

**FLORIDA HOUSING FINANCE CORPORATION**

**Board Meeting**

**September 12, 2003**

**Information Items**



## **FISCAL**

### ***Informational***

#### **I. FISCAL**

##### **A. Operating Budget Analysis for July 2003**

###### **1. Background/Present Situation**

- a) The Financial Analysis for July 31, 2003, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending July 31, 2003, is attached as [Exhibit B](#).

## **GUARANTEE**

### ***Informational***

## **II. GUARANTEE**

### **A. Notice of Issuance of Commitment to Guarantee**

#### **1. Background**

Pursuant to the expedited review processing procedure authorized by the Board on March 7, 2002 in connection with the issuance of a Commitment to Guarantee, Florida Housing's Chief Financial Officer, the Guarantee Program Administrator, TIBOR PARTNERS, Inc., and Guarantee Program counsel have reviewed and approved the Final Credit Underwriting Report for Malibu Bay Apartments, a proposed multifamily rental development to be located in Palm Beach County, Florida and financed by bonds issued by the Housing Finance Authority of Palm Beach County. The proposed Malibu Bay transaction is credit enhanced by the Guarantee Program and the HUD Risk-Sharing Program. The total proposed loan amount to be guaranteed is \$20,225,000.

#### **2. Present Situation**

Staff submitted its recommendation for this proposed transaction to each Board member electronically and provided the Board with the required 72-hour review period. No objections were received and the review period has expired.

### **B. Notice of Issuance of Commitment to Guarantee**

#### **1. Background**

Pursuant to the expedited review processing procedure authorized by the Board on March 7, 2002 in connection with the issuance of a Commitment to Guarantee, Florida Housing's Chief Financial Officer, the Guarantee Program Administrator, TIBOR PARTNERS, Inc., and Guarantee Program counsel have reviewed and approved the Final Credit Underwriting Report for Bonita Pointe Apartments, a proposed multifamily rental development to be located in Miami-Dade County, Florida and financed by bonds issued by the Housing Finance Authority of Miami-Dade County. The proposed Bonita Pointe transaction is credit enhanced by the Guarantee Program and the HUD Risk-Sharing Program. The total proposed loan amount to be guaranteed is \$8,300,000.

#### **2. Present Situation**

Staff submitted its recommendation for this proposed transaction to each Board member electronically and provided the Board with the required 72-hour review period. No objections were received and the review period has expired.

### **C. Guarantee Program Capacity (Exhibit A - will be provided at Board Meeting)**

## LEGAL

### *Informational*

### III. LEGAL

#### A. Ybor III, Ltd. v. Florida Housing Finance Corporation

**Developer: Citizens Housing Development Co. – Tom McMullen**

##### 1. Background

- a) On November 29, 2001, Petitioner, Ybor III, Ltd. (“Ybor”) filed a Notice of Administrative Appeal with the First District Court of Appeal. Ybor appealed Florida Housing’s dismissal of its petition challenging the scoring of a competitor’s application in the 2001 Combined Cycle. Ybor requested oral argument, which was held on February 19, 2003. The Court issued its opinion on April 23, 2003.
- b) The Court found that Ybor had standing to seek an administrative hearing and that Fla. Admin. Code R. 67-48.005 (2001) did not provide a point of entry into the administrative hearing process. The Court remanded the case with directions for Florida Housing to forward Ybor’s petition to the Division of Administrative Hearings for a formal hearing. Rule 67-48.005 Fla. Admin. Code R., as amended in 2002, provides a point of entry for applicant’s to challenge the scoring of another application.
- c) The case was forwarded to the Division of Administrative Hearings for a formal hearing on May 27, 2003. Petitioner’s attorney filed a Motion for Leave to Withdraw as Counsel on June 20, 2003, which was granted on July 1, 2003. Petitioner filed a Motion for Continuance which was granted and the parties were to advise as to the status by August 11, 2003.

##### 2. Present Situation

On August 11, 2003, the parties filed a Joint to Order Granting Continuance requesting a hearing to be held during the dates of October 20-23, 2003.

