

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
July 24, 2009
Information Items



COMMUNICATIONS

Information

I. COMMUNICATIONS

A. Corporate Marketing and Outreach

1. Background/Present Situation

- a) Communications and Special Needs staffs continue to work together on marketing the newly expanded affordable rental housing locator online at www.floridahousingsearch.org. Marketing materials (one pagers, post cards, flyers, etc.) were created and sent out to local government, housing authorities, elected officials, landlords, and other rental housing providers and advocates.
- b) Moreover, Florida Housing's Bill Aldinger and Cecka Rose Green appeared on Tallahassee's WTXL morning show in May to promote the locator, and Bill was on Sarasota's ABC Channel 7 in June. Program staff has seen an increase in the site's usage as time progresses. Communications staff also will draft an opinion editorial (op-ed) to be placed in newspapers in targeted counties.
- c) Communications and Special Programs staffs are almost ready to unveil the "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 summer 2009.
- d) Finally, Communications and Single Family staffs recently hosted the 2009 Lenders Appreciation Awards Dinner, Friday, June 12, 2009, at the Peabody Orlando Hotel. We had approximately 150 lenders, local government agencies, and other housing providers and advocates in attendance.

COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

Information

II. COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

A. Authorize Staff to De-obligate CWHIP funds for The Housing Authority of the City of Key West Florida for the Roosevelt C. Sands Jr. Housing Complex / CWHIP 2007-031W

Applicant Name (“Applicant”):	The Housing Authority of the City of Key West Florida
Development Name (“Development”):	Roosevelt C. Sands Jr. Housing Complex
Developer/Principal (“Developer”):	Manuel Castillo
Number of Units: 44 – Multifamily	Location: Monroe County, Florida
Type: CWHIP Loan	Allocated Amount: \$5,000,000

1. Background

- a) On May 2, 2008, the Board approved the final rankings for the 2007 Community Workforce Housing Innovation Pilot (CWHIP) Program.
- b) On November 13, 2008, Florida Housing issued an invitation to the Developer to enter into credit underwriting.

2. Present Situation

- a) On June 23, 2009, the Developer advised that they were withdrawing the Project because the bids for the construction of the planned improvements were much lower than anticipated. The letter is attached as [Exhibit A](#).
- b) Pursuant to Emergency Rule 67ER09-4, F.A.C., \$5,000,000 in CWHIP funds will be deobligated and the CWHIP funds will be offered to the highest ranking unfunded eligible 2007 CWHIP Development (Hammon Park / 2007-037W).

FISCAL
Information

III. FISCAL

A. Operating Budget Analysis for May 2009

- a) The Financial Analysis for May 31, 2009, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending May 31, 2009, is attached as [Exhibit B](#).

GUARANTEE

Information

IV. GUARANTEE

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

LEGAL

Information

V. LEGAL

A. De-obligation Proceedings

1. Background/Present Situation

- a) On April 24, 2009, in accordance with Emergency Rule 67ER09-3, Fla. Admin. Code, Florida Housing gave notice to various developers that their funding was to be de-obligated, and provided instructions as to how any aggrieved party may challenge this action.
- b) Subsequently, several 2007 CWHIP applicants timely submitted Petitions challenging Florida Housing's de-obligation of their funding. After review by Florida Housing legal staff for disputes of material fact, the Petitions filed by the following entities were forwarded to the Division of Administrative Hearings (DOAH) and assigned to Administrative Law Judge John G. Van Laningham, pursuant to Section 120.57(1), Fla. Stat.:
 - (1) MGD Capital Corporation – Fountain Lakes Residential Cooperative;
 - (2) All Saints Square, LLC;
 - (3) Pasco CWHIP Partners, LLC – Village Green with Ten Oaks;
 - (4) Park Royale Residences at Portofino Springs
 - (5) The Reserve at Falls of Portofino
 - (6) Legacy Pointe, Inc.
 - (7) Villa Capri
 - (8) The Village at Portofino Meadows
 - (9) Auburn Development, LLC
- c) As requested by Florida Housing, all of the above cases were consolidated into a single action, comprising DOAH Case Nos. 09-3329 through 09-3336. On June 29, 2009, Judge Van Laningham issued a Notice of Hearing scheduling the final hearing in these consolidated matters for October 13-15, 2009, in Tallahassee, Florida.
- d) Two additional entities filed Petitions challenging the de-obligation of their funding under Emergency Rule 67ER09-003, Fla. Admin. Code: Rosene's Success House (SHADP), and New Urban RFC Lake Worth – Hammon Park (CWHIP).
- e) Rosene's Success House elected to provide only a written argument and waived its right to appear at a hearing. Florida Housing will submit this written argument and its response thereto, to a contract Hearing Officer for determination.
- f) New Urban RFC Lake Worth – Hammon Park has agreed with Florida Housing to hold its Petition in abeyance pending the possible availability of additional funds to replace those de-obligated by Emergency Rule.

