

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

June 20, 2003

Action Items



FISCAL

Action

I. FISCAL

A. Approval of the Fiscal Committee Minutes for May 2, 2003.

1. The May 2, 2003, Fiscal Committee minutes are included with the [Board Meeting Minutes](#) in the Board Package.

B. Combined Financial Statements

1. The Combined Financial Statements for the Years Ended December 31, 2002 and 2001, including the Comments and Recommendations and Response from Management are presented for review. Ed Corrigan from Deloitte & Touche will discuss the audit and be available for questions.

GUARANTEE FUND

Action

II. GUARANTEE FUND

- A. Consider Approval of the May 2, 2003 Guarantee Program Committee Minutes**

GUARANTEE PROGRAM

Action Supplement

I. GUARANTEE PROGRAM

A. Extension of Commitment to Guarantee for Hampton Point Apartments

1. Background

- a) On April 26, 2002, the Board approved the issuance of a Commitment to Guarantee for Hampton Point Apartments, a proposed 284-unit multifamily rental development to be located in the City of Port Charlotte, Charlotte County, Florida. Currently, the applicant, Hampton Point Limited Partnership ("Applicant"), is expecting to receive a 2001 tax-exempt bond allocation in the amount of \$11,020,000 from Florida Housing Finance Corporation, in addition to issuing \$2,180,000 of taxable bonds.
- b) Following updates of the appraisal and market study, and a subsequent revision to the final credit underwriting report, the Board, at its December 6, 2002 meeting, approved an extension of the original Commitment to Guarantee from December 31, 2002 to March 31, 2003. At its March 7, 2003 meeting, the Board extended the Multifamily Mortgage Revenue Bond ("MMRB") allocation. At its May 2, 2003 meeting, the Board extended the Guarantee Program's Commitment to Guarantee from March 31, 2003 to June 30, 2003.

2. Present Situation

- a) Due to the proposed payment and performance bond provider's withdrawal from the transaction and the time associated with the Applicant's procurement of a replacement payment and performance bond (from a provider acceptable to the Guarantee Program), the Applicant has requested an extension of the Commitment to Guarantee from June 30, 2003 to September 30, 2003.
- b) First Housing Development Corporation, the credit underwriter, has recommended further updates to the appraisal and market study, and will make further revisions to the credit underwriting report, if necessary.
- c) Guarantee Program staff has reviewed the requested extension and recommends the extension of the Commitment to Guarantee until October 31, 2003, consistent with the proposed MMRB allocation extension.

3. Recommendation

Accept Guarantee Program staff's recommendation to approve the extension of the Commitment to Guarantee for Hampton Point Apartments until October 31, 2003, subject to updates to the appraisal and market study, and the credit underwriting report as necessary. Guarantee Program staff further recommends that, if such updates materially change the credit underwriting report, the proposed transaction be presented to the Board for further consideration.

HOME RENTAL

Action Supplement

I. HOME RENTAL

A. Approval of the scoring and ranking for the HOME Rental Applications Submitted in the 2003 Universal Cycle

1. Background/Present Situation

- a) Florida Housing received three HOME Rental Applications for the 2003 Universal Application Cycle as follows:

App. No.	Development	Developer	County	No. of Units	Score	Met Threshold	HOME Request Amount
2003-006H	Magnolia Village	Florida Low Income Housing Associates, Inc.	Citrus	40	66	Y	\$2,931,000
2003-008H	Villa Seton, Inc.	Catholic Charities of the Diocese of Palm Beach	St. Lucie	49	66	Y	\$1,474,268
2003-133H	Maxwell Manor Phase II	Halo Homes, LLC.	St. Johns	36	66	Y	\$2,496,000
TOTAL HOME REQUESTED							\$6,901,268

- b) The total amount of HOME Rental funds requested by these three Applicants is less than the amount of funding available in the 2003 Universal Cycle. Although the other programs competing in the Universal Cycle are currently in the NOAD process (notice of alleged deficiencies), staff does not anticipate receiving any NOADs challenging the Cures for the HOME Rental Applications because the funds are undersubscribed and the scoring and ranking of these applications does not have any impact on the ranking of applications in the other Universal Cycle programs.
- c) Based on the Cures submitted and assuming that no NOADs are filed against these three applications, all of the HOME Rental Applications are eligible for funding. Rather than waiting for the conclusion of the appeals and ranking for the other program applicants, staff believes it would be best to proceed with the HOME Rental ranking at this time. However, because the NOAD period is still open, if any NOADs are filed, staff would be required to consider the NOADs and to present a revised ranking at the next board meeting if the NOADs resulted in a threshold failure.

2. Recommendation

Assuming that NOADs are not filed against these applications, staff recommends that the Board approve the scores and ranking for the HOME Rental Applications and direct staff to invite all three into credit underwriting at the end of the NOAD period. If NOADs are received, staff should review the NOADS, and if any NOAD results in a threshold failure for any of these Application(s), staff recommends that the scoring and ranking any such Application(s) be presented at a later Board meeting.

