

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
**February 26, 2010**  
**Information Items**



# COMMUNICATIONS

## *Information*

### I. COMMUNICATIONS

#### A. Corporate Marketing and Outreach

##### 1. Background/Present Situation

- a) In January, Communications staff participated in a homeownership workshop hosted by the Tallahassee Alumnae Chapter of Delta Sigma Theta Sorority, Inc. Approximately 50 interested homebuyers attended the workshop and received information on Florida Housing's programs.
- b) Communications and IT staffs are working together to redevelop Florida Housing's Web site during the 2010 calendar year. This initiative complies with the item in the newly adopted strategic plan, titled "*Ensure that Information about Florida Housing's Programs is Accessible to All Stakeholders.*"
- c) The Seventh Annual Lenders Appreciation & Awards Dinner will be held on Friday, June 11, 2010, at The Peabody Hotel in Orlando. In addition, Communications staff is currently reviewing proposals for the 2011 Lenders Dinner.

## **FISCAL**

### ***Information***

## **II. FISCAL**

### **A. Operating Budget Analysis for December 2009**

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

# GUARANTEE

## *Information*

### III. GUARANTEE

#### A. Status of Defaults within the Guarantee Program Portfolio

##### 1. Background/Present Situation

- a) In November 1994, the Guarantee Program entered into an agreement with HUD to participate in the Risk-Sharing Program; characterized by a 50/50 sharing of default risk in connection with the mortgage guarantee. Since then, the Guarantee Program alone and/or in conjunction with HUD has guaranteed 120 transactions, facilitating the construction of over 28,000 housing units in Florida. Of the 94 multifamily developments in the Guarantee Program portfolio today, 60 are Risk-Sharing transactions.
- b) The seven (7) claims filed since November 2008 represent the only multifamily claims incurred in the 15-year history of the Guarantee Program. As of February 8, 2010, the following developments have been foreclosed or are in the process of foreclosure:

<u>Development</u>	<u>Location</u>	<u>Year Built</u>	<u>Units</u>	<u>Claim Amt.</u>	<u>Risk-share</u>	<u>Gen Ptr</u>	<u>Ltd Ptr</u>	<u>Status</u>
Turtle Creek	Naples	1996	268	11,798,177	Yes	C.J. Communities	KeyBank	Claim filed 11/08, Receiver appointed, Foreclosure in process
Riverfront	Orlando	1997	356	13,322,340	Yes	MMA *	MMA	Foreclosed 7/09. Sold 12/09.
Riley Chase	North Port	1999	312	12,135,769	Yes	Vestcor	Centerline Capital	Foreclosed 11/09. Sold 1/10.
Walker Ave Club	Vero Beach	2000	172	8,163,931	Yes	Benchmark	PNC Capital	Foreclosed 11/09. Under contract for sale.
Landings at Boot Ranch	Palm Harbor	1995	232	10,028,319	Yes	Gulf Landings Dev. Corp.	Centerline Capital	Foreclosed 10/09.
Sarah's Place	Clermont	1997	330	12,369,280	Yes	Sarah's Place LLC *	Key Bank	Claim filed 9/09, Foreclosure in process
Nelson Park	Clermont	2000	358	14,409,565	Yes	Nelson Park LLC *	Key Bank	Claim filed 9/09, Foreclosure in process

\*The original general partner was Worthwhile Development (H.J. "Jay" Royall, principal), who was either removed by the limited partner or resigned and was subsequently replaced by a limited partner related entity.

