

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

January 23, 2004

Information Items



FISCAL

Informational

I. FISCAL

A. Operating Budget Analysis for November 2003

1. Background/Present Situation

- a) The Financial Analysis for November 30, 2003, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending November 30, 2003, is attached as [Exhibit B](#).

GUARANTEE PROGRAM

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II. GUARANTEE PROGRAM

A. Notice of Restructuring of Bonds for St. Croix Apartments

1. Background

Pursuant to the Board's March 7, 2002 approval of an expedited review process in connection with the issuance of a Commitment to Guarantee, on June 6, 2002, the Board approved the issuance of a Commitment to Guarantee for St. Croix Apartments. Because the original approval was conducted via the above process, and because of the time sensitive nature of the borrower's request to reissue the bonds before the 2003 year-end, Florida Housing's Chief Financial Officer, the Guarantee Program Administrator, TIBOR PARTNERS, Inc., and Guarantee Program counsel reviewed and approved the proposed restructuring of the bonds for St. Croix Apartments pursuant to the expedited review process.

2. Present Situation

Guarantee Program staff submitted its recommendation for this proposed restructuring to each Board member electronically and provided the Board with the required 72-hour review period. No objections were received and the review period has expired.

GUARANTEE PROGRAM

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

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III. LEGAL

A. Ybor III, Ltd. v. Florida Housing Finance Corporation

Developer: Citizens Housing Development Co. – Tom McMullen

1. Background

- a) On November 29, 2001, Petitioner, Ybor III, Ltd. (“Ybor”) filed a Notice of Administrative Appeal with the First District Court of Appeal. Ybor appealed Florida Housing’s dismissal of its petition challenging the scoring of a competitor’s application in the 2001 Combined Cycle. The Court, in its opinion issued on April 23, 2003, found that Ybor had standing to seek an administrative hearing and that Fla. Admin. Code R. 67-48.005 (2001) did not provide a point of entry into the administrative hearing process. (Rule 67-48.005 Fla. Admin. Code, as amended in 2002, provides a point of entry for applicant’s to challenge the scoring of another application.) The Court remanded the case with directions for Florida Housing to forward Ybor’s petition to the Division of Administrative Hearings for a formal hearing.
- b) The case was forwarded to the Division of Administrative Hearings for a formal hearing on May 27, 2003. Petitioner’s attorney filed a Motion for Leave to Withdraw as Counsel on June 20, 2003, which was granted on July 1, 2003. Petitioner filed two Motions for Continuance which were both granted. Petitioner filed an Unopposed Emergency Motion for Continuance on November 14, 2003. The Motion was granted and the hearing has been set for January 30, 2004.

2. Present Situation

The parties are preparing for the hearing.

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B. Florida Housing Finance Corporation v. Aloma Bend, Ltd., a Florida limited partnership; Christopher T. Spano, Robert Thollander and Betsy Spano, as Individuals

1. Background

- a) On December 30, 1997, Aloma Bend, Inc. (“Aloma”) closed its Multi-Family Mortgage Revenue Bond loan. Florida Housing allocated \$15,500,000.00 in Multi-Family Mortgage Revenue Bond Program funds for this development. The bond documents provide that the proceeds from any condemnation are to be paid to First Union National Bank, the Trustee.
- b) On November 21, 2000, Plaintiff, The State of Florida, Department of Transportation (“DOT”) filed a Petition in eminent domain to condemn a portion of Aloma’s property in the Circuit Court of Seminole County, Florida seeking to take a portion of the property for widening the road adjacent to the development known as Barrington Place.
- c) On March 28, 2002, the Circuit Court entered a Stipulated Final Judgment Including Attorneys Fees and Costs awarding Aloma the total amount of \$235,000 and requiring that Aloma additionally deposit \$51,100 into the registry of the Clerk of Court (“Condemnation Proceeds”).
- d) In April of 2002, Florida Housing requested from Aloma an accounting of the Condemnation Proceeds. The statement provided by Aloma demonstrates that the Condemnation Proceeds were used to repair and pay for expenses at other unrelated properties.
- e) On June 12, 2002, Florida Housing demanded the return of the Condemnation Proceeds to Florida Housing or the Trustee. Aloma has refused to pay Florida Housing or the Trustee and has otherwise failed to perform their obligations under the Loan Agreement and Guaranty.
- f) On April 24, 2003, Florida Housing filed a Complaint in the Circuit Court of Leon County, Florida, requesting that the court enter an Order enforcing the Guaranty and entering a judgment against Aloma and related parties. A copy of the Complaint was attached to the June 20, 2003 informational package as Exhibit A.