## LEGAL

### *Informational*

#### **B. Florida Housing Finance Corporation v. Aloma Bend, Ltd., a Florida limited partnership; Christopher T. Spano, Robert Thollander and Betsy Spano, as Individuals**

##### **1. Background**

- a) On December 30, 1997, Aloma Bend, Inc. (“Aloma”) closed its Multi-Family Mortgage Revenue Bond loan. Florida Housing allocated \$15,500,000.00 in Multi-Family Mortgage Revenue Bond Program funds for this development. The bond documents provide that the proceeds from any condemnation are to be paid to First Union National Bank, the Trustee.
- b) On November 21, 2000, Plaintiff, The State of Florida, Department of Transportation (“DOT”) filed a Petition in eminent domain to condemn a portion of Aloma’s property in the Circuit Court of Seminole County, Florida seeking to take a portion of the property for widening the road adjacent to the development known as Barrington Place.
- c) On March 28, 2002, the Circuit Court entered a Stipulated Final Judgment Including Attorneys Fees and Costs awarding Aloma the total amount of \$235,000 and requiring that Spano additionally deposit \$51,100 into the registry of the Clerk of Court (“Condemnation Proceeds”).
- d) In April of 2002, Florida Housing requested from Aloma an accounting of the Condemnation Proceeds. The statement provided by Aloma demonstrates that the Condemnation Proceeds were used to repair and pay for expenses at other unrelated properties.
- e) On June 12, 2002, Florida Housing demanded the return of the Condemnation Proceeds to Florida Housing or the Trustee, and Aloma has otherwise failed to perform their obligations under the Loan Agreement and Guaranty.
- f) On April 24, 2003, Florida Housing filed a Complaint in the Circuit Court of Leon County, Florida, requesting the court enter an Order enforcing the Guaranty and entering a judgment against Aloma and related parties. A copy of the Complaint was attached to the June 20, 2003 informational package as Exhibit A.

##### **2. Present Situation**

On June 23, 2003, Aloma filed a Motion to Dismiss Florida Housing’s Complaint as to Thollander, which was denied entirely on August 14, 2003. Aloma and Thollander must now file an answer to the Complaint by September 3, 2003. Defendant Betsy Spano has now also responded to the Complaint, pro se, moving to dismiss for failure to join an indispensable party, this motion is to be heard on September 22, 2003. As to Defendant Christopher T. Spano, he has not yet been served with the Complaint. Florida Housing will continue to monitor the litigation.

## LEGAL

### *Informational*

#### C. Seminole County, et al. v. TWC Ninety-Five, Ltd., et al. (Windchase Apartments)

**Developer : The Wilson Companies; TWC Ninety-Five, Ltd.**

##### 1. **Background**

- a) On May 15, 1997, TWC Ninety-Five, Ltd. ("TWC") closed its loan. Florida Housing allocated \$15,100,000 in Housing Revenue Bonds (1997 Series C) funds for this development.
- b) On October 28, 2002, Plaintiff, Seminole County, filed a Petition in eminent domain to condemn a portion of TWC Twenty-Five, Ltd.'s property in the Circuit Court of Seminole County, Florida seeking to take a portion of the property for widening the road adjacent to the development known as Windchase Apartments.
- c) Section 11 of the Land Use Restriction Agreement requires that the proceeds of any condemnation be deposited with the Trustee.
- d) A hearing has been set for May 15, 2003, on the Motion to Allow Withdrawal of Funds filed by TWC on March 28, 2003. Florida Housing filed a Response to the Motion to Allow Withdrawal of Funds by TWC on April 15, 2003.

##### 2. **Present Situation**

Florida Housing is monitoring the litigation.

## LEGAL

### *Informational*

#### **D. In Re: Universal Cycle Appeals**

##### **1. Background**

- a) On April 18, 2003, Applicants submitted applications to Florida Housing for the award of SAIL, MMRB or HOME funds and/or an allocation of Housing Credits in the 2003 Universal Cycle program.
- b) On July 13, 2003, Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes, and an Election of Rights form.
- c) On or about August 12, 2003, petitioners filed 18 petitions challenging Florida Housing's scoring decisions. Requests for hearings are as follows:
  - (1) Eleven applicants filed petitions requesting informal hearings which will be set for a hearing before a contract hearing officer.
  - (2) Six applicants filed petitions requesting formal hearings, of these six applicants, five will be forwarded to the Division of Administrative Hearings; and one will be set for a hearing before a contract hearing officer.
  - (3) One applicant filed a petition for informal hearing and withdrew its case.
  - (4) One applicant filed a petition for informal hearing after the 5:00 p.m. deadline on August 12, 2003 and was dismissed for being untimely filed.

