

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
**October 14, 2005**  
**Information Items**



## **FISCAL**

### ***Informational***

#### **I. FISCAL**

##### **A. Operating Budget Analysis for August 2005**

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

- a) The Financial Analysis for August 31, 2005, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending August 31, 2005, is attached as [Exhibit B](#).

## **GUARANTEE PROGRAM**

### *Information*

#### **II. GUARANTEE PROGRAM**

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

## LEGAL

### *Information*

### III. LEGAL

#### A. In Re: Florida Coalition for the Homeless v. Florida Housing Finance Corporation

##### 1. Background

- a) On January 19, 2005, Florida Coalition for the Homeless, Inc., a Florida corporation, Alice Laguerre, Josephine Gonzales, and The Center For Affordable Housing, Inc., a Florida corporation, (“Petitioners”) filed a Petition to Determine Invalidity of Florida Housing Finance Corporation Proposed Rule Chapters 67-21 and 67-48 (“Petition”).
- b) Florida Housing filed a Motion to Dismiss (“Motion”) the Petition. The Petitioners filed a Response to the Motion and the Administrative Law Judge (“ALJ”) denied the Motion. The Petitioners filed a Motion to Stay Further Proceedings (“Motion to Stay”), Florida Housing filed a Response to the Motion to Stay and the ALJ issued an Order Denying the Motion to Stay.
- c) Florida Housing filed a Motion to Dismiss for Lack of Particularity, for Lack of Standing and Lack of Jurisdiction (“Second Motion”). Petitioners filed a Response to the Second Motion. Florida Housing filed a Petition for Review of Non-final Administrative Order and Petition for Writ of Prohibition with the 1<sup>st</sup> District Court of Appeal; the Appeal was denied. The ALJ issued an Order Granting Motion to Dismiss with Leave to Amend and Canceling Hearing. The Petitioners filed a Petition to Determine Invalidity of Florida Housing Finance Corporation Proposed Rule Sections 67-48.002, 67-48.004, and 67-21.003. Florida Housing filed a Motion to Dismiss the Amended Petition. The Administrative Law Judge entered a Summary Final Order dismissing the Amended Petition on April 22, 2005. On May 20, 2005, Petitioners filed a Notice of Appeal with the First District Court of Appeals. On July 27, 2005 the Petitioners filed their Initial Brief. On August 3, 2005, Petitioners filed a Motion for Oral Argument. On August 22, 2005, Florida Housing filed its Answer Brief. On September 14, 2005, Petitioners filed their Reply Brief.

##### 2. Present Situation

The First District Court of Appeals will decide whether to grant an Oral Argument.

#### 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.

## LEGAL

### *Information*

- 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 Aloma 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. Aloma has refused to pay Florida Housing or the Trustee and 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 that 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 on August 14, 2003. Aloma and Thollander did not file an answer to the Complaint by September 3, 2003. Defendant Betsy Spano’s motion to dismiss for failure to join an indispensable party was denied on August 14, 2003. Defendant, Christopher T. Spano was served via alternative service through the Secretary of State, and did not file a proper answer within the allotted time. A motion for default on other defendants will also be heard in the near future, but the date has not yet been set. On December 1, 2004, the judge verbally granted Florida Housing’s motion for summary judgment was granted, in part, finding that Aloma Bend failed to assign the proceeds from the condemnation of the subject property to Florida Housing and failed to deposit those proceeds into an Insurance and Condemnation Proceeds Fund, as required by the Mortgage and Security Agreement and by the Loan Agreement. The litigation will continue as to the other issues in the case. On February 16, 2005, the judge issued an Order Granting, in Part, Plaintiff’s Motion for Summary Judgment; Denying Defendants’ Motion to Strike Late Filed Document. Aloma Bend has filed a Motion for Referral to Mediation on the issue of the amount Aloma Bend owes. That motion will most likely be granted. The parties have been exchanging discovery.

## LEGAL

### *Information*

#### C. Collier County, Florida v. April Circle, Ltd., et al.

##### 1. Background

- a) On July 26, 2004, Plaintiff, Collier County, filed a Petition in eminent domain to condemn a portion of April Circle's property in the Circuit Court of Collier County, Florida seeking to take a portion of the property for the widening of Immokalee Road.
- b) On October 14, 2004, Florida Housing filed its answer to the Petition in eminent domain.

##### 2. Present Situation

Florida Housing will continue to monitor the litigation.