HOMEOWNERSHIP LOAN PROGRAM

Action

III. HOMEOWNERSHIP LOAN PROGRAM

A. Extension of Firm Commitment for Sweetwater Village Phase II / 98HH – 008

1. Background

- a) At its June 11, 1999 meeting, the Board of Directors approved the final rankings for the 1998 HOME Home Ownership Cycle and authorized Staff to issue a preliminary commitment to Garden Groves, Ltd. (the “Developer”) for Sweetwater Village Phase II, a 38 house subdivision in Bay County (the “Development”).
- b) At its December 10, 1999 meeting, the Board of Directors authorized Staff to issue a firm commitment to the Developer in the amount of \$797,123.
- c) On April 28, 2000, the Developer signed an acceptance of commitment which stated that the borrower will have until July 19, 2003 to complete the construction of the Development.
- d) The loan closed on July 18, 2000.

2. Present Situation

- a) On May 15, 2003, Staff received a letter from the Developer requesting an extension of the construction completion date until either July 19, 2004 to complete the entire Development or until October 2003, to allow the start and completion of the homes that are currently under contract. ([Exhibit A](#))
- b) The Developer has advised that homes built by another developer in Sweetwater Subdivision - Phase III (not to be confused with Sweetwater Village - Phase II, a separate development), had received widespread negative publicity in newspapers and on television because of defective construction quality. The Developer advised Staff that they have never had any complaints regarding their construction quality.
- c) However, Staff visited this Development last year and made several observations. The progress of this Development was stagnant due to several factors relating to the quality of the Development and the environment in which it was located, which ultimately negatively impacted the progress in constructing homes.
- d) Currently, 4 homes have been sold and closed and 2 are expected to be completed soon. Permits have been pulled for 3 additional homes which should be completed by late July. Additionally, 2 homebuyers have received loan commitments which would allow for construction to begin and could be completed by August; however, construction has not begun without knowing whether the HOME extension would be granted.

3. Recommendation

Staff recommends that the Board partially grant this request by permitting the extension of this commitment from July 19, 2003 to December 31, 2003 to enable the Developer to close on the homes that are already in the process of being built.

HOMEOWNERSHIP LOAN PROGRAM

Action

B. Request to Extend Completion Date for Cedar Groves / 98HH-009

1. Background

- a) During the 1998 HOME Home Ownership Application Cycle, the City of Gainesville (the "Developer") received preliminary funding in the amount of \$1,125,000 to assist in the construction of 75 units in Alachua County.
- b) At its March 10, 2000 meeting, the Board authorized Staff to issue a firm commitment to the Developer in the amount of \$1,125,000.
- c) The Board approved the Developer's request for a change in the use of funds from construction to purchase assistance at the October 22, 2000 meeting.
- d) On October 10, 2002, the Board approved the Developer's request to use the 2002 HUD Purchase Price limits instead of the limits that were in place at the time of the Application.

2. Present Situation

- a) On February 19, 2003, Staff received a request from the Developer to extend the completion date from June 30, 2003 to June 30, 2005. ([Exhibit B](#))
- b) As of May 30, 2003, 14 of the 75 homes have been constructed for a total of \$315,165 in purchase assistance which has already been disbursed.
- c) The Developer currently has 7 homes under construction and 16 families are in various stages of the process. These 23 families would utilize an additional \$523,999 in HOME Purchase Assistance funds.
- d) It is Staff's opinion that granting an additional 2-year extension is excessive and will not produce the number of units committed to initially. However, there are currently homebuyers under contract with the Developer that will be harmed without an extension of the completion date.

3. Recommendation

Staff recommends: (1) The Board partially grant this request by permitting the extension of the completion date from June 30, 2003 to June 30, 2004; (2) the Developer provide a final list of all eligible homebuyers for HOME funds with contracts on or before June 30, 2003 and that the funds to be utilized be used solely with respect to the contracts dated on or before June 30, 2003; and (3) de-obligate all remaining unused funds at the end of the completion period.

LEGAL

Action

IV. LEGAL

A. **In Re: Florida Low Income Housing Associates, Inc. (There are two cases which have been consolidated: Magic Lake Villas – Ranking and Scoring dispute/Magnolia Village – Ranking dispute)**

1. **Background**

- a) On April 15, 2002, Florida Low Income Housing Associates, Inc. (“Applicant”) submitted applications to Florida Housing for the award of SAIL or HOME funds and/or an allocation of Housing Credits in the 2002 Universal Cycle program.
- b) On October 10, 2002, final scores and rankings for the Universal Cycle were approved by the Board.
- c) On October 18, 2002, Florida Housing notified the applicant of their post appeal scores and provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. Applicants (“Petitioners”) timely filed a petition contesting the final appeal scores.
- d) A hearing was held at the Division of Administrative Hearings on February 25, 2003. Proposed Recommended Orders were filed by the parties on April 1, 2003.

2. **Present Situation**

On or about May 14, 2003, the Hearing Officer issued his Recommended Order which dismissed both of the Magic Lake Villas challenges and determined that Magnolia Village should have been included in the funding range for the 2002 funding cycle of the HOME rental program and funding the application in the next funding cycle, subject to the requirements of credit underwriting. A copy of the Recommended Order is attached as [Exhibit A](#).

3. **Recommendation**

The Board may decide to accept or reject the Recommended Order and enter a Final Order accordingly.

