

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
January 20, 2006
Information Items



FISCAL

Informational

I. FISCAL

A. Operating Budget Analysis for November 2005

1. Background/Present Situation

- a) The Financial Analysis for November 30, 2005, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending November 30, 2005, is attached as [Exhibit B](#).

GUARANTEE PROGRAM

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II. GUARANTEE PROGRAM

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

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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 1st 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

Petitioners filed their Motion for Dismissal on January 3, 2006.

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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 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

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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. Aloma Bend has proposed a settlement of the damages amount, and Florida Housing has responded with a counterproposal.

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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.

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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

The property was foreclosed and the EUA terminated. This matter is now closed.

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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. Recommendation

Florida Housing will continue to monitor the litigation.

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F. In Re: **Holly Ridge Limited Partnership v. Pritchett, et al**

1. **Background**

- a) Holly Ridge Limited Partnership (“Holly Ridge”), a property financed in part by Low Income Housing Tax Credits, challenged the tax assessment of its real property in Putnam County for 2002 and 2003. After a two-day non-jury trial, the Circuit Court for Putnam County, entered verbatim a 30-page Final Judgment which found that the assessments were in compliance with the requirements of law, and that Holly Ridge did not overcome the presumption of correctness to which the assessments were entitled.
- b) Holly Ridge appealed the Final Judgment, based in part on the trial court’s interpretation of § 420.5099, which provides that the Property Appraiser may not consider the tax credits as income to the property for valuation purposes, and must consider the effect of rent restrictions imposed by the LURA on the income produced by the property. Because of the potential statewide negative effect of the misapplication of § 420.5099 on other tax credit properties, Florida Housing will file an Amicus Curiae brief in support of Holly Ridge’s position. The Coalition of Affordable Housing Providers is also filing an Amicus Curiae brief. The Amicus briefs are due to be filed by November 28, 2005.

2. **Present Situation**

Florida Housing filed its Amicus Curiae brief on December 29, 2005, and will await further developments in the case.

SINGLE FAMILY BONDS

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IV. SINGLE FAMILY BONDS

A. 2005 Series 2-3 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On August 26, 2005 the Board authorized issuance of the 2005 Series 2-3 Bonds. The origination period began on October 20, 2005. The last date for Lenders to reserve loans in the program is October 1, 2006.
- b) Lendable proceeds totaling \$37,382,128 for the Low Rate Spot pool were made available and offered at an interest rate of 5.49%. On December 6, 2005, \$2,000,000 was transferred from the Low Rate Spot pool to the Assisted Spot pool, reducing the total amount of lendable proceeds to \$35,382,128.
- c) Lendable proceeds totaling \$3,066,900 for the Assisted Spot pool were made available and offered at an interest rate of 6.25%. An additional \$2,000,000 was received from the Low Rate Spot pool on December 6, 2005, increasing the total amount of lendable proceeds to \$5,066,900.
- d) Lendable proceeds totaling \$6,319,950 for the Community Spot pool were made available and offered at an interest rate of 5.10%.
- e) Additionally, \$4,431,600 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 4.60%.
- f) As of December 30, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved \$ Amount Number	\$ Amount Available	% Used
Low Rate Spot Pool	\$35,382,128	\$21,353,675 195	\$14,028,453	60.4
Assisted Spot Pool	\$5,066,900	\$4,172,549 28	\$894,351	82.3
Community Rate	\$6,319,950	\$5,668,391 45	\$651,559	89.7
Subsidized Rate Pool	\$4,431,600	\$1,752,717 17	\$2,678,883	39.6

- g) As of December 30, 2005, the following activity was reported for the Downpayment and Closing Costs Assistance Programs:

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Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved \$ Amount Number		\$ Amount Available	% Used
HAMI Loans	\$62,814	\$40,000	8	\$22,814	63.7
HAP D/P	\$962,389	\$879,650	89	\$82,739	91.4
HOME Loans	\$6,912,752	\$2,821,566	138	\$4,091,186	40.8

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%. A total of \$6,000,000 was transferred to the Low Rate Spot pool. \$1,000,000 was transferred from the Assisted Spot pool and \$5,000,000 was transferred from the Subsidized Spot pool.
- c) Lendable proceeds totaling \$2,500,000 for the Assisted Spot pool were made available and offered at an interest rate of 5.99%. A total of \$1,080,000 was transferred from the Subsidized Spot pool to the Assisted Spot pool and offered at an interest rate of 6.22%.
- d) Lendable proceeds totaling \$5,000,000 for the Community Spot pool were made available and offered at an interest rate of 4.99%.
- 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 was transferred from the Subsidized Spot pool to the Assisted Spot pool. An additional \$500,000 was transferred from the Low Rate Spot pool to the Subsidized Spot pool.

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f) As of December 30, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Low Rate Spot Pool	\$40,571,220	\$40,320,175	375	\$251,045	99.4
Assisted Spot Pool	\$2,580,000	\$2,524,582	19	\$55,418	97.9
Community Rate	\$5,000,000	\$4,958,134	44	\$41,866	99.2
Subsidized Rate Pool	\$4,420,000	\$3,805,131	44	\$614,869	86.1

SINGLE FAMILY BONDS

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- g) As of December 30, 2005, the following activity was reported for the Downpayment and Closing Costs Assistance Programs:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved \$ Amount Number		\$ Amount Available	% Used
HAMI Loans	\$70,000	\$65,000	13	\$5,000	92.9
HAP D/P	\$1,610,469	\$1,590,469	160	\$10,000	98.8
HOME Loans	\$5,816,781	\$5,556,685	276	\$260,096	95.5

C. Marketing and Outreach

1. Background/Present Situation

- a) Communications and Marketing staff is helping the Housing Policy Department put together their Rental Housing Forum for those with special needs. Invite letters have already gone out and an announcement about the forum is on our website. The forum will be held Tuesday, January 31, 2006 at City Hall in Orlando, Florida.
- b) Staff is also currently working on the 2005 Annual Report. Trips to Jacksonville, Orlando and Tampa have taken place to photograph homes, rental units and developments through Florida Housing's single family and multifamily programs. The completion of the 2005 Annual Report will be in February 2006.
- c) Single Family and Communications staffs continue to work on goals and objectives for 2006 marketing efforts. Plans are currently in draft form but will focus on increasing the visibility of Florida Housing and its programs. Market research, data collection and other input is being gathered and developed to be used as a base for future marketing plans. Florida Housing's Policy staff as well as the Shimberg Center for Affordable Housing is helping Communications and Single Family staff chart statewide data to aid in identifying key markets with the most potential for growing Single Family programs.
- d) Communications and Single Family staff are also evaluating the results of online first-time homebuyer surveys, consumer response cards and other tools collected in 2005. The results of these evaluations will also be incorporated into the 2006 marketing goals and objectives regarding ways to improve and/or enhance current interaction with prospective first-time homebuyers.

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- e) Moreover, Florida Housing has partnered with some of its Mortgage Credit Certificate Program participating lenders to promote the product in the common areas of their branch offices. Florida Housing has designed individualized posters promoting the MCC product that lenders will display in their lobbies. The mortgage credit promotions will play off of the timeliness of the upcoming 2006 tax season. Florida Housing is also providing additional materials that lenders can provide to interested consumers. The lenders will have their posters no later than January 2006.

- f) As we prepare for the 2006 Homebuyer Expo, staff has conducted a site visit to the Orange County Convention Center for the selection of the exhibit hall and to the Peabody and Rosen Plaza hotels for the Annual Appreciation Reception and Dinner. Contracts are currently being reviewed.