LEGAL

Information

B. Atlantic Housing Rule Challenge

1. Background

- a) On April 27, 2009, Atlantic Housing Partners, LLLP (“Atlantic”), filed its Petition to Determine the Invalidity of Proposed Rules (“Petition”) with the Division of Administrative Hearings (“DOAH”). The Petition alleged that certain proposed amendments to Rules 67-21 and 67-48, Fla. Admin. Code, and the incorporated Universal Cycle Instructions constituted an invalid exercise of legislative authority. Specifically, Atlantic alleged that provisions of the Rules and Instructions that provided for the classification of applications into Priority I and Priority II, and the preference for funding Priority I applications, was beyond the authority granted to Florida Housing by the Legislature.
- b) Five additional parties subsequently intervened in the rule challenge, aligning themselves with Florida Housing to defend the validity of the Rule: Eastwind Development, LLC; Housing Trust Group, LLC; The Gatehouse Group, LLC; American Realty Development Corp.; and Landmark Development Corp.
- c) A final hearing in this matter was held on May 26 and 27, 2009, in Tallahassee, Florida, before Administrative Law Judge R. Bruce McKibben. All parties filed Proposed Final Orders on June 18, 2009.

2. Present Situation

Awaiting a Final Order from Judge McKibben.

LEGAL

Information

C. **Villa Capri Associates Ltd. v Florida Housing Finance Corporation, 1st DCA Case No. 1D08-5235; FHFC Case No. 2008-058UC**

1. **Background**

- a) During the 2008 Universal Cycle, Villa Capri Associates, Ltd. (“Petitioner”) applied for funding to finance the construction of Villa Capri Apartments (the “Development”) located in Miami-Dade County, Florida.
- b) Petitioner’s application failed threshold and Petitioner timely filed a petition challenging Florida Housing’s scoring of its application. An informal hearing was held on August 27, 2008. On September 8, 2008, the designated Hearing Officer entered a Recommended Order recommending that Florida Housing’s final scoring of the Petitioner’s application be upheld, and that Petitioner’s application be rejected for failure to establish the threshold requirement that electricity be available to the project as of the application deadline. On September 26, 2008, Florida Housing’s Board adopted the Recommended Order and entered a Final Order rejecting Petitioner’s application for failure to establish the threshold requirement that electricity be available to the project as of the application deadline.
- c) On October 22, 2008, Florida Housing received Petitioner’s “Motion for Reconsideration” (“Motion”). Subsequent to the filing of its Motion for Reconsideration, Villa Capri appealed the Final Order entered in this matter to the First District Court of Appeal. A copy of Villa Capri’s Notice of Administrative Appeal was served on Florida Housing on October 24, 2008. The Motion for Reconsideration was denied, as jurisdiction lay with the First District Court of Appeal.
- d) On May 13, 2009, Villa Capri filed its Initial Brief. Its appeal states that an earlier Rental Recovery Loan Program case, *Eclipse West Associates, Ltd., v. Florida Housing Finance Corporation*, FHFC Case No. 2006-078RLP (Final Order March 16, 2007), was “almost identical” to the Villa Capri case, and that Villa Capri was denied the benefit of having the *Eclipse West* case to argue in its case, as Florida Housing had failed to post the *Eclipse West* Final Order in the usual place for final orders on the Florida Housing website.
- e) On June 29, 2009, Florida Housing filed its Answer Brief, arguing that the *Eclipse West*, while involving somewhat similar factual issues, was decided on a legal basis different enough that it would not change the outcome of the *Villa Capri* case; further, that *Villa Capri* could not reasonably claim that *Eclipse West* was concealed from it, as Villa Capri’s principal had filed the NOPSE that initiated the *Eclipse West* case, and was provided actual notice of the *Eclipse West* hearing.