B. **In Re: Jubilee Community Development Corporation (Pueblo del Sol Development)**

1. **Background**

- a) On May 5, 2003, Florida Housing received a Petition for Waiver of Rule 67-47.120(1), Florida Administrative Code (1999), from Jubilee Community Development Corporation (“Petitioner”) requesting that the Draw Limitations in this rule be waived for the Pueblo del Sol development. Petitioner was selected to receive a \$1,097,662 HOME Construction loan during the 1999 application cycle.

LEGAL

Action

- b) The Rule provides that loan proceeds disbursed during the construction or rehabilitation phase of a development shall be on a pro-rata basis with other financing, as described below. Petitioner proposes an alternative disbursement schedule in which all loan proceeds would be disbursed serially and in their total amounts, with the Florida Housing HOME loan to be the third lump sum disbursement, following two other lump sum disbursements of \$500,000 from the City of Miami and \$1,000,000 in Miami-Dade County Surtax funds.
- c) A copy of the Petition is attached as [Exhibit B](#).
- d) On May 23, 2003, Notice of the Petition was published in Volume 29, Number 21 of the Florida Administrative Weekly. No comments have been received regarding this Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate the principles of fairness.
- b) Rule 67-47.120(1), Florida Administrative Code (1999), provides, in pertinent part:
 - a) Loan proceeds shall be disbursed during the construction/rehabilitation phase in an amount per Draw on a pro-rata basis with other financing. The Draw, when compared to the total Draw request then pending, shall not exceed the ratio of the HOME Construction Loan to the total Development cost, and in relation to the specified HOME-assisted(units, unless approved by the Corporation's Credit Underwriter.

3. Recommendation

Staff recommends that the Board deny the Petition. Granting the requested waiver would not serve the underlying purpose of Chapter 420, Part V, Florida Statutes, in that permitting the loan to be disbursed as a lump sum places Florida Housing at unnecessary financial risk, and would set a precedent that would effectively invalidate the Rule and more current versions of the Rule. This Rule was specifically promulgated to prevent the lump sum disbursement of HOME construction loan proceeds to lessen the risk the Florida Housing and to help ensure that affordable housing developments are being successfully constructed or rehabilitated before the commitment of the entire loan amount. Additionally, the Petitioner failed to demonstrate that it would suffer a substantial hardship should this waiver be denied. Although Petitioner alleges an estimated increase of \$57,000 in "interest carrying costs of the private financing", the Petitioner did not demonstrate how this figure was determined or attributable to the pro rata disbursement schedule provided in the Petition. Likewise, Petitioner has not shown that literal application of this Rule would affect Petitioner in a manner significantly different from the way it affects other similarly situated persons who are subject to the Rule.

LEGAL

Action Supplement

I. LEGAL

A. In Re: Bradenton Village Homeownership, Inc.

1. Background

- a) Bradenton Village Homeownership, Inc. ("Petitioner") is the developer of the New Singletary development, a 117 unit scattered-site single family project for which Florida Housing awarded HAP downpayment assistance during the 2002 application cycle. Petitioner has previously been granted a 60-day extension (as provided for by Rule 67-50.080(2), Florida Administrative Code) and now seeks a waiver of this Rule to obtain an additional extension of 60 days from the date of this Board meeting. As grounds for this request, Petitioner reports it needs additional time to submit documentation to the Credit Underwriter as it recently obtained additional financing for the project via a predevelopment loan (PLP) from Florida Housing. This loan was approved at the May 2, 2003 Board Meeting and has undergone and completed credit underwriting. The Petitioner expects to sign these loan documents shortly, whereupon they will be provided to the Credit Underwriter regarding the HAP financing. Additionally, Petitioner is attempting to obtain a tax increment finance/CCRA loan from the City of Bradenton in order to aid in the development of infrastructure for the site, documentation of which it wishes to be included for consideration during Credit Underwriting.
- b) A copy of the Petition is attached as [Exhibit A](#).
- c) On May 30, 2003, Notice of the Petition was published in the Florida Administrative Weekly. No comments have been received regarding this Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes, provides in pertinent part:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.
- b) Rule 67-50.080(2), Florida Administrative Code, provides in pertinent part:

The Applicant shall submit the required information to the Credit Underwriter within sixty (60) days of the date of the notification letter. If an extension is needed, a written request substantiating the need for the extension must be provided to the Corporation prior to the sixty (60) day initial deadline, subject to approval by the Credit Underwriter and the Corporation Staff. However, the extension shall not exceed a period of sixty (60) days. If the time limitation expires, the Corporation will request that the Applicant relinquish the preliminary allocation and it will be made available to the next ranked Applicant.

LEGAL

Action Supplement

3. **Recommendation**

Staff recommends that the Board grant the Petition. The statute's intent would be met by granting the waiver because additional financing obtained and anticipated for the project will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. Moreover, not granting this waiver will result in a substantial hardship to Petitioner, in that loss of the HAP downpayment assistance subsidy will cause the development to become economically infeasible for potential low income home buyers in Manatee County. Lastly, strict construction of this Rule with respect to this Petitioner under these circumstances may violate the principles of fairness, as Petitioner has only been delayed in submitting the required documentation due to obtaining additional financing for the project, including a PLP loan from Florida Housing approved only last month.