## GUARANTEE

### *Information*

- c) As of February 8, 2010, there was one (1) development in the portfolio in monetary default due to the borrower's failure to make timely payments on the note, outline below:

<u>Development</u>	<u>Location</u>	<u>Closing Date</u>	<u>Total units</u>	<u>Mtg. bal.</u>	<u>Risk-share</u>	<u>Gen Ptr</u>	<u>Ltd Ptr</u>	<u>Status</u>
Heritage Apartments	Naples	7/11/2001	320	18,236,346	Yes	Worthwhile Development	KeyBank	Past due: 1/1/10 & 2/1/10 pmts

- d) Heritage Apartments is the fourth and final Worthwhile Development in the Guarantee Program's portfolio. H.J. "Jay" Royall is the principal of Worthwhile Development and also built Riverfront (claim filed December 2008), Sarah's Place and Nelson Park Apartments (claims filed September 2009). On January 29, 2010, Mr. Royall resigned as the principal of the general partner. Despite these circumstances, KeyBank, as limited partner, has indicated an unwillingness to assume control of the general partner. We have been closely monitoring Heritage and anticipate it being our eighth (8<sup>th</sup>) claim.

## **GUARANTEE**

### ***Information***

#### **B. Disposition of Riverfront**

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

- a) Worthwhile Development, Ltd. d/b/a Riverfront Apartments (“Riverfront”) is a 356 unit multifamily development located approximately 12 miles east of downtown Orlando, near Union Park in Orange County, Florida. The property was financed with FHFC bonds, 1997 Series A, and an allocation of 4% housing credits. The Guarantee Program and HUD (through a Risk-Sharing agreement) guaranteed the first mortgage.
- b) On December 12, 2008, the Guarantee Program filed an Application for Initial Claim Payment with HUD on Riverfront Apartments and on February 10, 2009, and filed for foreclosure in the 9<sup>th</sup> Circuit Court in Orange County, case number 2009-CA-004089-O.
- c) On April 20, 2009, Worthwhile Development, Ltd. filed an amended answer to the foreclosure complaint essentially consenting to summary judgment. On May 26<sup>th</sup>, summary judgment was granted and a foreclosure sale date was set for June 26<sup>th</sup>. FHFC was the winning bidder at the foreclosure sale and a certificate of title was issued to FHFC II, Inc. on July 24, 2009.
- d) Following established protocol, Riverfront Apartments was listed for sale via competitive bid process with Marcus & Millichap. A total of 37 bids were received. On October 7, 2009, FHFC received the best and final offers from seven (7) bidders.
- e) Staff met October 9, 2009 to select top bidders. On October 23, 2009, the Board approved staff recommendations to proceed with the activities required for the sale of Riverfront to JLC Southeast, and should the sale to JLC Southeast fail to close, engage Stoneleigh Companies.
- f) FHFC II and JLC Southeast entered into a Purchase and Sale Agreement, as amended by a First Amendment dated October 23, 2009 and a Second Amendment dated November 10, 2009.
- g) On November 11, 2009, JLC Southeast exercised its right to terminate the contract due to complications accessing the capital necessary to close. Staff received a request from JLC to reinstate the purchase and sale agreement with closing on or before December 11, 2009.
- h) On November, 20, 2009, the purchase and sale agreement was reinstated and closing occurred on December 11, 2009.

## **GUARANTEE**

### ***Information***

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

- a) Staff prepared the required schedules and forms for inclusion in the final claim settlement with HUD, submitted the information on January 8, 2010 and received confirmation of HUD's satisfactory review on January 26, 2010.
  
- b) The original Net Claim amount was \$13.3 million. Adding legal expenses, protection/preservation costs and disposition costs (approx. \$299,000 combined), total capital outlay was approximately \$13.6 million. Less net income received from the property (approx. \$590,720), HUD debenture interest (\$874,013) and net sales proceeds (\$9,639,200), the final loss was approximately \$2.5 million, providing a total capital recovery of approximately 80% based on the original Net Claim amount and a net loss to the Guarantee Program of approximately \$1.25 million (i.e. 50% of the loss pursuant to HUD Risk-Sharing Agreement).