#### D. Bank of America, FSB v. Tower Place Apartments Limited, et al.

##### 1. Background

- a) On October 2, 2001, Plaintiff, Bank of America, served a lawsuit on Florida Housing. Bank of America filed the lawsuit in the Circuit Court in Duval County seeking to foreclose the mortgage on the development known as Tower Place Apartments. The complaint also requests an action on the note and an action to foreclose the security interest. Tower Place Apartments, Ltd. failed to make the principal and interest payment due on May of 2001 and failed to repay the loan at maturity, which was August 10, 2001. Florida Housing allocated \$380,000.00 in low-income housing tax credits for this development. First Housing was the credit underwriter for the allocation of the housing credits issued by virtue of an Extended Low-Income Housing Agreement dated December 28, 1999. Florida Housing filed its answer to the Complaint on October 12, 2001. On November 26, 2001, the Circuit Court granted Bank of America's Motion to Require Deposit of Rents. On March 13, 2002, the Circuit Court entered an Order Setting Case for Non-Jury Trial and for Pretrial Conference. The Pretrial Conference was set for April 12, 2002; the Non-Jury Trial was set for May 8, 2002. On March 28, 2002, Tower Place filed a Notice of Pending Chapter 11 Reorganization. On April 15, 2002, Bank of America filed a Motion to Dismiss the bankruptcy. A hearing was held and a Motion for Summary Judgment was submitted by Bank of America. An Order granting the Motion for Summary Judgment was entered on August 6, 2002, but the Court had entered an Order Confirming Chapter 11 Plan on May 15, 2003 – effectively delaying the foreclosure action for the period of bankruptcy. On October 18, 2004, Bank of America moved to re-open the foreclosure case and to amend their complaint on the grounds that Tower Place has defaulted under the Bankruptcy Plan in addition to the original Bank of America loan documents. The Court ruled on these Motions and has allowed the foreclosure to begin.

##### 2. Present Situation

Florida Housing continues to monitor this ongoing litigation.

## LEGAL

### *Information*

**E. Seminole County, Florida v. Seminole County S.R. 46, Ltd. (Seminole Pointe Apartments), et al.**

**1. Background**

- a) On June 14, 2005, Plaintiff, Seminole County, filed a Petition in eminent domain to condemn a portion of Seminole Pointe Apartments' property in the Circuit Court of Seminole County, Florida seeking to take a portion of the property for the regional stormwater facility/road improvement project construction.
- b) Florida Housing is preparing its answer to the Petition in eminent domain.

**2. Present Situation**

Florida Housing will continue to monitor the litigation.

## LEGAL

### *Information*

#### **F. In Re: 2005 Universal Cycle Appeals-Ranking Disputes**

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

- a) On or before February 16, 2005, Applicants submitted applications to Florida Housing for the award of SAIL, MMRB or HOME funds and/or an allocation of Housing Credits in the 2005 Universal Cycle program.
- b) On March 18, 2005, 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 June 16, 2005, petitioners filed 12 petitions challenging Florida Housing's scoring decisions.
- d) Informal hearings were held before Florida Housing contract Hearing Officers on July 6, 11, 12 and 15, 2005.
- e) On August 25, 2005, Florida Housing notified all applicants of their Final Ranking scores, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes.
- f) On or about September 16, 2005, Florida Housing received four petitions for informal administrative hearing and two petitions for formal administrative hearings. Each case status is outlined below:
  - (1) GHG Flagler Crossing filed four petitions against other applications;
  - (2) Oaks at Stone Fountain filed a petition against another application;
  - (3) St. Luke's Life Center filed a petition against another application.

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

Florida Housing is preparing to set hearings on the matters.



# SINGLE FAMILY BONDS

## *Information*

### IV. SINGLE FAMILY BONDS

#### A. 2004 Series 5-6 Single Family Mortgage Revenue Bond Program

##### 1. Background/Present Situation

- a) On September 11, 2004, the Board authorized issuance of the 2004 Series 5-6 Bonds. The origination period began on December 17, 2004. The last date for Lenders to reserve loans in the program was August 31, 2005.
- b) Lendable proceeds totaling \$36,152,475 were made available and offered at an interest rate of 5.55%. There are currently \$677,072 available as of September 20, 2005.
- c) Lendable proceeds totaling \$10,400,000 were made available and offered at an interest rate of 6.25%. There are currently \$0 available as of September 20, 2005.
- d) Additionally, Lendable proceeds totaling \$5,000,000 were set-aside for special targeting for purchases in Urban Infill, Targeted Areas, HOPE VI and Front Porch Communities; the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program; and for individuals with Disabilities at an interest rate of 4.99%. There are currently \$0 available as of September 20, 2005.
- e) As of September 20, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Low Rate Spot Pool	\$46,005,555	\$45,328,281	447	\$677,072	99.5
Assisted Spot Pool	\$1,384,564	\$1,384,564	11	\$0	100
Subsidized Rate Pool	\$4,162,356	\$4,162,475	48	\$0	100