B. **In Re: Corporate Custodian of Records**

1. **Background**

During the course of litigation, the need arises for authentication of corporation documents, and for a custodian of the records to testify in deposition or at hearing to the authenticity of such documents. Until now, the practice has been to have different persons from the program areas certify that the documents are true copies of corporate records.

2. **Present Situation**

It is advisable to have one person designated as the Corporation Custodian of Records. Sherry Green is presently acting as the Public Records Clerk for the Corporation.

3. **Recommendation**

That the Board designate Sherry M. Green as Custodian of Records and Deputy Clerk of the Corporation, along with Maelene Tyson, the Clerk of the Corporation and the Deputy Custodian of Records.

C. **In Re: Procedural Rules for Informal Hearings**

1. **Background**

Section 120.569(1) and 120.57(2), Florida Statutes, and Rule 28-106, Florida Administrative Code, provide for hearings where issues of material fact are not in dispute (commonly called, "Informal Hearings").

2. **Present Situation**

Florida Housing conducts Informal Hearings before contract Hearing Officers, to resolve scoring and ranking protests which arise from the single family and multi family application processes. Florida Housing also conducts Informal Hearings where the Board of Directors sits as the Agency Head and takes final agency action on the issues raised. Most commonly, the second category consists of hearings on Petitions for variance or waiver from Florida Housing rules. The statute and model rules provide a vague outline regarding the conduct of these informal hearings. It would be advisable and beneficial for all parties for Florida Housing to promulgate rules to set forth the procedures to be employed in informal hearings.

LEGAL

Action Supplement

3. **Recommendation**

That the Board authorize staff to begin the process to promulgate procedural rules for the conduct of informal hearings.

MINUTES

Action

V. MINUTES

- A. Consider Approval of the May 2, 2003, Board of Directors' Meeting Minutes.
- B. [Board of Directors' Meeting Minutes – May 2, 2003.](#)

PREDEVELOPMENT LOAN PROGRAM (PLP)

Action

VI. PREDEVELOPMENT LOAN PROGRAM (PLP)

A. Request for Extension of Loan Term for PLP 98-026, South Springs

1. Background/Present Situation

- a) The developer, North Florida Educational Development Corporation (“Developer”), closed a Predevelopment loan on May 18, 2000 for South Springs. The maturity date of the loan was May 18, 2003.
- b) The developer has requested an extension of the loan term for one additional year ([Exhibit A](#)). They intend to apply for funding through the Homeownership Loan Program in the current cycle which closes on June 16, 2003.
- c) The credit underwriter has reviewed the request (in accordance with the rule under which this loan was made) and recommends that Florida Housing grant the one-year extension ([Exhibit B](#)). The recommendation is based on the fact that an additional year would provide time for completion of predevelopment activities and for pursuit of construction financing from FHFC competitive programs.

2. Recommendation

Approve the request by the Developer for a one year extension of the loan term as recommended by the credit underwriter.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

VII. PROFESSIONAL SERVICES SELECTION (PSS)

A. Trustee, Registrar, Paying Agent and Dissemination Bond Agent Services

1. Background

At its January 24, 2003 meeting Florida Housing's Board authorized staff to begin the Request for Qualifications (RFQ) process and establish a review committee to select a pool of providers for the services of Trustee, Registrar, Paying Agent, and Dissemination Bond Agent.

2. Present Situation

- a) An RFQ process was initiated and the RFQ was issued on April 25, 2003. Responses to the RFQ were due on or before 2:00 p.m., Friday May 30, 2003.
- b) Six (6) responses were received. They were as follows:
 - (1) Huntington National Bank
 - (2) SouthTrust Bank Asset Management
 - (3) SunTrust
 - (4) The Bank of New York Trust Company of Florida, N.A.
 - (5) U.S. Bank
 - (6) Wells Fargo
- c) The review committee members, designated by the Executive Director, are Todd Fowler, Bond Fund Accounting Administrator, Angela Scott, Bond Fund Accounting Manager, Beverly Cliett, Guarantee Program Analyst, Bill Metler, Multifamily Bond Manager and Raymond Anderson, Senior Financial Analyst. The Review Committee reviewed the responses to the RFP individually prior to convening for the Review Committee meeting, and met to evaluate the proposals on Friday, June 13, 2003.

3. Recommendation

Recommendation will be provided as a supplement to the Board Package

B. Arbitrage Rebate Analyst Services

1. Background

- a) Florida Housing entered into a contract for Arbitrage Rebate Analyst services effective January 1, 1999 with the following firms:
 - (1) MBIA MuniFinancial
 - (2) Deloitte & Touche LLP

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- (3) Orrick Herrington & Sutcliffe LLP
- (4) The Arbitrage Group, LLC
- b) The original term of the contracts expired December 31, 2001, with an option to renew on a yearly basis for a period of up to two (2) years.
- c) At its October 25, 2001 and October 10, 2002 meetings, Florida Housing's Board authorized staff to proceed with the first and second contract renewals.

