” a portion of their 2009 Housing Credit ceiling, as well as Housing Credits that were returned to Florida Housing, for cash grants from the Treasury, which can be used to make “sub-awards” ...to finance the construction or acquisition and rehabilitation of qualified low-income buildings.”; and
- (2) Tax Credit Assistance Program (TCAP) - \$2.25 billion in special HOME funds (Tax Credit Assistance Program (TCAP) funds) to be allocated to housing credit agencies in order to facilitate the production of projects awarded low-income housing tax credits in fiscal years 2007, 2008 and 2009. Florida’s share of the TCAP funding is \$101,134,952.

2. Present Situation

- a) The 2009 Qualified Allocation Plan (QAP) was approved by the Governor on April 24, 2009. Subsection 67-48.002(95), incorporating the QAP by reference, was filed for adoption on May 11, 2009 and became effective on May 31, 2009.
- b) Staff held a public meeting in Tallahassee on May 19, 2009, to solicit comments on the proposed selection process and criteria for awarding the TCAP and Exchange funds.
- c) Under the provisions of HUD Notice CPD-09-03, dated May 4, 2009, Florida Housing must submit a complete TCAP Submission Packet to HUD on or before June 3, 2009. HUD will review the TCAP submission packet for completeness within 10 days of receipt.
- d) Prior to submitting the packet to HUD, Florida Housing is required to post on its web site for a five (5) day comment period, the TCAP selection process and criteria for projects to receive funding. Information was posted on May 15, 2009 and a second posting occurred on May 22, 2009.

MISCELLANEOUS

Information

- e) Staff intends to issue requests for proposal (RFPs) for the TCAP and Exchange funding, as follows:
 - (1) Step 1 RFP – for SAIL and RRLP de-obligated Developments that chose not to apply for 9 percent Housing Credits under RFP 2009-01 and wish to apply for 9 percent Housing Credits and TCAP funding;
 - (2) Step 2 RFP – for Applicants that received a Housing Credit award in 2006, 2007 and 2008 that were unsuccessful in locating a syndicator for the Housing Credits which would make the proposed development financially viable. These Step 2 Applicants will be awarded either (a) TCAP funds and a nominal amount of 9 percent Housing Credits, (b) Exchange funds only, or (c) TCAP funds, a nominal amount of 9 percent Housing Credits and Exchange funds.
 - (3) Step 3 RFP – remaining Exchange funds will be provided as gap financing to successful Applicants in the 2009 Universal Application Cycle.
 - (4) Any remaining Exchange funds may be awarded through one or more additional RFPs.
- f) A copy of the TCAP Submission Packet which was submitted to HUD will be provided as a supplemental item.

SINGLE FAMILY BONDS

Information

V. SINGLE FAMILY BONDS

A. Single Family Professional Development and Outreach

- a) Single Family Programs staff has been teaching a three hour DBPR approved continuing education course offered through local Realtor Boards since 2003. We held three such classes in April, and have one scheduled for the month of May. Our May 20th class will be in Fort Myers at the Greater Ft. Myers and the Beaches Realtor Association.
- b) Florida Housing will host its sixth Annual Lender Appreciation Awards Dinner and Reception on Friday, June 12 beginning at 7:00 p.m. at the Peabody Orlando Hotel. The event is held each year to honor Florida Housing's loan officers and lending institutions for their support of affordable housing and commitment to the First Time Homebuyer Program. Lenders from across the State will be honored for helping families achieve the dream of homeownership. We anticipate between 200-250 people to attend the event.
- c) Our next lender training for new lenders is scheduled for June 9, 2009. FHFC single family staff, along with participants from US Bank, the program Master Servicer, and eHousing, the program compliance team, conduct these quarterly training sessions via a teleconference format called WebEx. The WebEx format allows lenders from offices around the state along with some out of state support centers to dial in via conference call and participate in an interactive computer based training session. We conduct two 3 hour classes which allows up to 300 registered participants in each session. The morning session is for loan officers and processors while the afternoon session is for underwriters, closers, shippers, and funders. By tailoring each class to the intended target group we find that we are able to provide useful more detailed information that is group specific.
- d) Florida Housing sponsors a toll-free telephone line (800-814-HOME) for first time homebuyers to call for information about our program. Since 2007, the line has been manned by employees of CITI Mortgage, who provided this service to Florida Housing at an extremely reasonable rate. However, due to cutbacks at CITI, they discontinued this service on December 26, 2008. Due to short notice, this function was transitioned to Single Family Programs staff. For the month of April we received 1,095 calls from first time homebuyers, Realtors, and lenders via the first time homebuyer line; of which 649 were transferred to the single family staff. The remaining callers were able to receive the information they were looking for online using the First Time Homebuyer Wizard tool. We will continue to monitor these calls and evaluate the best way to handle the call volume in the long term.