## GUARANTEE

### *Information*

#### C. Disposition of Riley Chase Apartments

##### 1. Background

- a) Vestcor Fund XVII, Ltd. d/b/a Riley Chase Apartments (“Riley Chase”) is a 312 unit multifamily development located in North Port, Florida, near the south end of Sarasota County. The property was financed with FHFC bonds; 1999 Series L1 & L2, and an allocation of 4% housing credits. The Guarantee Program and HUD (through a Risk-Sharing agreement) guaranteed the first mortgage.
- b) On December 12, 2008, the Guarantee Program filed an Application for Initial Claim Payment with HUD on Riley Chase Apartments and on June 18, 2009, and filed for foreclosure in the 12th Circuit Court in Sarasota County, case number 2009-CA-010251-NC.
- c) On July 20, 2009, the owner/borrower of Riley Chase filed their consent to summary judgment and final summary judgment was granted on August 28, 2009. A foreclosure sale date was set for September 28, 2009. FHFC was the winning bidder at the foreclosure sale and a certificate of title was issued to FHFC II, Inc. on September 29, 2009.
- d) Following established protocol, Riley Chase Apartments was listed for sale via competitive bid process with Marcus & Millichap. A total of 35 bids were received. Staff met December 21, 2009 to select top bidders and formulate a recommendation to for approval of the sale.
- e) On December 22, 2009, the Board Chair authorized to staff to proceed with the purchase and sale agreement for the sale of Riley Chase Apartments to Banc of America.
- f) FHFC II and Banc of America entered into a Purchase and Sale Agreement dated December 24, 2009, with a proposed closing date of January 29, 2010.

##### 2. Present Situation

On January 29, 2010, the sale of Riley Chase apartments closed. Staff is currently preparing required schedules and forms for inclusion in the final claim settlement with HUD, and anticipates that our portion of the loss will be approximately \$2.6 million.

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

## LEGAL

### *Information Supplement*

#### I. LEGAL

##### A. CWHIP De-obligation Proceedings

###### 1. Background

- a) In January 2009, the Florida Legislature directed Florida Housing to return \$190 million in allocated funds to the state treasury on or before June 1, 2009, and gave Florida Housing emergency rulemaking authority to accomplish this task (2009 Fla. Laws Ch. 2009-1 §47). Pursuant to this mandate, Florida Housing began the process of determining how best to meet this requirement, and in March, 2009, promulgated Rules 67ER09-1 through 67ER09-5, Fla. Admin. Code. Among other effects, these emergency rules effectuated a “de-obligation” of funds preliminarily committed to several Community Workforce Housing Innovative Pilot (CWHIP) program participants, many of which were still in the process of credit underwriting. Florida Housing provided those affected CWHIP participants with formal notice of the de-obligation of CWHIP funds on April 24, 2009.
- b) Subsequently, several CWHIP participants protested the de-obligation of CWHIP funding and filed petitions pursuant to Section 120.57, Fla. Stat. requesting a hearing to determine whether Florida Housing erred in rescinding the preliminary commitments for funding. Finding that a number of the petitions alleged disputes of material fact, Florida Housing forwarded the petitions to the Division of Administrative Hearings (DOAH) on June 17, 2009 where the cases were assigned to Administrative Law Judge John G. Van Laningham. Judge Van Laningham consolidated all CWHIP de-obligation cases into a single proceeding, and a final hearing in these matters was scheduled and held on October 13-14, 2009, in Tallahassee, Florida. All parties filed post-hearing Proposed Recommended Orders on or about January 5, 2009.
- c) In the course of the proceedings, several litigants were offered CWHIP funding that became available as a result of other CWHIP developments being unable to proceed to completion. Those litigants that accepted the offered funding dismissed their claims against Florida Housing. By the time of the final hearing, the following litigants (“Petitioners”) remained in the case:
  - (1) Pasco CWHIP Partners, LLC
  - (2) Legacy Pointe, Inc.
  - (3) Villa Capri, Inc.
  - (4) Prime Homebuilders
  - (5) MDG Capital Corporation

## LEGAL

### *Information Supplement*

- d) On February 18, 2010 Judge Van Laningham issued a Recommended Order finding that neither Florida Housing nor DOAH had jurisdiction to hear the consolidated cases, concluding that Florida Housing's actions were in the nature of a modification of an agency budget, and were thus exempt to the provisions of Chapter 120, Fla. Stat. As a result, Judge Van Laningham recommended that Florida Housing issue a Final Order dismissing all the petitions remaining in the consolidated litigation.