2. **Present Situation**

- a) The term of all four contracts expires December 31, 2003 with no option for renewal.
- b) To remain in compliance with the Arbitrage and Tax Certificate requirement, Florida Housing mandates an annual rebate calculation for all bond issues. Should a rebate liability occur during any five year period, the IRS requires payment of the existing liability. All rebate calculation reports prepared by the rebate analysts contain the calculations and conclusions needed for continued tax compliance.

3. **Recommendation**

Staff believes that it is in the best interests of Florida Housing to continue to retain arbitrage rebate analysts and recommends the Board direct staff to begin the solicitation process to select up to four Arbitrage Rebate Analyst service providers.

PROFESSIONAL SERVICES SELECTION

Action Supplement

I. PROFESSIONAL SERVICES SELECTION

A. Trustee, Registrar, Paying Agent and Dissemination Bond Agent Services

1. Background

At its January 24, 2003, meeting, Florida Housing's Board authorized staff to begin the Request for Qualifications (RFQ) process and establish a review committee to select a pool of providers for the services of Trustee, Registrar, Paying Agent and Dissemination Bond Agent.

2. Present Situation

- a) An RFQ process was initiated and the RFQ was issued on April 25, 2003. Responses to the RFQ were due on or before 2:00 p.m., Friday, May 30, 2003.
- b) Six (6) responses were received. They were as follows:
 - (1) Huntington National Bank
 - (2) SouthTrust Bank Asset Management
 - (3) SunTrust
 - (4) The Bank of New York Trust Company of Florida, N.A.
 - (5) U.S. Bank
 - (6) Wells Fargo
- c) The Review Committee members designated by the Executive Director are Todd Fowler, Bond Fund Accounting Administrator, Angela Scott, Bond Fund Accounting Manager, Beverly Cliett, Guarantee Program Analyst, Bill Metler, Multifamily Bond Manager, and Raymond Anderson, Senior Financial Analyst.
- d) The Review Committee reviewed the responses to the RFQ individually prior to convening for the Review Committee meeting, and met to evaluate the proposals on Friday, June 13, 2003.
- e) Results of the Review Committee's evaluation of the scored items are provided in [Exhibit A](#).

3. Recommendation

- a) The Review Committee recommends that the Board direct staff to initiate contract negotiations with the top four Offerors to provide Trustee services. Those Offerors are as follows: The Bank of New York, SunTrust, Wells Fargo Bank and U.S. Bank.

PROFESSIONAL SERVICES SELECTION

Action Supplement

I. PROFESSIONAL SERVICES SUPPLEMENT

A. SHIP Program Compliance Monitoring Services

1. Background

- a) Florida Housing entered into contracts to provide SHIP Program compliance monitoring services with Seltzer Management Group, Inc. and First Housing Development Corporation of Florida, effective July 2, 2001, and with Florida Planning Group, Inc. effective July 10, 2001.
- b) On May 2, 2003, the Board directed staff to proceed with the contracts modification process to extend the contracts for a second one year term.
- c) Presently, compliance monitors are required to conduct an on-site visit to each assigned local government and review recipient's files that were awarded SHIP funds from fiscal years 1999-2000 through 2001-2002.

2. Present Situation

- a) Since the May 2, 2003 Board meeting, it has come to staff's attention that the contracts also need modification to allow for review of the most current files. In addition, due to excess collections from documentary stamp tax revenues, the sizes of the allocation categories in the local government sampling plan currently in place have been skewed.
- b) To allow for review of the most current files, and to revise the allocation categories of the sampling plan to allow for a more equitable distribution of the local governments among the three categories similar to what was reflected in the original contract, staff needs to initiate the contract modification process.

3. Recommendation

- a) Staff recommends the Board direct staff to proceed with the contracts modification process to allow for review of the most current files, and to make the recommended technical revisions to the allocation categories.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

VIII. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval for Substitution of Amenities for Pinnacle Palms, Cycle XIII (2001-052S)

1. Background

- a) Pinnacle Palms received a SAIL loan in the amount of \$1,579,000 from the 2001 Combined Cycle for the construction of a 152-unit elderly development in Palm Beach County. The loan closed on June 26, 2002. The Developer is Pinnacle Housing Group (“Developer”).
- b) On May 28, 2003, the developer requested that staff make substitutions to amenities which were committed to in the Developer’s application ([Exhibit A](#)). On May 29, 2003, staff received a credit underwriting review and the cost analysis ([Exhibit B](#)) with a recommendation for the following substitution to amenities:
 - (1) Substitute R-30 insulation in lieu of heat pumps. The heat pump is worth 5 points and the R-30 insulation is worth 4 points. The Developer committed to amenities totaling 23 points in the application but was awarded only 22 points since this was the maximum allowed. Therefore, with this change, the applicant has still committed to amenities totaling 22 points. The cost of heat pumps is \$22,800 versus the cost of R-30 insulation at \$5,891.
 - (2) The applicant is also providing an extra air-conditioned activity/card room at a cost of \$10,465 ([Exhibit C](#)) and an exercise facility (that was not committed to in the application but was worth 2 points) at a cost of \$2,282.82 ([Exhibit D](#)).

2. Recommendation

Approve the Developer’s request to substitute amenities and direct staff to amend the Land Use Restriction Agreement to reflect same.