B. Single Family Bonds Information ([Exhibit A](#)).

SPECIAL ASSETS

Information

VI. SPECIAL ASSETS

A. In Re: Brandon Creek

1. Background

- a) Brandon Creek Apartments, Limited d/b/a Summer Palms Apartments (“Brandon Creek”) is a 340 unit multifamily project in Hillsborough County, Florida financed with \$14,000,000 nontaxable bonds and \$1,200,000 in taxable bonds issued by Florida Housing Finance Corporation, and low income tax credits. A Land Use Restriction Agreement (“LURA”) per the bonds, filed on November 28, 2000, and an Extended Low Income Housing Agreement (“ELIHA”) per the tax credits, filed on October 3, 2001, restrict the occupancy of 100% of the units to families earning 60% or less of Area Median Income.
- b) On October 16, 2006, Brandon Creek filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code, in the West Palm Beach division of the Bankruptcy Court of the Southern District of Florida, case number 06-15248-BKC-PGH.
- c) On April 4, 2007, Brandon Creek filed an adversary proceeding in the bankruptcy court seeking a declaratory judgment challenging the validity of land use restrictions imposed on the property by the LURA and ELIHA. Brandon Creek alleged that the LURA and ELIHA should be removed because operating costs, especially energy and insurance, have increased substantially while area median income has not risen as quickly as anticipated in the project pro formas, thus the LURA and ELIHA impose unreasonable restrictions on the property. On April 30, 2007, Florida Housing filed a Motion to Dismiss the Complaint, contending that the land use restrictions are statutorily imposed regulations, thus may not be set aside due to changed conditions. Further Florida Housing argued in its motion that as these restrictions are grounded in the Internal Revenue Code, they may not be released by the bankruptcy court so that the project may be transferred free and clear of same.
- d) On October 1, 2008 after several continuances, a hearing was held on the debtors previously filed motion to dismiss the bankruptcy action. The Court denied the motion and agreed with the U.S. Trustee request to convert the bankruptcy from Chapter 11 to Chapter 7.
- e) In December 2008, Fannie Mae obtained foreclosure judgment and to proceed to judicial sale. By law foreclosure will terminate the LURA and ELIHA on the development except for a three year prohibition against no-cause evictions required by the Internal Revenue Code.
- f) In January 2009, Brandon Creek was sold to Blue Valley Apartments, Inc. (a Fannie Mae related entity).

2. Present Situation

In March, 2009, the taxable and non-taxable bonds were paid off. Florida Housing counsel executed and recorded the Termination of the LURA and ELIHA. The Borrower remains subjected to the terms of the ELIHA for three years after foreclosure per the Internal Revenue Code.