# SINGLE FAMILY BONDS

## *Information*

### **B. 2005 Series 1 Single Family Mortgage Revenue Bond Program**

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

- a) On March 4, 2005 the Board authorized issuance of the 2005 Series 1 Bonds. The origination period began on June 1, 2005. The last date for Lenders to reserve loans in the program is May 1, 2006.
- b) Lendable proceeds totaling \$35,071,220 for the Low Rate Spot pool were made available and offered at an interest rate of 5.49%. On September 19, 2005, \$1,000,000 were transferred from the Assisted Spot pool to the Low Rate Spot pool. There are currently \$1,685,199 available as of September 20, 2005.
- c) Lendable proceeds totaling \$2,500,000 for the Assisted Spot pool were made available and offered at an interest rate of 5.99%. On August 24, 2005, \$1,000,000 were transferred from the Subsidized Spot pool to the Assisted Spot pool and offered at an interest rate of 6.22%. There are currently \$1,062,025 available as of September 20, 2005.
- d) Lendable proceeds totaling \$5,000,000 for the Community Spot pool were made available and offered at an interest rate of 4.99%. There are currently \$122,121 available as of September 20, 2005.
- e) Additionally, \$10,000,000 were set-aside for special targeting for purchases in Urban Infill, Targeted Areas, HOPE VI and Front Porch Communities; the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program; and for individuals with Disabilities at an interest rate of 4.99%. On August 24, 2005, \$1,000,000 were transferred from the Subsidized Spot pool to the Assisted Spot pool. There are currently \$4,694,625 available as of September 20, 2005.
- f) As of September 20, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Low Rate Spot Pool	\$36,071,220	\$34,386,021	324	\$1,685,199	95.3
Assisted Spot Pool	\$3,580,000	\$2,517,975	19	\$1,062,025	70.3
Community Rate	\$5,000,000	\$4,877,879	44	\$122,121	97.5
Subsidized Rate Pool	\$7,920,000	\$3,225,375	38	\$4,694,625	40.7

## SINGLE FAMILY BONDS

### *Information*

- g) As of September 20, 2005, the following activity was reported for the Downpayment and Closing Costs Assistance Programs:

<b>Allocated Pool</b>	<b>Current \$ Amount Allocated</b>	<b>Purchased/Reserved \$ Amount Number</b>		<b>\$ Amount Available</b>	<b>% Used</b>
HAMI Loans	Pooled	\$119,345	24	Pooled	N/A
HAP D/P	Pooled	\$3,096,207	312	Pooled	N/A
HOME Loans	Pooled	\$10,316,028	519	Pooled	N/A

# SINGLE FAMILY BONDS

## *Information*

### C. Marketing and Outreach

#### 1. Marketing

- a) In August 2005, Staff commenced Realtor CE Courses, starting in Hernando County. Additional Realtor trainings will be conducted in the Fernandina Beach, Ft. Myers, and Orlando areas.
- b) The Tallahassee Lender's Consortium (TLC) is having their 2005 Homebuyer Showcase September 24, 2005 at Jack McClean Park from 10 a.m.-2p.m.
- c) Florida Housing is partnering with TLC to hold this event which will connect Big Bend Area affordable housing providers, such as lenders, builders, home inspectors and others with prospective first time homebuyers. This annual event averages approximately 750 consumers and 50-60 exhibitors.
- d) The Community Spot Loan Program has successfully depleted its \$5 million set aside. This program is targeted to teachers, police officers, fire fighters, and healthcare workers who are looking to purchase a home for the first time. They can receive low mortgage rates and down payment and closing cost assistance.
- e) Flyers, promotional information and bi-weekly updates were created and sent to various state agencies, local governments, associations and organizations that target teachers, police officers, fire fighters, and healthcare workers.
- f) The Mortgage Credit Certificate Program (MCC) allows first time homebuyers to receive a \$2,000 tax credit annually for as long as they live in the house. This credit gives first time homebuyers the opportunity to have more money at the end of the year and it can also help them qualify for a larger loan.
- g) A press release concerning the MCC program was written and distributed statewide, resulting in coverage in various newspapers, including the *Naples Daily Newspaper*, the *Tallahassee Democrat* and the *Daytona Beach News Journal*. We are also currently discussing promotional information to help market this program such as: drafting correspondences for housing providers and advocates to distribute to interested parties, printing mounted posters w/ the MCC brochure inside to be mailed to all participating lenders, an MCC opinion-editorial piece to be written and provided to the seven large newspaper's, and possibly negotiating a co-promotional partnership with a leading tax service provider and their mortgage services.

#### 2. Public Affairs Programming

WCOT Channel 13, City of Tallahassee's public access channel continues to air Florida Housing's First Time Homebuyer Program commercial on their station free of charge.

#### 3. Publications

Single Family's second quarterly newsletter, *The Single Family Communicator* was distributed to all our Participating Lenders and other interested parties on September 16, 2005. This newsletter updates lenders and Realtors on First Time Homebuyer Program monies available, bond financial issues, Realtor CE Courses, and much more. The next distribution date for the quarterly newsletter will be November 30, 2005.