B. Request Approval of Credit Underwriting Report for Golf View Apartments, Cycle XIV (2002-056S)

1. Background/Present Situation

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On October 23, 2003 staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$2,000,000 for this 160-unit elderly development in Broward County. The Developer is the Carlisle Group, LLC (“Developer”).
- c) On June ____, 2003 staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$2,000,000 ([Exhibit E](#)). The SAIL Rule requires that the Loan to Value (LTV) not exceed 100% of the appraised value. The current appraised value provides a LTV of 105.169%. The

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

Developer challenged the validity and accuracy of that appraisal. An independent third party appraiser determined that the first appraisal was flawed and that none of the value conclusions should be considered reliable. At this point a third appraiser has been engaged to perform a summary appraisal to correctly determine the market value for this development. The underwriter's recommendation is subject to receipt of the summary appraisal and confirmation of market values that meet or exceed the 100% LTV requirement.

2. **Recommendation**

- a) Approve the final credit underwriting report subject to the condition above and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action Supplement

I. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval of Additional Subordinate Financing for Rayos Del Sol (“Development”), Cycle XIII (2001-066S)

1. Background/Present Situation

- a) A SAIL second mortgage loan in the amount of \$2,000,000 for the construction of a 199-unit family development in Miami-Dade County closed on August 23, 2002.
- b) Pinnacle Housing Group, Inc. (“Developer”) has been awarded a Surtax Loan from Miami-Dade County in the amount of \$750,000 with a 1% interest rate and a 30-year term. The Developer is requesting approval for this additional subordinate financing ([Exhibit A](#)).
- c) The credit underwriter has determined that the additional debt will not affect the repayment of the SAIL loan. The credit underwriter recommends approval of the additional financing subject to the review and approval of the final loan documents by Florida Housing Finance Corporation (“FHFC”), our legal counsel, consent of the first mortgage lender and consent of the Housing Credit equity investor ([Exhibit B](#)).

2. Recommendation

Approve the developer’s request for additional subordinate financing to the SAIL loan subject to the conditions recommended by the credit underwriter.

B. Request Approval to Amend the Credit Underwriting Report and Extend Deadline for Hibiscus Pointe (2002-108BS)

1. Background/Present Situation

- a) On March 7, 2003, the Board approved a credit underwriting report with a recommendation for a SAIL loan in the amount of \$2,000,000. Staff issued a commitment letter on April 8, 2003 with a closing deadline of June 9, 2003.
- b) On May 28, 2003, staff received a letter from the credit underwriter amending the credit underwriting report ([Exhibit C](#)). After Board approval, Hibiscus Pointe revised the site layout indicating 9 residential buildings rather than 8 residential buildings referenced in the report. The underwriter determined that the change in the residential buildings does not have a material impact on the original report.
- c) On June 5, 2003, staff received a letter from the Cornerstone Group requesting an extension of the closing deadline until July 29, 2003 ([Exhibit D](#)). Under the applicable rules, the SAIL loan closing must occur within 60 days from the date that the firm loan commitment is issued unless an extension is approved by the Board and the applicant pays an extension fee of one-half of one percent of the SAIL loan amount.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action Supplement

2. **Recommendation**

Approve the amendment to the credit underwriting report and extend the closing deadline until July 29, 2003, subject to payment of the extension fee.

C. **Request Approval of Updated Financial Statements and Tax Returns for General Partner Entity and Individuals for Regency Gardens Apartments, Cycle XIV (2002-090S)**

1. **Background/Present Situation**

- a) On May 30, 2003, staff received a credit underwriting report (as provided in the Consent Section of the Board agenda) with a positive recommendation subject to receipt and approval of updated financial statements for Shane Acevedo, Tom Shepherd and one general partner entity. Additionally the report is subject to receipt and approval of tax returns for Shane Acevedo and Tom Shepherd.
- b) On June 10, 2003, staff received a letter from the underwriter approving updated financials and tax returns for all parties ([Exhibit E](#)).

2. **Recommendation**

Approve the credit underwriting report as amended and direct staff to proceed with loan closing activities.

D. **Request Approval of Updated Financial Statements for Applicant and General Partner Entity for Harbor Cove Apartments, Cycle XIV (2002-031S)**

1. **Background/Present Situation**

- a) On June 2, 2003, staff received a credit underwriting report (as provided in the Consent Section of the Board agenda) with a positive recommendation subject to receipt and approval of updated financial statements for the applicant and general partner entity.
- b) On June 10, 2003, staff received a letter from the underwriter approving updated financials for both parties ([Exhibit F](#)).

2. **Recommendation**

Approve the credit underwriting report as amended and direct staff to proceed with loan closing activities.

E. **Request Approval of Credit Underwriting Report for Whispering Pines Apartments (“Development”), Cycle XIV (2002-153CS)**

1. **Background/Present Situation**

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action Supplement

- b) On October 14, 2002, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$1,282,000 for this 64-unit farmworker Development in Broward County.
- c) On June 11, 2003, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$1,282,000 ([Exhibit G](#)). The SAIL loan will be secured by a second mortgage on the property.
- d) Staff has reviewed this report and finds that the Development meets all of the requirements of SAIL Rule 67-48, F.A.C.

