

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
July 30, 2004
Action Items



FISCAL

Action

I. FISCAL

A. 2004/2005 Documentary Stamp Tax Appropriation Split

Documentary Stamp Tax Allocation

1. Background

- a) Each state fiscal year Florida Housing Finance Corporation is appropriated spending authority from documentary stamp tax collections in the State Housing Trust Fund (SHTF). This appropriation may be used to fund the State Apartment Incentive Loan Program (SAIL), the Predevelopment Loan Program (PLP), the Homeownership Assistance Program (HAP), HOME Match, Florida Affordable Housing Guarantee Program Debt Service and Florida Housing's contribution to the Housing Data Clearinghouse.
- b) In the 2004 legislative session, a bill transferring the Affordable Housing Study Commission and the Catalyst Program from the Department of Community Affairs to Florida Housing was passed. The SHTF appropriation was increased to cover these programs.

2. Present Situation

- a) For state fiscal year 2004/2005, Florida Housing has available spending authority of \$55,906,623 in the State Housing Trust Fund for programs.
- b) Each program area was given the opportunity to request funds from the 2004/2005 allocation based on program expectations.
- c) The chart at Exhibit A shows the historical allocation of funds to each of the programs and a recommended allocation of funds for the current state fiscal year.
- d) Staff recommends \$46,658,090 for SAIL based on the anticipated demand in the current state fiscal year.
- e) Staff recommends a \$3,000,000 allocation be made to HAP for anticipated demand in the current state fiscal year.
- f) Staff recommends that no allocation be made for HOME match this year because Florida Housing's federal match obligation can be satisfied this year from other sources.
- g) Staff recommends that no allocation be made for PLP this year because program demands can be met by recycling repayments within the program.
- h) Staff recommends \$5,400,000 be allocated to the Guarantee Fund to satisfy the current year's principal portion of debt service on the program's capitalizing bonds.
- i) Staff recommends the allocation of \$127,633 to fund one half of this year's payment to the Housing Data Clearinghouse. The remaining funds to cover this expense will come from the Local Government Housing Trust Fund.

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- j) Staff recommends that \$672,800 be allocated to fund the Catalyst Program.
- k) Staff recommends that \$48,100 be allocated to fund the Affordable Housing Study Commission.

3. Recommendation

Approve the suggested allocation of funds for the 2004/2005 state appropriation as shown in [Exhibit A](#).

GUARANTEE

Action

II. GUARANTEE

A. Consideration of Approval of Staff to Execute Declaration of Restrictive Covenants for Venice Cove Apartments

1. Background

- a) In June 2001, Venice Partners, Ltd., an affiliate of Housing Trust Group (HTG), closed \$10,200,000 of bonds (\$9,000,000 tax-exempt and \$1,220,000 taxable) issued by the Housing Finance Authority of Broward County, Florida for the construction and permanent financing of the Venice Cove Apartments (f/k/a Venice Homes Apartments). Venice Cove is a 150-unit multifamily rental development located in the City of Lauderdale Lakes, Broward County, Florida. The Guarantee Program provided credit enhancement in connection with the mortgage loan in the amount of \$10,200,000.
- b) Broward County typically requires a developer to pay impact fees prior to issuing building permits in connection with the development of multifamily rental housing. Broward County granted HTG a waiver of impact fees totaling \$57,882 in connection with the Venice Cove Apartments. The waiver was provided in exchange for HTG's commitment to set aside (and maintain) the Venice Cove Apartments for individuals earning incomes at or below sixty percent (60%) of Area Median Income for a period of at least 15 years. Prior to closing the bonds, HTG paid the impact fees in the amount of \$57,882. Upon HTG's and Florida Housing's execution of a standard Declaration of Restrictive Covenants (Restrictive Covenants), Broward County will reimburse HTG for the impact fees it paid prior to obtaining its permits. In the event HTG ceases to maintain the development as affordable for at least 15 years, Broward County's right to foreclose is triggered pursuant to the terms of the Restrictive Covenants. However, to prevent such a foreclosure, the Guarantee Program may choose to reimburse Broward County for any impact fees then due. If the property is maintained as affordable for the requisite 15-year period, the Restrictive Covenant terminates, the property is no longer required to maintain its affordable status (with respect to Broward County's requirements) and Florida Housing's potential obligation to reimburse Broward County for impact fees terminates.
- c) In October 2001, Florida Housing's Board of Directors authorized staff to execute several affordable housing restrictive covenants in connection with impact fees paid to obtain building permits for properties in Miami-Dade County. These transactions were also credit enhanced by the Guarantee Program. Such restrictive covenants require the properties to be maintained as affordable for 15 years, after which time, the obligation to maintain the property as affordable will terminate, along with Florida Housing's potential obligation to reimburse Miami-Dade County for such impact fees in the event the property ceases to be maintained as affordable for the 15-year period. Staff was comfortable with the 15-year restriction because the properties must independently be maintained as affordable for at least 30 years under the Low Income Housing Tax Credits (LIHTC) requirements.