2. Present Situation

On June 23, 2003, Aloma filed a Motion to Dismiss Florida Housing’s Complaint as to Thollander, which was denied on August 14, 2003. Aloma and Thollander did not file an answer to the Complaint by September 3, 2003. Defendant Betsy Spano’s motion to dismiss for failure to join an indispensable party was denied on August 14, 2003. Defendant, Christopher T. Spano was served via alternative service through the Secretary of State, and did not file a proper answer within the allotted time. A motion for default on other defendants will also be heard in the near future, but the date has not yet been set. Florida Housing will continue to monitor the litigation.

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C. Seminole County, et al. v. TWC Ninety-Five, Ltd., et al. (Windchase Apartments)

Developer: The Wilson Companies; TWC Ninety-Five, Ltd.

1. **Background**

- a) On May 15, 1997, TWC Ninety-Five, Ltd. ("TWC") closed its loan. Florida Housing allocated \$15,100,000 in Housing Revenue Bonds (1997 Series C) funds for this development.
- b) On October 28, 2002, Plaintiff, Seminole County, filed a Petition in eminent domain to condemn a portion of TWC Twenty-Five, Ltd.'s property in the Circuit Court of Seminole County, Florida seeking to take a portion of the property for widening the road adjacent to the development known as Windchase Apartments.
- c) Section 11 of the Land Use Restriction Agreement requires that the proceeds of any condemnation be deposited with the Trustee.
- d) A hearing has been set for May 15, 2003, on the Motion to Allow Withdrawal of Funds filed by TWC on March 28, 2003. Florida Housing filed a Response to the Motion to Allow Withdrawal of Funds by TWC on April 15, 2003. The Trustee advised that, in December 2003, proceeds from the condemnation were forwarded to the Trustee in the amount of \$20,073.75.

2. **Present Situation**

This file is now closed.

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D. Fifth Avenue Estates, Ltd. (“Fifth Avenue”) – Petition for Rule Waiver

1. Background

- a) On February 3, 2002, Fifth Avenue filed a Petition for Rule Waiver, seeking a waiver of Rule 67-48.004(14)(k), Fla. Admin. Code, which prohibits an applicant from making any change of the total set-aside commitment of Item III, Section E, Subsection 3, of the 2002 Universal Cycle Application.
- b) On June 20, 2003, the Board denied the Petition.
- c) On June 25, 2003, Fifth Avenue filed its Notice of Appeal, and filed its Initial brief on August 13, 2003; Florida Housing filed a Motion to Strike Appellant’s Initial Brief for relying on matters outside the Record of the case and for failure to cite citations from the Record. The Motion to Strike was granted on September 15, 2003. Fifth Avenue’s Amended Initial Brief was filed on September 17, 2003. Florida Housing’s Reply Brief was filed on October 13, 2003. Fifth Avenue’s Reply Brief was filed on November 5, 2003. Florida Housing’s Amended Reply Brief (correcting an omission in its Table of Contents) was filed on November 19, 2003.

2. Present Situation

Petitioner’s request for oral argument has not been addressed by the Court.

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E. In Re: 2003 Universal Cycle

1. Present Situation

a) Cases referred to the Division of Administrative Hearings:

Riverside Village Partners, Ltd. – Provincetown Village Partners, Ltd. A Joint Motion to consolidate Riverside Village and Provincetown Village cases was filed on September 5, 2003. An order of consolidation was issued and the hearing was held on November 2, 2003. The parties are awaiting a copy of the transcript of the hearing. Proposed Recommended Orders were filed by the parties on December 29, 2003. The parties await a Recommended Order from the Division of Administrative Hearings.

b) Ranking Disputes. Florida Housing received four petitions for formal administrative hearing and three petitions have been forwarded to the Division of Administrative Hearings.

(1) Los Suenos – Initial Order filed, hearing date to be set

(2) Pinnacle Oaks – After review, Florida Housing determined that no dispute of material fact exists. The case will be set for Informal Hearing.

(3) New Covenant – Initial Order and responses filed. Parties have filed Joint Motion to consolidate the Village Centre and New Covenant cases.

(4) Village Centre Apartments - Initial Order and responses filed. Parties have filed Joint Motion to consolidate the Village Centre and New Covenant cases.