2. **Recommendation**

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

F. **Request Approval of Loan Closing Extension for Horizon House Sunset Apartments Cycle XII (2000-066S)**

1. **Background/Present Situation**

- a) On January 24, 2003, the Board approved the final credit underwriting report for the 80-unit family development and directed staff to proceed with issuance of a firm loan commitment and loan closing activities.
- b) On January 28, 2003, staff issued a firm commitment letter for a second mortgage on an amount up to \$2,000,000 for this 80-unit family development in Alachua County. Rule Chapter 67-48 requires closing to occur within 60 days of issuance of the firm loan commitment.
- c) On March 7, 2003, the Board approved a 120-day closing extension. This extension was granted to allow the developer time address issues being required by the City of Gainesville. The scope of renovation work has changed since the original credit underwriting report was approved in January 2003. Based on these changes, an additional credit underwriting review will be required.
- d) The developer is requesting that their original extension of 120 days be further extended by an additional 60 days ([Exhibit H](#)). This will give the credit underwriter time to review the changes to the scope of work, verify costs, and modify the credit underwriting report. Staff will be prepared to present the updated credit underwriting report to the Board in August for final approval.

2. **Recommendation**

Approve the developer's request to further extend their loan closing deadline by an additional 60 days.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action Supplement

G. Request Approval to Amend the Credit Underwriting Report for Tuscany Place Apartments (“Development”), Cycle XIV, 2002-035S

1. Background/Present Situation

- a) On March 7, 2003, the Board approved a credit underwriting report with a recommendation for a SAIL loan in the amount of \$2,000,000. Staff issued a firm commitment letter on May 12, 2003. This Development was also funded with Miami-Dade County Multifamily Mortgage Revenue Bonds enhanced by Florida Housing’s Guarantee Fund. The SAIL loan closed on June 13, 2003.
- b) On June 12, 2003, staff received a letter from the credit underwriter correcting two discrepancies in the underwriting report ([Exhibit I](#)). The credit underwriting report incorrectly identifies Tuscany Place Joint Venture as a co-general partner and guarantor. There is also a typographical error relating to retainage language. Retainage should be “10% until 50% complete with 0% thereafter,” not “5% thereafter.”
- c) Additionally, the day of closing SAIL staff discovered that the taxable bond amount had increased from \$1,350,000 to \$1,610,000. This increase created two issues. The first issue is that SAIL rule 67-48.010(15) F.A.C. provides that “After accepting a preliminary commitment, the Applicant shall not refinance, increase the principal amount, or alter any terms of any mortgage superior or inferior to the SAIL mortgage without prior approval of the Corporation’s Board of Directors.” The SAIL credit underwriting report approved by the Board provided for \$1,350,000 in taxable bonds. The Board did approve the increase with the approval of the Guarantee Fund underwriting report.
- d) The second issue is the SAIL Rule requires that the loan to value (LTV) not exceed 100% of the appraised value. Section 420.5087(5), Florida Statutes, provides that the amount of the mortgage securing the SAIL loan combined with any other mortgage in a superior position shall be less than the value of the development without the housing set-aside required by the SAIL Statute (market rate value). Using the market rate financing value, with the increased taxable bond amount, the LTV exceeds the appraised value by \$220,000. However, Florida Housing may waive this requirement for developments in rural areas or urban in-fill areas which have market rate rents that are less than the allowable rents pursuant to applicable state and federal guideline. The borrower would like to demonstrate that this development meets the requirements of the Statute by either providing verification of urban-infill with market rate rents below restricted or an update to the appraisal reflecting a value not less than the amount of the Bond and SAIL loans combined.
- e) Since these issues arose on the day of closing, FHFC allowed the loan to close provided that \$220,000 of the SAIL loan amount would be withheld from disbursement to the borrower pending borrower’s delivery of written evidence of compliance with Section 420.5087(5), Florida Statutes. If such evidence is not delivered and approved by FHFC, its counsel and the Servicer prior to October 3, 2003, the SAIL loan amount will be reduced to \$1,780,000.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action Supplement

2. **Recommendation**

Approve the amendments to the credit underwriting report and ratify staff's actions described above.

H. **Request Approval for Substitution of Amenities for Rayos Del Sol, Cycle XIII (2001-066S)**

1. **Background/Present Situation**

- a) Rayos Del Sol received a SAIL loan in the amount of \$2,000,000 from the 2001 Combined Cycle for the construction of a 199-unit development in Miami-Dade County. The loan closed on August 23, 200.
- b) On June 13, 2003 staff received a request from the developer to make a substitution to an amenity which was committed to in the application ([Exhibit J](#)). On June 17, 2003, staff received a credit underwriting review and the cost analysis (Exhibit K) with a recommendation for the following substitution:

Substitute R-30 insulation in lieu of heat pumps. The heat pump is worth 5 points and the R-30 insulation is worth 4 points. The developer committed to amenities totaling 23 points in the application but was awarded only 22 points since this was the maximum allowed. Therefore, with this change, the applicant has still committed to amenities totaling 22 points. The developer did not use R-30 "batt insulation", but a "built-up roof assembly" to achieve the R-30 value. The cost of the roof assembly was \$184,680. The exact amount of the insulation portion cannot be determined. Consultech & Associates, Inc. ("Consultech") estimates the cost at approximately \$52,520 for the R-30 attic insulation. The heat pumps would have cost an additional \$29,850. Consultech also concluded that the R-30 attic insulation would be a better overall value to the residents due to the location of the development.