#### 2. Present Situation

Pursuant to Section 120.57(1)(k), Fla. Stat., the Petitioners have fifteen (15) days from the date of the Recommended Order to file Exceptions protesting the ALJ's recommendation, or on or before March 5, 2010. As of the date of this memorandum, no Petitioner has filed such Exceptions. The Recommended Order and any Exceptions that may be filed will be presented to the Board at its next regularly scheduled meeting on April 30, 2010, along with staff's recommendations on the Recommended Order.

## MULTIFAMILY BONDS

### *Information*

#### IV. MULTIFAMILY BONDS

##### A. Florida Housing has Received its Initial 2010 Private Activity Bond Allocation (“PAB”) in the Amount of \$392,729,302 from the Division of Bond Finance (“DBF”)

###### 1. Background

The State of Florida received its annual PAB allocation in the amount of \$1,668,417,210. Florida Housing’s portion, as determined by DBF, is \$392,729,302. This PAB allocation is available to be divided between the Multifamily Mortgage Revenue Bond Program and the Single Family Bond Program.

###### 2. Present Situation

On December 29, 2009, DBF assigned Florida Housing an initial 2010 PAB allocation of \$392,729,302. A copy of this spreadsheet is attached hereto as [Exhibit A](#).

## MISCELLANEOUS

### *Information*

#### V. MICELLANEOUS

##### 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 Section 1602, the Tax Credit Exchange Program (Exchange). This program allows Low Income Housing Tax Credit 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.” Section 1602 prohibited the distribution of Exchange funds after December 31, 2010.
- b) The conceptual plan for the use of ARRA funds was approved by the Board at its April 24, 2009 Meeting. Updated guidelines for use of the funds and an outline of the proposed process for distribution of the funds was presented at the July 24, 2009 Board Meeting.
- c) Exchange funding has previously been awarded through RFP 2009-04 to Applicants that, as of February 17, 2009, had an Active Award of Nine Percent Housing Credits.
- d) With the enactment of 31 CFR Part 32, effective August 31, 2009, the Department of the Treasury extended the time limitation within which State housing credit agencies must disburse funds received under ARRA Section 1602. This change allows States to disburse Section 1602 funds to sub-awardees through December 31, 2011 under the following conditions: (i) a sub-award has been made to the sub-awardee on or before December 31, 2010, (ii) the sub-awardee has, by the close of 2010, paid or incurred at least 30 percent of the sub-awardee’s total adjusted basis in land and depreciable property that is reasonably expected to be part of the low-income housing project; and (iii) any funds not disbursed to the sub-awardee by December 31, 2011, must be returned to the Treasury by January 1, 2012.

###### 2. Present Situation

Following the Board’s approval of the 2009 Universal Application Cycle ranking, staff expects to offer Exchange funding for gap financing, through a Request for Proposal process, to proposed Developments funded pursuant to the 2009 Universal Application Cycle.