SINGLE FAMILY BONDS

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IV. SINGLE FAMILY BONDS

A. 2003 Series 5 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On September 12, 2003, the Board authorized issuance of the 2003 Series 5 Bonds. The origination period began on October 27, 2003.
- b) Lendable proceeds totaling \$45,745,051 are currently offered at an interest rate of 5.68%.
- c) Additionally, funding was set-aside for special targeting at an interest rate of 4.99% as follows:
 - (1) \$1,000,000 for purchases in HOPE VI and Front Porch Communities
 - (2) \$2,000,000 for purchases in Urban Infill and Targeted Areas
 - (3) \$1,000,000 for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program
 - (4) \$1,000,000 for Disabled Homebuyers
- d) As of January 5, 2004, the following activity was reported:

Allocation Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Spot Pool	45,745,051	28,184,629	310	17,560,422	61.6
Front Porch and HOPE VI	1,000,000	0	0	1,000,000	0
Urban Infill	2,000,000	1,439,219	16	560,781	71.9
USDA Self Help	1,000,000	1,000,000	15	0	100
Disabled Homebuyers	1,000,000	194,943	3	805,057	19.5
HAP D/P	Pooled	997,153	101	Pooled	N/A
HOME Loans	Pooled	730,119	49	Pooled	N/A
HAMI Loans	Pooled	5,000	1	Pooled	N/A

SINGLE FAMILY BONDS

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B. 2003 Series 1-4 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On May 2, 2003, the Board authorized issuance of the 2003 Series 1, 2, 3 and 4 Bonds. The origination period began on June 25, 2003.
- b) Lendable proceeds totaling \$46,032,499 are currently offered at an interest rate of 5.10%.
- c) Additionally, funding was set-aside for special targeting at an interest rate of 4.50% as follows:
 - (1) \$1,000,000 for purchases in HOPE VI and Front Porch Communities
 - (2) \$3,000,000 for purchases in Urban Infill and Targeted Areas
 - (3) \$1,000,000 for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program.
- d) On September 15, 2003, Staff authorized Leader Mortgage to combine the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help and Urban Infill).
- e) Staff negotiated with the participant in the Builder program to relinquish unused allocation that could be better utilized in the Spot Pool. As a result, \$2,765,000 was reallocated from the Builder Pool to the Spot Pool.
- f) As of January 5, 2004, the following activity was reported:

Allocation Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Spot Pool	43,797,499	40,926,456	448	2,871,043	93.4
Builder	2,235,000	1,028,069	9	1,206,931	46
Urban Infill, RD Self Help HOPE VI /Front Porch	5,000,000	4,945,304	67	54,696	98.9
HAP D/P	Pooled	2,537,734	263	Pooled	N/A
HOME Loans	Pooled	2,598,221	174	Pooled	N/A

SINGLE FAMILY BONDS

Informational

C. 2002 Series 1-3 Single-Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On April 26, 2002, the Board authorized issuance of the 2002 Series 1, 2, and 3 Bonds. The origination period began on November 8, 2002.
- b) Lendable proceeds totaling \$45,620,806 are currently offered at an interest rate of 5.92%.
 - (1) \$1,520,677 for purchases in HOPE VI and Front Porch Communities
 - (2) \$3,041,355 for purchases in Urban Infill and Targeted Areas
 - (3) \$506,411 for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program
- c) Effective April 1, 2003, the Board authorized the combination of the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help and Urban Infill).
- d) Staff negotiated with three participants in the Builder program to relinquish unused allocation that could be better utilized in the Spot Pool. As a result, \$5,289,581 was reallocated from the Builder Pool to the Spot Pool.
- e) As of January 5, 2004, the following activity was reported:

Allocation Pool	Current \$ Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	39,218,100	36,754,632	443	2,463,466	93.7
Builder	7,619,741	7,619,741	86	0	100
Urban Infill, RD Self Help HOPE VI /Front Porch	5,008,248	5,008,248	76	0	100
HAP D/P	Pooled	3,545,970	359	Pooled	N/A
HOME Loans	Pooled	3,250,357	218	Pooled	N/A

SINGLE FAMILY BONDS

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D. Marketing and Outreach

1. Background/Present Situation

- a) In efforts to determine new ways to attract lenders to our program, Staff created a presentation entitled "Bond Program Essentials". This presentation was sent out to over 200 lending institutions throughout the state along with a survey. The purpose of the survey is for Staff to assess the needs of our participating lenders. This information will aide in the design of new programs and will assist in the streamlining of processes that have proven to be cumbersome for lenders and/or homebuyers.
- b) Staff is currently working with Realty Associations to outline the schedule for Florida Housing's 2004 Realtor Continuing Education course. This course has proven to be a great enhancement to the Single Family Bond program. As a result, more people are becoming informed and excited about the programs that are offered by the Corporation.
- c) Staff is working with rural counties in efforts to increase homeownership opportunities in those areas. As grass roots efforts have proven to be the most beneficial in rural areas, a partnership has been formed with a local church in Perry, Florida, a Taylor County Commissioner, and a local lender to provide ongoing education to Taylor County residents about qualifying for the SFMRB program.