##### **2. Present Situation**

- a) The Legal Department is preparing for informal hearings September 8–12, 2003; awaiting the assignment of an Administrative Law Judge to begin preparation for the formal hearings; and is preparing the joint proposed recommended orders to be issued in the remaining cases.

## LEGAL

### *Informational*

#### **E. Fifth Avenue Estates, Ltd. (“Fifth Avenue”) – Petition for Rule Waiver**

##### **1. Background**

- a) On February 3, 2002, Fifth Avenue filed a Petition for Rule Waiver, seeking a waiver of Rule 67-48.004(14)(k), Fla. Admin. Code, which prohibits an applicant from making any change of the total set-aside commitment of Item III, Section E, Subsection 3, of the 2002 Universal Cycle Application.
- b) On June 20, 2003, the Board denied the Petition.
- c) On June 25, 2003, Fifth Avenue filed its Notice of Appeal, and filed its Initial brief on August 13, 2003; Florida Housing filed its Answer Brief on September 8, 2003.

##### **2. Present Situation**

Fifth Avenue’s Reply Brief is due October 3, 2003. Oral Argument has not yet been requested.



## **PREDEVELOPMENT LOAN PROGRAM (PLP)**

### *Informational*

#### **IV. PREDEVELOPMENT LOAN PROGRAM (PLP)**

##### **A. Predevelopment Loan Program**

###### **1. Background**

- a) Two of the Predevelopment Loan Program developments previously approved by the board proposed the acquisition, rehabilitation and sale to income qualified buyers of repossessed HUD properties. The developer, United Development Communities, Inc. (UDC), proposed that Florida Housing provide predevelopment funding to acquire the properties. The developer proposed the purchase (and subsequent sale) of 10 houses in Miami-Dade County and 10 houses in Broward County. The properties are rehabilitated with private funding and, following the minor to moderate rehabilitation, sold to income eligible homebuyers. Florida Housing requires repayment of the funds borrowed for acquisition plus accrued interest (3%) upon sale of the home to a qualified buyer.
- b) This new approach to using PLP funds has taken a great deal of preparation and coordination between Florida Housing staff, the developer, the technical assistance provider, the credit underwriter and legal representatives. The feasibility of these developments was reviewed by the credit underwriter prior to the acquisition of any homes and then the purchase of each property is reviewed by the underwriter prior to closing on the specific property. This method is being used accommodate the short time allowed for the developer to close on a property once the bid on the property has been accepted by HUD.
- c) Following the credit underwriter's review and the technical assistance provider's review, PLP provides funds to the not-for-profit developer for the acquisition of each home. A note and mortgage specific to the individual home being acquired are executed in favor of Florida Housing. Once the home is rehabilitated with funds from another source, it is sold to an income eligible individual or family following credit underwriting review of the qualified buyer. At the time of closing of the sale of a home to the income qualified buyer, the note is paid in full and the mortgage in favor of Florida Housing is satisfied.

###### **2. Present Situation**

- a) To date, the developer has acquired five houses in Miami-Dade County and one in Broward County. Three of the homes have been sold to income qualified homebuyers and Florida Housing was repaid the acquisition funds plus accrued interest for each.
- b) Each acquisition, subsequent rehabilitation, and sale requires an average of 3-4 months. This is a short period of time to have PLP funds outstanding. The funds which are repaid are then available to fund other PLP developments and have successfully assisted in fulfilling the dream of homeownership. This concept has been submitted for an award at the NCSHA annual conference.