2. **Present Situation**

Villa Capri’s Reply Brief is due to be filed on July 20, 2009. Oral Argument has not been requested.

MISCELLANEOUS

Information

VI. MISCELLANEOUS

A. American Recovery and Reinvestment Act of 2009

1. Background

- a) 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 submitted a complete TCAP Submission Packet to HUD on June 3, 2009. At HUD’s request, some additional clarifying information was submitted on June 12, 2009. Florida Housing entered into a TCAP Grant Agreement with HUD on July 8, 2009. A copy of the agreement is attached here as [Exhibit A](#).
- d) The Guidelines for Issuance of Requests for Proposals in Connection with the American Recovery and Reinvestment Act of 2009 (ARRA) were originally posted to the Florida Housing website on May 15, 2009. Based on additional clarifying information about the TCAP and Exchange Programs received from HUD and Treasury, Florida Housing posted updated Guidelines to the website on July 10, 2009.

MISCELLANEOUS

Information

- e) Staff intends to issue requests for proposal (RFPs) for the TCAP and Exchange funding, as follows:
- (1) Step 1.b. RFP – 9 percent Housing Credits with or without TCAP funding for (a) SAIL and RRLP de-obligated Developments that (i) chose not to apply for 9 percent Housing Credits under RFP 2009-01 or (ii) were awarded 9 percent Housing Credits under RFP 2009-01 and wish to return that award and request a new 9 percent Housing Credit allocation along with TCAP funding, (b) Applicants that obtain a final order between April 24, 2009 and July 24, 2009, awarding an allocation of Housing Credits based on an administrative appeal under subsection 67-48.005(5), F.A.C., or (c) Applicants that included rental units in its CWHIP Application and the funding was de-obligated on April 24, 2009, pursuant to 67ER09-03, F.A.C.
 - (2) Step 2 RFP – Exchange funds with or without TCAP funding (that would require a nominal allocation of 9 percent Housing Credits) 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.
 - (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.

SINGLE FAMILY BONDS

Information

VII. 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 contract through the local Board of Realtors in the various counties to guarantee a minimum attendance of 20 Realtors per class. Florida Housing charges \$25 per attendee to help defray our cost to travel. We held two such classes in May and June, and have one scheduled for the month of July. Our July 22nd class will be in Fort Walton Beach at the Emerald Coast Realtor Association.
- b) Florida Housing hosted its sixth Annual Lender Appreciation Awards Dinner and Reception on Friday, June 12 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 were honored for helping families achieve their dream of homeownership. Single Family staff hosted 138 attendees which included; members of our Board of Directors, lending institution corporate representatives, loan officers and their guests, partners from the non- profit counseling and housing community, and local government officials.
- c) Our next lender training for new lenders is scheduled for early to mid September 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 had 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 the short notice, this function was transitioned to Single Family Programs staff. For the month of April we received 966 calls from first time homebuyers, Realtors, and lenders via the first time homebuyer line; of which 612 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