SINGLE FAMILY BONDS

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- E. Loan Information/Summary Reports** (See Exhibits [A](#), [B](#) and [C](#))

SHIP PROGRAM

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V. SHIP PROGRAM

A. Local Housing Assistance Plans

1. Background

To receive SHIP funds, a local government must submit a Local Housing Assistance Plan for approval by the Corporation's SHIP Review Committee. These plans have a minimum effective date of one (1) state fiscal year and a maximum of three (3) state fiscal years. A local government may amend its plan to add or delete strategies consistent with SHIP Program requirements.

2. Present Situation

By May 2, 2004, fifty-nine (59) local governments are required to submit new Local Housing Assistance Plans to maintain eligibility to receive SHIP funds.

SHIP PROGRAM

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B. Local Housing Assistance Program Annual Reports

1. Background

Annually, by September 15, a county or eligible municipality participating in the SHIP Program must submit a report of its local affordable housing program accomplishments and its funding expenditure and leveraging using forms provided by the Corporation pursuant to Section 420.9075(9), Florida Statutes. The annual reports document the local government's compliance with the Florida Statutes and SHIP program requirements and must be timely and correctly filed as a condition of receiving funds.

2. Present Situation

- a) The reports were due to the Corporation by September 15, 2003 to cover activities and expenditures for state fiscal years 2000-2001 (close out reports as of 6/30/03), fiscal year 2001-2002, and fiscal year 2002-2003 (interim reports as of 06/30/03).
- b) One (1) local government, Marion County, has an expenditure extension for fiscal year 1999-2000 funds.
- c) Six (6) local governments, City of Cocoa, City of Margate, City of North Miami, City of Pembroke Pines, Flagler County, and Marion County, have an expenditure extension for fiscal year 2000-2001 funds.

SHIP PROGRAM

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C. Financial Status

1. Background

- a) Created in 1992 by the William E. Sadowski Affordable Housing Act, SHIP is funded with proceeds of the documentary stamp tax on recorded deeds deposited into the Local Government Housing Trust Fund.
- b) The state fiscal year 2003-2004 total appropriation available for the SHIP Program is \$130,886,000.00 with an anticipated set-aside of \$5,000,000.00 for disaster relief and \$129,499.00 for the Housing Data Clearing House. The current available funding is \$125,756,501.00.

2. Present Situation

- a) Total SHIP disbursements to the local governments for fiscal year 2003-2004 to date are \$111,440,748.00.
- b) Total SHIP allocation due to the local governments for fiscal year 2003-2004 is \$14,315,753.00.
- c) Total SHIP disaster relief funding available to the local governments for fiscal year 2003-2004 is \$5,000,000.00.

UNIVERSAL CYCLE

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VI. UNIVERSAL CYCLE

A. 2004 Universal Application

1. Background/Present Situation

- a) Rule hearings on Chapters 67-21 and 67-48, F.A.C., are scheduled for January 20, 2004, in Tallahassee. The hearings will include discussions on the proposed revisions to the Universal Application.
- b) Following review of the public comments received at the rule hearings and comments received from the Joint Administrative Procedures Committee (JAPC), staff will proceed as follows:
 - (1) If it is determined that a Notice of Change (NOC) is not required to modify the proposed rules that were presented at the last board meeting and revisions subsequently approved by the Chair, it is anticipated that the rules will be filed for adoption on January 26, 2004, with an effective date of February 15, 2004. Therefore, the 2004 Universal Cycle will open on February 4, 2004 and close on March 5, 2004. Application workshops are scheduled for February 9 and 10, 2004, in Tallahassee. The February 9th workshop will be oriented toward potential applicants new to the Universal Application process and the February 10th workshop will be oriented toward persons who are familiar with the Universal Application process.
 - (2) If it is determined that a NOC is required, a supplement to the Board Package will be provided which contains the proposed NOC. If approved by the Board, staff will file the NOC for publication in the Florida Administrative Weekly and the NOC will be filed with JAPC for its review. Provided that a second NOC is not necessary, it is anticipated that the rules will be filed for adoption on February 23, 2004, with an effective date of March 14, 2004, and that the application cycle will open on March 1, 2004 and close on March 31, 2004. Application workshops will be scheduled for March 8 and 9, 2004, in Tallahassee.