GUARANTEE

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2. Present Situation

Florida Housing has prepared, and HTG and its principles are willing to execute, a Reimbursement Agreement (Agreement), which would obligate HTG and its principles to reimburse and indemnify Florida Housing against any impact fees (and any associated fees and costs) owed to Broward County as a result of HTG's failure to maintain the Venice Cove development as affordable for the 15-year period. In addition to the LIHTC requirement that the property be maintained as affordable for at least 30 years, this Agreement will provide Florida Housing with additional assurances that it will be indemnified against any liability arising from HTG's failure to maintain the property as affordable for the requisite 15-year period.

3. Recommendation

Accept this recommendation of Staff and TIBOR Partners, Inc. to authorize staff to (1) enter into a Reimbursement Agreement with HTG and its principles; and (2) execute the Declaration of Restrictive Covenants for the Venice Cove Apartments.

HOMEOWNERSHIP LOAN PROGRAM

Action

III. HOMEOWNERSHIP LOAN PROGRAM

A. Request Approval of the Final Scores and Rankings for the 2003-2004 Homeownership Loan Program Supplemental Cycle (HOME Funding Only)

1. Background

- a) The 2003-2004 Homeownership Loan Program Supplemental Cycle opened on February 23, 2004 and closed on April 7, 2004.
- b) A total of 25 applications were submitted by the deadline with an aggregate funding request of \$27,321,203.
- c) Staff reviewed and scored the applications in accordance with the parameters set forth in Rule 67-50, F.A.C. and issued the preliminary findings to the Applicants on May 21, 2004.
- d) Applicants were provided with their Master Score Sheets and Deficiency Reports, as well as information pertaining to the Cure Period, which provides for an additional 20 days to correct any deficiencies.
- e) The cures were due to Florida Housing by June 10, 2004, 5:00 p.m., EST.

2. Present Situation

All cures were reviewed by staff and the final scores and rankings will be presented to the Board for approval at the July 30, 2004 meeting.

3. Recommendation

Approve the final scores and rankings and authorize staff to issue invitation into credit underwriting letters to those Applicants that have met threshold, fell within the funding range, and have satisfied the parameters of Rule 67-50, F.A.C.

HOMEOWNERSHIP LOAN PROGRAM

Action

B. Approval of Amended Rule Chapter 67-50, Florida Administrative Code (F.A.C.), Notice of Change (NOC) and Notice of Funding Availability (NOFA) for the 2004 Homeownership Loan Program Application Cycle

1. Background/Present Situation

- a) Staff commenced the rule development process in November 2003.
- b) Rule development workshops were held on November 2, 2003 in Jacksonville, November 12, 2003 in St. Petersburg, November 18, 2003 in Boynton Beach and May 19, 2004 in Tallahassee.
- c) The proposed Rule 67-50, F.A.C., was forwarded to the Joint Administrative Procedures Committee (J.A.P.C.) for review and further comments.
- d) A Rule Hearing was held on July 8, 2004 in Tallahassee, with public comments being accepted until July 15, 2004.
- e) Staff is preparing a NOC which incorporates the additional changes as deemed necessary. The NOC and NOFA are schedule to be published in the Florida Administrative Weekly (FAW) on August 13, 2004. Supplemental information will be provided at the Board meeting. The NOFA is attached as [Exhibit A](#).
- f) The Rule is scheduled to be filed for adoption on September 6, 2004, becoming effective on September 26, 2004.
- g) It is anticipated that the Application cycle will commence on September 27, 2004 and end on November 10, 2004. Subsequent rounds will be noticed on the Corporation's website as funds become available.