VIII. SPECIAL ASSETS

A. In Re: Carlisle Lakes II a/k/a/ Sherwood Lakes Apartments

1. Background

- a) Carlisle Lakes II aka Sherwood Lakes Apartments d/b/a TCG Sherwood Lake, Ltd. ("the Development") is a 149 unit multifamily development in Hillsborough County, Florida financed with \$950,000 of funds from the State Apartment Incentive Loan Program, and low income housing tax credits of \$234,848. A Land Use Restriction Agreement, dated June 24, 2002, restricts the occupancy and Area Median Income (AMI) levels at 15.43% @ 30% and 84.57% @ 60%. An Extended Low Income Housing Agreement per the tax credits, filed on September 5, 2002, restricts the occupancy of 100% of the units to families earning 60% or less of AMI.
- b) The Development is also financed with Hillsborough County Housing Finance Authority (HCHFA) bonds in the original principal amount of \$4,100,000 with a mortgage note assigned to the Bank of New York, as Trustee.
- c) By Case No. 08-08174, the Bank of New York as Trustee filed a foreclosure complaint on April 8, 2008 against TCG Sherwood Lake, Ltd for failure to pay amounts due under the HCHFA note.
- d) On June 10, 2008, Lloyd Boggio of The Carlisle Group, not the borrower, TCG Sherwood Lake, Ltd., personally remitted funds for the payoff of the SAIL loan to be held in escrow, pending approval from Florida Housing's Board of a workout proposal to allow time for further negotiations with the Centerline Capital Group, Inc./Related Charter L.P., (Centerline), as servicer of the HCHFA mortgage. On June 13, 2008 Florida Housing's Board approved the workout proposal. On June 17, 2008 Mr. Boggio advised Florida Housing that Centerline had no intention of negotiating and asked that his funds held in escrow be applied to payoff the SAIL loan.
- e) A final judgment of foreclosure was entered on June 9, 2009 and the foreclosure sale is scheduled for July 28, 2009.
- f) By Case No. 09-CA-002369 filed on January 30, 2009, the Bank of New York as Trustee, by and through Related Charter, L.P., instituted a claim against Florida Housing alleging breach of a subordination agreement which set forth certain duties and obligations related to receipt of payments or other rights in property of an entity known as TCG Sherwood Lake, Ltd.
- g) The Plaintiff agreed to Florida Housing's motion to dismiss the claim for failure to state a cause of action and lack of venue and plans to file an amended complaint in Leon County. By Order dated June 18, 2009, the Court granted Florida Housing's motion and directed the transfer of the matter to Leon County Circuit Court.

2. Present Situation

Florida Housing anticipates the plaintiff will file an amended complaint in Leon County sometime after the completion of the July 28th foreclosure sale.

SPECIAL ASSETS

Information

B. In Re: South Springs

1. Background

- a) South Springs (“the Development”) d/b/a North Florida Educational Development Company (“Borrower”) was intended to be an affordable development built on 92.26 acres of land located in Gadsden County, Florida that was financed with \$410,573.21 from the Predevelopment Loan Program (PLP).
- b) On June 20, 2003 the Board granted a one-year extension of the loan term for completion of predevelopment activities and for pursuit of construction financing.
- c) The PLP loan matured on May 19, 2004, and since then Florida Housing has been working diligently with the Borrower in its efforts to secure financing to build affordable housing on said land.
- d) To preserve our rights to enforce our lien and avoid the statute of limitations, we proceeded with a foreclosure action on May 1, 2009.
- e) On June 24, 2009, FHFC filed a motion for summary final judgment for foreclosure and taxation of costs.

2. Present Situation

The motion for summary judgment is currently scheduled to be heard on August 18, 2009. FHFC will request the Court to enter an order granting foreclosure and schedule the property for sale.

UNIVERSAL CYCLE

Information

IX. 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) A rule challenge was filed on April 27, 2009, postponing the adoption of Rule Chapters 67-48 and 67-21, F.A.C., and the opening of the 2009 Universal Application Cycle pending resolution of the litigation. A hearing on the proposed rule challenge was held on May 26-27, 2009.

2. Present Situation

The final order has not been issued by the hearing officer. Once the ruling is received, a supplemental write-up will be provided which will outline the final order and the steps staff expects to follow to complete the rulemaking process and proceed with the 2009 Universal Application Cycle activities.

UNIVERSAL CYCLE

Information Supplement

I. UNIVERSAL CYCLE

A. 2009 Universal Cycle Timeline Update

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) A rule challenge was filed on April 27, 2009, postponing the adoption of Rule Chapters 67-48 and 67-21, F.A.C., and the opening of the 2009 Universal Application Cycle pending resolution of the litigation. A hearing on the proposed rule challenge was held on May 26-27, 2009.
- c) A final order was issued by the hearing officer on July 14, 2009, ruling in favor of Florida Housing.

2. Present Situation

- a) Staff will now complete the rulemaking process and proceed with the 2009 Universal Application Cycle activities.
- b) According to the new tentative timeline, which has been posted on the Florida Housing website and is attached here as [Exhibit A](#), the 2009 Universal Application Cycle will proceed as follows:
 - (1) The 2009 Universal Application Cycle opened on July 21, 2009, and is scheduled to close on August 20, 2009.
 - (2) An application workshop is scheduled for August 12, 2009, in Tallahassee.