SPECIAL ASSETS

Information

B. In Re: Oakwood Villa Apartments

1. Background

- a) Oakwood Villa Apartments (“Oakwood” or “the Development”) is a 200 unit multifamily development in Duval County, Florida financed with \$778,633 of State Apartment Incentive Loan (SAIL) funds from Florida Housing Finance Corporation. A Land Use Restriction Agreement (“LURA”) recorded on October 26, 2001, restricts the occupancy of the units at 15% @ 28%, 5% @ 50%, and 80% @ 60% of Area Median Income.
- b) Oakwood was purchased by Loss Mitigation of Florida, Inc. (LMF) from a mechanic’s lien foreclosure sale on the Development without joining senior lienors in the foreclosure action.
- c) On November 28, 2007, Fannie Mae, the first mortgage lender, filed a complaint for foreclosure on the development.
- d) On January 17, 2008, the Court appointed Pinnacle Management as receiver to manage and oversee the Development during the Fannie Mae foreclosure process.
- e) On January 22, 2008, Greater Miami Neighborhoods (GMN, the Developer) and certain of its affiliates filed for voluntary bankruptcy under Chapter 11 of the U.S. Bankruptcy Code. Oakwood Project, Inc., an affiliate of GMN, was the original owner and Borrower of the Development.
- f) Preservation of Affordable Housing, Inc. (POAH) sent a request to Florida Housing with an interest in assuming the SAIL loan and purchasing the Development.
- g) On August 1, 2008, the United States Bankruptcy Court (the Court) entered an Order approving the sale of Oakwood to Sawgrass Partners, Inc. (Sawgrass) as the prevailing buyer at an auction conducted by the Court on July 30, 2008
- h) POAH filed a protest against the sale of Oakwood to Sawgrass. However, on August 11, 2008, POAH withdrew its bid on the Development.
- i) On September 9, 2009, Sawgrass submitted a request to Florida Housing to assume the SAIL loan on Oakwood.
- j) On October 31, 2008, Florida Housing’s Board of Directors approved the transfer of the development and the assumption of the SAIL loan from Oakwood Project, Inc. (the Borrower) to the new owner, Sawgrass.
- k) Sawgrass submitted a request to Florida Housing to refinance the first mortgage with financing from The Jacksonville Bank to repay the existing county bonds on the Development. Said request was subsequently approved by Florida Housing’s Board of Directors on December 12, 2008.
- l) On January 29, 2009, the sale of Oakwood was closed in accordance with Court Orders entered, but was subject to some unresolved issues in a Court Motion.

SPECIAL ASSETS

Information

2. Present Situation

- a) On February 9, 2009, the U.S. Bankruptcy Court ordered that the Oakwood sale be approved as having been closed on January 29, 2009, as all outstanding issues were resolved. The Court entered an Order for the distribution of funds as agreed to by all interested parties to the sale transaction.
- b) The Court Order finalized the resolution and payment of all claims and payments made against and by the Developer, Greater Miami Neighborhoods, Inc. (named as Debtor in the Court action).
- c) On February 11, 2009, First Housing Development Corporation (Florida Housing's Servicer) received payment of \$42,145 as pay down of the SAIL loan in the refinancing of the Development.

SPECIAL ASSETS

Information

C. In Re: Island Place

1. Background

- a) Island Place Apartments d/b/a Island Place Apartments, LLC (“Island Place”) is a 199 unit multifamily project in Miami-Dade County, Florida financed with \$2,800,000 of funds from the State Apartment Loan Incentive Program. A Land Use Restriction Agreement (“LURA”), dated October 24, 2002, restricts the occupancy and Area Median Income levels at 15.15% @ 33% (30 units minimum); 5.05% @ 50% (10 units minimum); 50.00% @ 60% (99 units minimum) and 29.80% @ 80% (remaining units).
- b) Island Place is also financed with Miami-Dade County Housing Finance Authority bonds with a mortgage note assigned to US Bank, as Trustee and, Federal National Mortgage Association (FNMA) securing repayment of the original principal amount of \$6,200,000.
- c) On March 19, 2007, Century/AAA, Ltd. d/b/a AAA Supply (“Century”) filed a Claim of Lien against Island Place for labor, materials and services consisting of air conditioning, appliance and refrigeration equipment and supplies in the amount of \$12,421.96.
- d) The lien amount was not paid by Island Place. By Case No. 07-13233 CC 05 Century/AAA, Ltd. d/b/a AAA Supply vs. Island Place Apartments, LLC, Century instituted a foreclosure action against Island Place in the County Court of Miami-Dade, FL for the outstanding lien without joining senior lienors in the foreclosure action.
- e) Island Place did not defend the foreclosure case. On September 20, 2007, Final Default Judgment was entered in favor of Century for the total amount of \$18,844.73.
- f) On October 31, 2007, there was a foreclosure sale and the Development was sold to First Home View Corporation in the amount of \$19,168.00, subject to the senior mortgages not joined in the foreclosure action.
- g) On January 17, 2008, upon notice of prior foreclosure sale to First Home View Corporation, US Bank instituted legal proceedings to foreclose on its lien and the Court appointed a Receiver. FHFC counsel sent a Notice of Default to Island Place.
- h) On January 22, 2008, Greater Miami Neighborhoods (GMN, the Developer) and certain of its affiliate filed for voluntary bankruptcy under Chapter 11 of the U.S. Bankruptcy Code. Island Place Apartments, LLC, an affiliate of GMN, was the original owner and Borrower of the Development. Throughout the year the Court heard legal arguments to dismiss the First Home View foreclosure sale and place the development in bankruptcy with the other GMN developments but the Court ruled against this and the foreclosure sales was confirmed. US Bank continued its foreclosure proceedings.