2. Recommendation

Approve the amended Rule 67-50, F.A.C., the NOC, and NOFA and direct staff to file the Rule for adoption and begin preparations for the 2004 Application Cycle.

HOMEOWNERSHIP LOAN PROGRAM

Action

C. Request Approval to Change Amenity for Azalea Park / HAP02-311

Applicant Name (“Applicant”):	Three Rivers Housing Foundation, Inc.
Development Name (“Development”):	Azalea Park
Developer/Principal (“Developer”):	Forrest Boone
Number of Units: 8	Location: Suwannee County
Type: HAP Purchase Assistance	Allocated Amount: \$143,000

1. Background

- a) On October 21, 2002, the Board approved the final rankings for the 2002 Homeownership Loan Program and authorized staff to issue a preliminary commitment to Three Rivers Housing Foundation, Inc. for Azalea Park, an 8-unit Development in Suwannee County.
- b) The Board authorized staff to issue a firm commitment to the Developer in the amount of \$143,000 at its June 20, 2003 meeting.

2. Present Situation

- a) On June 15, 2004, the Developer advised that a garage was mistakenly included as a feature of the Development and requests that the Board waive the requirement to provide a garage for each home. In lieu of a garage, the Developer proposes to build an attached outside storage shed, as was originally intended. The letter is attached as [Exhibit B](#).
- b) The plans, specifications, and appraisals, as well as the pro formas and cost analyses submitted to the credit underwriter in support of the application did not include a garage. Due to the narrow width of the lots it is not feasible to build a garage. According to the Developer, there are no homes in the area with garages.
- c) In addition, since all Applications that met the threshold requirements were funded, this change in the Application would not have impacted the final scores and rankings.

3. Recommendation

Staff recommends that the Board waive the requirement to provide a garage and allow the Developer to substitute an attached outside storage shed, subject to further cost analysis and approvals by the Credit Underwriter, counsel and Florida Housing Staff.

HOMEOWNERSHIP LOAN PROGRAM

Action

D. Request Approval to Substitute Lots and Extend Time to Submit Information to Credit Underwriter for Leon South HOME / HH03-026

Applicant Name (“Applicant”):	Three Rivers Housing Foundation, Inc.
Development Name (“Development”):	Leon South HOME
Developer/Principal (“Developer”):	Forrest Boone
Number of Units: 30	Location: Leon County
Type: HOME Purchase Assistance	Allocated Amount: \$720,000

1. Background

On January 23, 2004, the Board approved the final rankings for the Round Two of the 2003 Homeownership Loan Program and authorized staff to issue a preliminary commitment to Three Rivers Housing Foundation, Inc. for Leon South HOME, a 30-unit Development in Leon County.

2. Present Situation

- a) On June 14, 2004, the Developer advised that suitable lots within the originally proposed area are not available and requests permission to substitute 30 lots located in Wakulla County.
- b) Additionally, substitution of these lots will provide matching funds from the Federal Home Loan Bank of Atlanta’s Affordable Housing Program and the home buyers will be eligible to participate in USDA’s Rural Home loan partnership program. The letter is attached as [Exhibit C](#).

3. Recommendation

Staff recommends that the Board approve substitution of lots in Wakulla County and the extension of time to submit information to the Credit Underwriter.

HOMEOWNERSHIP LOAN PROGRAM

Action

E. Request Approval of the Extension of the Loan Closing Date for Sable Chase / HH02-005

Applicant Name (“Applicant”):	DFC Homes of Florida, Inc.
Development Name (“Development”):	Sable Chase
Developer/Principal (“Developer”):	DFC Homes of Florida, Inc./ Kenny Davis
Number of Units: 50	Location: Broward County
Type: HOME Construction Loan	Allocated Amount: \$1,325,000

1. Background

- a) The Applicant submitted an application on behalf of Sable Chase during the 2002 Homeownership Loan Program cycle.
- b) On November 4, 2002, Florida Housing issued an invitation into credit underwriting and a preliminary commitment letter to DFC Homes of Florida, Inc. for a HOME Construction Loan in the amount of \$1,325,000 to assist in the construction of 50 homes in Broward County.
- c) The Board authorized staff to issue a firm commitment to the Developer in the amount of \$1,325,000 at its January 23, 2004 meeting.