## SINGLE FAMILY BONDS

### *Informational*

#### V. SINGLE FAMILY BONDS

##### A. 2003 1-4 Single Family Mortgage Revenue Bond Program

###### 1. Background/Present Situation

- a) On May 2, 2003, the Board authorized issuance of the 2003 Series 1, 2, 3 and 4 Bonds. The origination period began on June 25, 2003.
- b) Lendable proceeds totaling \$41,032,500 are currently offered at an interest rate of 5.10%.
- c) Special targeting is as follows:
  - (1) \$1,000,000 was set aside for purchases in HOPE VI and Front Porch Communities. The interest rate is 4.50%.
  - (2) \$3,000,000 was set aside for purchases in Urban Infill and Targeted Areas. The interest rate is 4.50%.
  - (3) \$1,000,000 was set aside for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program. The interest rate is 4.50%.
- d) As of August 25, 2003, the following activity was reported:

Allocation Pool	Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	41,032,500	17,686,855	202	23,345,645	43.1%
Builder	5,000,000	0	0	5,000,000	0%
Urban Infill	3,000,000	453,997	6	2,546,003	15.1%
HOPE VI /Front Porch	1,000,000	146,971	2	853,029	14.7%
RD Self Help	1,000,000	1,000,000	13	0	100%
HAP D/P	Pooled	1,057,494	109	Pooled	N/A
HOME Loans	Pooled	1,260,000	84	Pooled	N/A

## SINGLE FAMILY BONDS

### *Informational*

#### B. 2002 1-3 Single-Family Mortgage Revenue Bond Program

##### 1. Background/Present Situation

- a) On April 26, 2002, the Board authorized issuance of the 2002 Series 1, 2, and 3 Bonds. The origination period began on November 8, 2002.
- b) Lendable proceeds totaling \$50,689,250 are currently offered at an interest rate of 5.92%
- c) Special targeting is as follows:
  - (1) \$1,520,677 was initially set aside for purchases in HOPE VI and Front Porch Communities. The interest rate is 4.99%.
  - (2) \$3,041,355 was initially set aside for purchases in Urban Infill and Targeted Areas. The interest rate is 4.99%.
  - (3) \$506,411 was initially set aside for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program. The interest rate is 4.99%.
  - (4) Effective April 1, 2003, the Board authorized the combination of the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help and Urban Infill).
- d) Staff negotiated with three participants in the Builder program to relinquish unused allocation that could be better utilized in the Spot Pool. As a result, \$5,289,581 was reallocated from the Builder Pool to the Spot Pool.
- e) As of August 25, 2003, the following activity was reported:

Allocation Pool	Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	37,410,387	36,777,418	442	632,969	98.31%
Builder	8,210,419	8,085,976	91	124,443	98.5%
Urban Infill, RD Self Help HOPE VI /Front Porch	5,068,443	4,996,917	76	71,526	98.6%
HAP D/P	Pooled	3,493,370	354	Pooled	N/A
HOME Loans	Pooled	3,295,545	221	Pooled	N/A

## SINGLE FAMILY BONDS

### *Informational*

#### C. Marketing and Outreach

##### 1. Background/Present Situation

- a) Staff continues to actively work to recruit additional participating lenders to obtain statewide “local” access to the program.
- b) Florida Housing has partnered with the Tallahassee Lenders’ Consortium to host the Fall 2003 Home Buyer Showcase, “A First-Time Homebuyer Fair”-the first of many home buyer fairs to come. The showcase will be held on September 6, 2003 from 10:00 AM to 2:00 PM at the Leon County Civic Center. Staff tentatively plans to host similar joint efforts throughout the state in locations such as Orlando, Miami and Jacksonville on dates to be determined.
- c) Staff will be offering Florida Housing’s Realtor education course entitled “AFFORDABLE HOUSING SOLUTIONS: What Every Realtor Should Know” on September 19th in Tallahassee, October 1<sup>st</sup> in Orlando, and October 7<sup>th</sup> in Navarre Beach and Ft. Walton Beach. The main focus of the course will be to discuss Florida Housing’s single family programs that provide affordable home financing alternatives through low interest rate mortgages and down payment and closing cost assistance to families throughout the state of Florida.