## SINGLE FAMILY BONDS

### *Information*

#### VI. SINGLE FAMILY BONDS

##### A. Single Family Professional Development and Outreach

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

- a) Florida Housing continues to honor our commitment to have funds continuously available for qualifying first time homebuyers through our First Time Homebuyer Program. In our uncertain housing market, Florida Housing's program provides needed assistance to help eligible homebuyers achieve the "American Dream" of homeownership by offering low cost 30-year, fixed rate mortgages together with down payment and closing cost assistance.
- b) To help ensure that we are providing this assistance to homebuyers who can not only complete the purchase process but also maintain homeownership after the home is purchased, we have recently implemented a minimum FICO score requirement for our program. Rather than increasing the FICO requirement to 620 or higher as many lenders have done with their own programs, we have established a modest 600 (mid-score) FICO requirement for our borrowers. Our delinquency data analysis showed that borrowers below this threshold show a high rate of serious delinquency. We want to make sure our program is targeted at those responsible homebuyers who can not only purchase a home but can actually maintain ownership after the purchase. Lenders may still continue to manually underwrite loans for borrowers with no FICO score based upon Agency underwriting guidelines. Because of the scrutiny of a loan being manually underwritten, this group of borrowers performs very well in terms of maintaining homeownership. We will continue to monitor loan performance and make necessary program adjustments as needed.
- c) Single Family Programs staff continues to teach 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. Program staff has been reaching out to local Board of Realtor offices in smaller, rural counties in an effort to increase our network of lending partners in these often overlooked areas. Our 2010 realtor training calendar has been distributed to local Realtor associations throughout the state and we have already booked 11 classes for 2010.
- d) The Single Family program staff, in conjunction with our Master Servicer, US Bank, and the program compliance team at eHousing, has begun planning for new lender trainings in 2010. These quarterly training sessions are conducted 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. In our January training, we had over 500 attendees.
- e) In our ongoing efforts to strengthen and grow our lender partner relationships, Single Family program staff is also evaluating processes and systems within

## SINGLE FAMILY BONDS

### *Information*

Florida Housing Finance Corporation, eHousing and US Bank to determine areas which need improvement. Single Family staff will incorporate necessary changes while offering improved education and training to our valued lender partners with an increased focus on individual loan officers.

- f) Florida Housing sponsors a toll-free telephone line (800-814-HOME) for first time homebuyers to call for information about our program. For the months of January, we received 462 total calls from first time homebuyers, Realtors, and lenders via the first time homebuyer line; of which 272 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](#))**

## SUBORDINATED MORTGAGE INITIATIVE

### *Information*

#### VII. SUBORDINATED MORTGAGE INITIATIVE

##### A. Subordinated Mortgage Initiative Update

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

- a) On April 24, 2009 the Board approved the funding of the four initial Subordinated Mortgage Initiative (SMI) loans. The purpose of which was to provide subordinate financing on these developments which are credit enhanced by the Guarantee Program, and determined to be in financial distress, in order to provide temporary assistance in funding their mortgage debt service obligations for a period of up to twenty-four (24) months. Florida Housing provided funding for up to one mortgage payment per each three month period. The developer is required to make the remaining payments. This process is to be repeated for up to twenty-four (24) months, with Florida Housing potentially making up to a total of eight mortgage payments and the developer making a total of sixteen mortgage payments during this period.
- b) Attached, as [Exhibit A](#), is a spreadsheet of the status of the SMI loans approved to date. Highlights of the data are as follows:
  - (1) The Board has approved a total of thirty-one (31) SMI loans in the amount of \$18,670,000.
  - (2) Twenty-two (22) of these SMI loans have been closed to date in the principal amount of \$13,738,378.73.
  - (3) \$3,424,671.25 has been disbursed to date.
  - (4) Nine (9) loans, representing five different developers, approved in the total amount of \$4,455,000., have yet to be closed.
- c) Of the nine loans yet to be closed, four loans, representing one developer, remain unclosed as a result of unresolved issues concerning other FHFC financing; four loans, representing three different developers, remain unclosed due to an inability to obtain, at this time, the required consent of the investment limited partner; and one loan was just approved on January 22<sup>nd</sup> and is expected to close by March 1st, or shortly thereafter.
- d) Since the inception of the Subordinated Mortgage Initiative there has not been a single required payment that has failed to be made by a developer based on their obligations under the SMI loan. As a result, there have been no claims made on the Guarantee Fund Program for any development receiving SMI funding.