2. Present Situation

- a) On July 7, 2004, Staff received a letter requesting an additional 90-day extension of the loan closing date from July 23, 2004 to October 23, 2004. The letter is attached as [Exhibit D](#).
- b) The Developer experienced delays due to the City of Pompano Beach’s required certification that the street lighting meets the wind load requirements. This issue will require some redesign and reconfiguration that could not be completed prior to the closing deadline. Approval of the building plans are contingent on this issue being resolved. The Developer cannot close the loan until these requirements are met so that the plan and cost analysis can be performed and submitted to the Servicer for review.

3. Recommendation

Staff recommends that the Board grant the loan closing extension until October 23, 2004.

HOMEOWNERSHIP LOAN PROGRAM

Action

F. Request to Extend the Completion Date for Lehigh Oaks / 99HH-011

Applicant Name (“Applicant”):	Lehigh Oaks, LLC
Development Name (“Development”):	Lehigh Oaks
Developer/Principal (“Developer”):	Bowen Arnold
Number of Units: 60	Location: Lee County
Type: HOME Construction Loan	Allocated Amount: \$899,940

1. Background

- a) During the 1999/2000 HOME Home Ownership Application Cycle, the Developer received preliminary funding in the amount of \$899,940.
- b) At its April 6, 2001 meeting, the Board approved a final credit underwriting report and authorized Staff to issue a firm commitment to the Developer in the amount of \$899,940.
- c) The loan was closed on October 15, 2001.

2. Present Situation

- a) The Developer submitted a letter, dated June 29, 2004, requesting to extend the completion date of construction. The letter is attached as [Exhibit E](#).
- b) The Developer attributes the construction delay to the lack of accessibility to public water/sewer lines on the sites. Construction was halted until access was made available to benefit the homebuyers. This caused almost a year delay on the development.
- c) The Developer has completed 26 houses and has another 16 under construction. They have 18 houses remaining to sell and construct which the developer anticipates to complete by December 31, 2005.

3. Recommendation

Staff recommends that the Board grant the request to extend the completion date from October 15, 2004 to December 31, 2005.

HOMEOWNERSHIP LOAN PROGRAM

Action

G. Request to Extend the Loan Closing Date and Commitment Letter for Pueblo Del Sol / 99HH-017

Applicant Name (“Applicant”):	Jubilee / Pueblo del Sol, Inc.
Development Name (“Development”):	Pueblo Del Sol
Developer/Principal (“Developer”):	Jubilee / Pueblo del Sol, Inc. / Doug Mayer
Number of Units: 44	Location: Miami-Dade County
Type: HOME Construction Loan	Allocated Amount: \$1,097,662

1. Background

- a) An application was submitted on behalf of Pueblo del Sol during the 1999/2000 HOME Homeownership Application cycle.
- b) On August 1, 2003 the Board approved the Credit Underwriting Report and authorized staff to issue a commitment letter in the amount of \$1,097,662 to Jubilee / Pueblo del Sol, Inc. (the “Developer”) for a HOME Construction Loan. According to the commitment letter, the loan was initially scheduled to close no later than November 4, 2003.
- c) Due to delays relating to platting issues and the Applicant receiving additional SurTax dollars to assist lower income households, the Board previously granted two 90-day loan closing extensions, with the first extension occurring from November 4, 2003 to February 4, 2004 and subsequently another extension from February 4, 2004 to May 4, 2004.
- d) At the May 21, 2004 meeting, the Developer addressed the Board concerning issues related to platting of the property, a parking variance issued by the City of Miami and additional time needed to close the loan. The Board granted a 45-day extension in which to close the loan with a deadline of July 8, 2004.