# SHIP PROGRAM

## *Informational*

### VI. SHIP PROGRAM

#### A. Local Housing Assistance Plans

##### 1. Background

To receive SHIP funds, a local government must submit a Local Housing Assistance Plan for approval by the Corporation's SHIP Review Committee. These plans have a minimum effective date of one (1) state fiscal year and a maximum of three (3) state fiscal years. A local government may amend its plan to add or delete strategies consistent with SHIP Program requirements.

##### 2. Present Situation

- a) By May 2, 2003, twenty-seven (27) local governments are required to submit new Local Housing Assistance Plans to maintain eligibility to receive SHIP funds.
- b) All twenty-seven (27) local governments have submitted their Local Housing Assistance Plans for review and each plan is approved.

#### B. Local Housing Assistance Program Annual Reports

##### 1. Background

Annually, by September 15, a county or eligible municipality participating in the SHIP Program must submit a report of its local affordable housing program accomplishments and its funding expenditure and leveraging using forms provided by the Corporation pursuant to Section 420.9075(9), Florida Statutes. The annual reports document the local government's compliance with the Florida Statutes and SHIP program requirements and must be timely and correctly filed as a condition of receiving funds.

##### 2. Present Situation

- a) The reports were due to the Corporation by September 15, 2002 to cover activities and expenditures for state fiscal years 1999-2000 (close out reports as of 6/30/02), fiscal year 2000-2001, and fiscal year 2001-2002 (interim reports as of 06/30/02).
- b) Currently, annual reports have been received from all local governments.
- c) One (1) local government, Marion County, has an expenditure extension for fiscal year 1999-2000 funds.
- d) Seven (7) local governments, City of Cocoa, City of Pembroke Pines, Putnam County, Alachua County, Broward County, Marion County and Flagler County, have an expenditure extension for fiscal year 2000-2001 funds.

# SHIP PROGRAM

## *Informational*

### C. Chapter 67-37, F.A.C., Rulemaking

#### 1. Background

Due to legislative changes, SHIP staff has initiated rulemaking to revise Chapter 67-37 of the Florida Administrative Code. A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 27, 2002, which provided for Rule Development Workshop dates of October 15, 2002 and October 17, 2002.

#### 2. Present Situation

- a) Comments have been received from the above referenced workshops and interested parties.
- b) A Rule Hearing was held July 24, 2003
- c) The proposed Rule was approved by the Board on August 1, 2003.
- d) A Notice of Change was published in the Florida Administrative Weekly with technical and clarifying changes suggested by the Joint Administrative Procedures Committee.
- e) The strikethrough version of the Rule is available to interested parties through our web site at [www.floridahousing.org](http://www.floridahousing.org). All participating jurisdictions will receive a final copy electronically.
- f) Final adoption of the rule will be filed on September 2, 2003.

### D. Financial Status

#### 1. Background

- a) Created in 1992 by the William E. Sadowski Affordable Housing Act, SHIP is funded with proceeds of the documentary stamp tax on recorded deeds deposited into the Local Government Housing Trust Fund.
- b) The state fiscal year 2003-2004 total appropriation available for the SHIP Program is \$130,886,000.00 with an anticipated set-aside of \$5,000,000.00 for disaster relief and \$129,499.00 for the Housing Data Clearing House. The current available funding is \$125,756,501.00.

#### 2. Present Situation

- a) Total SHIP disbursements to the local governments to date are \$20,853,411.46.
- b) Total SHIP allocation due to the local governments for fiscal year 2003-2004 is \$104,903,089.54.
- c) Total SHIP disaster relief funding available to the local governments for fiscal year 2003-2004 is \$5,000,000.00.

## UNIVERSAL and HOME RENTAL CYCLES

### *Informational*

#### **VII. UNIVERSAL and HOME RENTAL CYCLES**

##### **A. 2004 Universal Cycle**

###### **1. Background and Present Situation**

- a) A public meeting will be held following the September 12, 2003 Board meeting to solicit comments concerning Rule Chapters 67-21 and 67-48, F.A.C., and the 2004 Universal funding cycle.
- b) Staff will begin the rulemaking process by soliciting additional public comments at a rule development workshop following the October 9, 2003 Board meeting in Tallahassee. At that time, a tentative time line for the 2004 cycle will be distributed.