SPECIAL ASSETS

Information

2. Present Situation

- a) On May 1, 2009, the Court heard US Bank's Motion for Summary Judgment, and granted them Final Judgment of foreclosure. The Court entered said judgment in the amount of \$6,881,417.62 for \$5,830,000.00 in outstanding principal and \$1,051,417.62 in accrued interest as of May 1, 2009.
- b) U. S. Bank has forwarded a proposed Final Judgment and a proposed Notice of Sale to the Court for entry and scheduling of the sale date for Island Place.
- c) In view of US Bank's summary judgment for foreclosure, FHFC's inferior lien has been foreclosed. FHFC will be entitled to a disbursement of any surplus funds remaining after the foreclosure sale in accordance with the priority of its lien.

SPECIAL ASSETS

Information

D. In Re: El Capitan Crossings

1. Background

- a) El Capitan Crossings (Development) applied for \$500,000 in funds from Florida Housing Finance Corporation's Pre-development Loan Program (PLP) to develop a 36 unit residential development in Hillsborough County, Florida of which \$480,234.30 was drawn down. A Land Use Restriction Agreement, recorded on November 20, 2006, restricts the occupancy of the units at 100% @ 80% of Area Median Income. To date, none of the units have been built.
- b) Neighborhood Lending Partners of West Florida, Inc. (NLP), the first mortgagee, granted two loans to the Borrower, Housing and Education Alliance Redevelopment Team II, LLC. (HEART): (1) an acquisition and development loan in the amount of \$1,076,000 that renewed and consolidated an existing acquisition loan of \$670,000 and a future loan of \$406,000; and (2) a construction revolving line of credit loan in the maximum principal amount of \$900,000.
- c) On November 12, 2008, NLP Town and Country, LLC, as assignee for NLP, instituted foreclosure proceedings against HEART.
- d) On December 19, 2008, FHFC sent a Default Notice to HEART.
- e) On April 7, 2009, the Court heard NLP's motion for summary judgment. NLP was granted Final Judgment of Foreclosure in the total amount of \$1,815,863.16.

2. Present Situation

The sale of the Development took place on May 19, 2009. The first mortgage holder was the only bidder and there were no surplus funds available.

UNIVERSAL CYCLE

Information

VII. UNIVERSAL CYCLE

A. Universal Cycle

1. Background

- a) Rule hearings on Chapters 67-21 and 67-48, F.A.C., were held on April 17, 2009, in Tallahassee. The hearings included discussions on the proposed revisions to the Universal Application and the Qualified Allocation Plan.
- b) Due to the rule challenge filed on April 27, 2009, adoption of Rule Chapters 67-48 and 67-21, F.A.C., and the opening of the 2009 Universal Application Cycle have been postponed pending resolution of the litigation. A hearing on the proposed rule challenge was held on May 26, 2009. A decision will be rendered by the hearing officer on or before June 25, 2009.

2. Present Situation

Until such time as Florida Housing receives the Order from the Department of Administrative Hearing, the 2009 Universal Application Cycle has been postponed. Updated information will be posted to Florida Housing's website.