2. Present Situation

- a) Staff received a letter from the Developer dated July 1, 2004 requesting a 120-day loan closing extension and a one year extension to complete construction of this development. The letter is attached as [Exhibit F](#).
- b) According to the Developer, there was a parking variance issued back in February 2002 that was only good for one year, pending plat approval. However, the Developer experienced delays with obtaining plat approval.
- c) The issue is that the parking variance expired while seeking approval of the plat. There were differences in interpretation concerning the time frames by which the variance must be applied. The Developer assumed that the variance would not expire until one year after plat approval was obtained; however, the City of Miami’s attorney indicated that the variance was only good for one year after approval of the variance as of February 2002.
- d) Subsequently, the Developer sought relief from the City Commission to restore the parking variance. In support of this development, the City issued a resolution urging Florida Housing to extend additional time to close the loan to accommodate the process that the Developer has to undergo in order to restore the parking variance.

HOMEOWNERSHIP LOAN PROGRAM

Action

3. **Recommendation**

Staff recommends that the Board approve the Developer's request to extend the loan closing date expiration until December 8, 2004 and extend the firm commitment expiration date from July 31, 2004 to December 8, 2005, which is one year from the loan closing date

MINUTES

Action

IV. MINUTES

- A. Consider Approval of the May 21, 2004, [Board of Directors' Meeting Minutes](#).
- B. Consider Approval of the June 18, 2004, [Board of Directors' Meeting Minutes](#).

PROFESSIONAL SERVICES SELECTION (PSS)

Action

V. PROFESSIONAL SERVICES SELECTION (PSS)

A. Predevelopment Loan Program (PLP) and Demonstration Loans Technical Assistance Provider Services

1. Background

- a) Florida Housing entered into contracts with the Florida Housing Coalition, Inc. and Affordable Housing for PLP Technical Assistance Provider services effective November 1, 2001.
- b) The contracts were renewed for an additional one year period in October 2002 and September 2003. There are no more renewal options available.

2. Present Situation

- a) Florida Housing staff would like, in the interest of efficiency, to combine Technical Assistance Provider Services for PLP and its Demonstration Loans issued through a solicitation process.
- b) Technical assistance is necessary in order to provide specialized technical support and assistance to guide applicants through the predevelopment process and demonstration loan process. Technical assistance services include, but are not limited to, statewide, on-site and telephonic technical assistance; information on day-to-day operation of program administration; determining obstacles that prevent local governments and non-profits from broadening program services; and how to access private and public resources.

3. Recommendation

Florida Housing staff recommends that the Board authorize staff to begin the Request for Proposals (RFP) process, and establish a review committee, to select one or more Technical Assistance Providers for PLP and Demonstration Loan applicants.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Credit Underwriting, Loan Servicing and Compliance Monitoring Services

1. Background

- a) Florida Housing issued an RFP on July 13, 2001 for Credit Underwriting, Construction and Permanent Loan Servicing, Compliance Monitoring and Financial Monitoring for Florida Housing's single family and multifamily programs.
- b) On October 25, 2001, Florida Housing's Board of Directors selected the following offerors to provide some or all of these services:
 - (1) Seltzer Management Group, Inc.
 - (2) First Housing Development Corporation
 - (3) AmeriNational Community Services, Inc.
 - (4) Florida Community Partners
 - (5) Peninsula Housing Partners, Inc.
- c) The initial term of the contracts was for a three year period. By written agreement of the parties, the contracts may be renewed twice, each renewal being for an additional one year period.

2. Present Situation

Florida Housing staff has determined that the scope of the current contracts is not sufficient to meet Florida Housing's needs. The new contracts will differ so substantially in their scope from the current contracts that staff feels the best course of action is to issue a new RFP, rather than attempt wholesale amendments in the renewal process.

3. Recommendation

Florida Housing staff recommends that the Board authorize staff to begin the RFP process and establish a review committee to select multiple providers to perform Credit Underwriting, Construction and Permanent Loan Servicing, Compliance Monitoring, and Financial Monitoring for Florida Housing's single family and multifamily programs.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

C. State Housing Initiatives Partnership (SHIP) Program Compliance Monitoring Services

1. Background

- a) On April 2, 2004 Florida Housing's Board authorized staff to begin the RFP process for SHIP Program Compliance Monitoring services and establish a review committee.
- b) An RFP process was initiated and RFP 2004-05 was issued on May 21, 2004. Responses to the RFP were due on or before 2:00 p.m., Friday, June 11, 2004.
- c) Five responses were received. They are as follows:
 - (1) First Housing Development Corporation of Florida
 - (2) Florida Planning Group, Inc.
 - (3) Reily & Rosas, P.A.
 - (4) Seltzer Management Group, Inc.
 - (5) Valiente Hernandez, P.A.
- d) The Review Committee members, designated by the Executive Director, were Robert Dearduff, Special Programs Administrator, Bonnie Percy-Hill, Assistant Director of Asset Management, Matt Jugenheimer, Asset Management Compliance Manager, Darlene Raker, SHIP Program Manager, and Carmita McCall, Asset Management Analyst.