2. **Recommendation**

Approve the developer's request to substitute amenity and direct staff to amend the Land Use Restriction Agreement to reflect same.

HOMEOWNERSHIP LOAN PROGRAM

Action

IX. SINGLE FAMILY BONDS

A. Request Approval to Commence Rule Development for Rule 67-45, Florida Administrative Code, which Governs the Homeownership Assistance Downpayment Program (HAP D/P)

1. Background

- a) Rule 67-45, Florida Administrative Code (“FAC”) governs the HAP downpayment assistance program.
- b) This program was designed to assist eligible homebuyers with downpayment and closing cost assistance if their income is at or below 80% of the area median income (“AMI”).
- c) These loans are used in conjunction with the First Time Homebuyer Program at a 0% interest rate, deferred payment until such time that the borrower ceases to occupy the property as their primary residence, transfers ownership, refinances or sells the property.

2. Present Situation

Staff has recognized that Rule 67-45, FAC is in need of revisions to reflect current program administration.

3. Recommendation

Authorize Staff to proceed with Rule Development for Rule 67-45, FAC as needed.

B. Request Approval to Initiate the Rule Development Process to Establish a New Downpayment Assistance Program to Reach Underserved Markets

1. Background/Present Situation

- a) Florida Housing currently has two programs used to assist eligible homebuyers with downpayment and closing cost assistance. The two funding sources are HOME and HAP Downpayment Assistance. The HOME Program is governed by federal regulation (24 CFR, Part 92) and HAP is governed by the Florida Statutes (Chapter 420.5088).
- b) These loans are made in the form of second mortgages at 0% deferred interest, payable upon sale of the property, transfer of ownership, refinancing or the borrower ceasing to occupy the property as their principal residence. HOME dollars are used to assist borrowers at 65% or below AMI by providing downpayment assistance up to \$15,000 and HAP dollars are used to assist borrowers earning 80% or below AMI for downpayment assistance up to \$10,000.
- c) Florida Housing has offered a FannieMae downpayment assistance option which is no longer in existence. This option was used to provide assistance for those borrowers who were above 80% AMI up to \$5,000 at an interest rate determined by FannieMae.

HOMEOWNERSHIP LOAN PROGRAM

Action

- d) Florida Housing recognizes that the lack of downpayment and closing cost assistance is one of the primary barriers to achieving homeownership. We currently have programs available for borrowers who are at 80% or below AMI; however, there is another segment of the market that we could serve if downpayment assistance was available to them.

2. Recommendation

Authorize Staff to initiate the Rule Development process to establish a downpayment assistance program to accommodate underserved markets.

SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM

Action Supplement

I. SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM

A. 2003 Single Family Mortgage Revenue Bond Program Purchase Price Limits

1. Background

- a) Florida Housing's Board of Directors sets limits on the maximum purchase price of homes that may be financed through the Single Family Mortgage Revenue Bond program. Pursuant to the Internal Revenue Code "IRC", the purchase price limits may not exceed 90% of the purchase price limits established by 1994 Treasury Revenue Procedures, 90% of the most recent Homeownership Purchase Price Market Study, or purchase price limits established by the Federal Housing Finance Board.
- b) Historically, the Corporation used the greater of 90% of the purchase price limits established by the Treasury Revenue Procedures or 90% of a commissioned Homeownership Purchase Price Market Study
- c) There are some areas throughout the state that are considered high cost areas where Florida Housing's purchase limits are lower than those dictated by the market. This concern seems especially prevalent in South Florida. However, the First Time Homebuyer program is driven by the income level of the borrower when qualifying for a mortgage loan.
- d) In October 2002, the Board placed a \$200,000 cap on the purchase price limits in high costs areas. However, this cap has appeared to be immaterial due to the income and affordability limitations created by HUD's rules and regulations.

2. Present Situation

- a) Florida Housing's bond counsel (Hawkins, Delafield & Wood) introduced a new resource and methodology for determining purchase price limits to be utilized in the program. According to the 1994 IRS Revenue Procedure (94-55), the Federal Housing Finance Board (FHFB) conducts a Mortgage Interest Rate Survey to arrive at standard purchase price limits for MSAs and PMSAs.
- b) Staff has analyzed the purchase price limits data from all three sources to determine program penetration in all 67 counties of the state. Utilizing the data from the FHFB along with the other sources maximizes the use of the program due to the increase in the purchase price limits for most counties ([Exhibit A](#)).
- c) Staff presented the analysis to bond counsel and received approval to incorporate purchase price limits from the additional source and utilize the greater of the three available sources.

3. Recommendation

- a) Authorize Staff to set the purchase price limits at the greater of 90% of the purchase price limits established by the Treasury Revenue Procedures, 90% of the 2002 Homeownership Purchase Price Market Study or limits established by Federal Housing Finance Board, but which amounts may not exceed \$200,000 for New Construction and Existing houses.