2. Present Situation

Each member of the Review Committee individually reviewed the responses to the RFP prior to convening for the Review Committee meeting. The Review Committee was held on Thursday, July 1, 2004, at 10:00 a.m. Results of the Review Committee's evaluation of the scored items are provided in [Exhibit A](#).

3. Recommendation

- a) The Review Committee recommends the top three Offerors to provide SHIP Compliance Monitoring services. They are as follows:
 - (1) First Housing Development Corporation of Florida
 - (2) Florida Planning Group, Inc.
 - (3) Seltzer Management Group, Inc.
- b) Florida Planning Group's selection was contingent upon receiving proof of current professional liability errors and omissions insurance from the Offeror. Staff requested and received this proof on July 1, 2004.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

D. Hearing Officer Services

1. Background

- a) On April 2, 2004 Florida Housing's Board authorized staff to begin the Request for Proposals RFP process for Hearing Officer Services and establish a review committee.
- b) An RFP process was initiated and RFP 2004-05 was issued on May 7, 2004. Responses to the RFP were due on or before 2:00 p.m., Friday, June 18, 2004.
- c) Two responses were received. They are as follows:
 - (1) David E. Ramba, Shareholder, Lewis, Longman & Walker, P.A.
 - (2) Chris H. Bentley, Senior Partner, & Diane D. Tremor, Partner, Rose, Sundstrom & Bentley, LLP
- d) The Review Committee members, designated by the Executive Director, were Laura Cox, Special Assets Director, Junious Brown, Director of Asset Management & Guarantee Program, David Westcott, Multifamily Bonds Administrator, Steve Auger, Deputy Development Officer, and Robert Dearduff, Special Programs Administrator.

2. Present Situation

Each member of the Review Committee individually reviewed the responses to the RFP prior to convening for the Review Committee meeting. The Review Committee was held on Wednesday, July 7, 2004, at 10:00 a.m. Results of the Review Committee's evaluation of the scored items are provided in [Exhibit B](#).

3. Recommendation

The Review Committee recommends both Offerors, David E. Ramba, Lewis, Longman & Walker, P.A. and Chris H. Bentley & Diane D. Tremor, Rose, Sundstrom & Bentley, LLP to provide Hearing Officer Services.

SINGLE FAMILY BONDS

Action

VI. SINGLE FAMILY BONDS

A. Request approval to issue Mortgage Credit Certificates (MCC)

1. Background

A Mortgage Credit Certificate allows a homebuyer to receive a tax credit up to 20% of the mortgage interest paid against the homebuyer's federal tax liability or \$2,000, whichever is less ([See Exhibit A](#)). The affect of the tax credit is to increase the homebuyer's after-tax pay and thus increase his or her ability to afford a home. To qualify for an MCC, the homebuyer must meet the requirements for FHFC single family bond program. Due to the nature of the tax benefits provided, other state HFAs with MCC programs report that these credits tend to serve beneficiaries with incomes above 80% of area median income (AMI) as those with lower incomes aren't apt to incur a tax liability. This beneficiary group is served in a limited way by Florida Housing's single family bond program. Since November of 2002, only 2% of all FHFC bond loans were made to homebuyers whose income was between 81% to 115% (the upper limit) of AMI.

2. Present Situation

Currently, FHFC has approximately \$200 million of private activity bond volume cap earmarked for its single family program. MCC's use \$4 of bond volume cap for every \$1 of MCC issued. Florida Housing proposes to make \$20 million of volume cap available for a pilot program that will offer \$5 million of MCCs. The cost to implement and operate the program is minimal.

3. Recommendation

Approve the attached Resolution (See [Exhibit B](#)) to issue Mortgage Credit Certificates and authorize staff to proceed with the rule making process.