

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
May 21, 2004
Action Items



HOMEOWNERSHIP LOAN PROGRAM

Action

I. HOMEOWNERSHIP LOAN PROGRAM

A. Authorize Staff to De-obligate HOME Funds for Model City Infill Housing Development / HH03-023

Applicant Name (“Applicant”):	The Housing League, Inc.
Development Name (“Development”):	Model City Infill Housing
Developer/Principal (“Developer”):	Jerry Flick
Number of Units: 40	Location: Miami-Dade County
Type: HOME Purchase Assistance Loan	Allocated Amount: \$1,000,000

1. Background

- a) The Developer submitted an application for the Model City Infill Housing Development during Round Two of the 2003 Homeownership Loan Program Application Cycle in the amount of \$1,000,000.
- b) The Application scored within the funding range and was invited into credit underwriting on February 2, 2004.

2. Present Situation

On March 30, 2004, the Developer advised they were unable to secure site control on any of the 40 lots, and therefore, they have decided to withdraw this proposed Development so that the funds could be re-allocated. The letter is attached as [Exhibit A](#).

3. Recommendation

Staff recommends that \$1,000,000 in HOME funds for the Model City Infill Housing Development be de-obligated and made available for future use in the Homeownership Loan Program.

HOMEOWNERSHIP LOAN PROGRAM

Action

B. Authorize Staff to De-obligate HOME Funds for Little Creek I Development / HH02-011

Applicant Name (“Applicant”):	Whitemark Homes of Florida, Inc.
Development Name (“Development”):	Little Creek I
Developer/Principal (“Developer”):	Larry White
Number of Units: 120	Location: Osceola County
Type: HOME Purchase Assistance Loans	Allocated Amount: \$3,000,000

1. Background

- a) The Applicant submitted an application for the Little Creek I Development by Whitemark Homes of Florida, Inc. during Round One of the 2002 Homeownership Loan Program Application Cycle in the amount of \$3,000,000.
- b) The Application scored within the funding range and was invited into credit underwriting on November 4, 2002.
- c) The credit underwriting process was completed and the final report, dated February 18, 2003, was approved at the March 7, 2003 Board meeting. A firm commitment in the amount of \$3,000,000 to provide HOME second mortgage loans to homebuyers was issued on March 17, 2003 and accepted by the Developer on March 25, 2003.

2. Present Situation

- a) The service providers have advised Florida Housing that the Developer is out of compliance with several provisions of their commitment letter, the program rule and 24 CFR Part 92 as it relates to the Federal Davis Bacon requirements.
- b) In a letter dated March 23, 2004, staff advised the Developer of Florida Housing’s concerns over the non-compliance issues and requested a status update to which there was no response. In addition, several unsuccessful attempts were made to contact the Developer.
- c) In a letter dated April 30, 2004 which was sent via Certified / Return Receipt Requested mail, staff made another attempt to contact the Applicant to advise that Florida Housing would make a recommendation to the Board to de-obligate funding in the amount of \$3,000,000 so that the HOME funds could be made available to other affordable housing developments. To date, there has been no response from the Developer. The letter is attached as [Exhibit B](#).

3. Recommendation

Staff recommends that \$3,000,000 in HOME funds for the Little Creek I Development be de-obligated and made available for future use in the Homeownership Loan Program.

HOMEOWNERSHIP LOAN PROGRAM

Action

C. Request to Extend the Loan Closing Date for Pueblo Del Sol / 99HH-017

Applicant Name (“Applicant”):	Jubilee / Pueblo del Sol, Inc.
Development Name (“Development”):	Pueblo Del Sol
Developer/Principal (“Developer”):	Jubilee / Pueblo del Sol, Inc. / Doug Mayer
Number of Units: 44	Location: Miami-Dade County
Type: HOME Construction Loan	Allocated Amount: \$1,097,662

1. **Background**

- a) An application was submitted on behalf of Pueblo del Sol during the 1999/2000 HOME Homeownership Application cycle.
- b) On August 1, 2003 the Board approved the Credit Underwriting Report and authorized staff to issue a firm commitment letter in the amount of \$1,097,662 to the Developer for a HOME Construction Loan. According to the commitment letter, the loan was initially scheduled to close no later than November 4, 2003.
- c) Due to delays relating to platting issues and the Applicant receiving additional Surtax dollars to assist lower income households, the Board previously granted two 90-day loan closing extensions, with the first extension occurring from November 4, 2003 to February 4, 2004 and subsequently another extension from February 4, 2004 to May 4, 2004.

2. **Present Situation**

- a) On May 3, 2004, staff received a letter from the Developer requesting another 90-day extension, advising that the City of Miami Commission had approved the plat at its February 26, 2004 meeting. The Plat had been referred to the Miami-Dade County Department of Public Works for their review and recording of the Plat, which is the final step. The letter is attached as [Exhibit C](#).
- b) The Developer has indicated that approval is anticipated by the end of May 2004. There are some outstanding due diligence items that need to be submitted to the Credit Underwriter and Closing Counsel which have not been initiated.
- c) Additionally, the commitment letter has an expiration date of December 31, 2004 which means that construction and sale of each home must be completed by that date.

3. **Recommendation**

We invite the Developer to address the Board.

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Action

II. LEGAL

A. In Re: Ybor III, Ltd. v. Florida Housing Finance Corporation

Development Name:	Ochlocknee Pointe
Developer/Principal: ("Petitioner")	Citizens Housing Development Co./ Ybor III, Ltd.
Number of Units: 96	Location: Gadsden County
Type: New Construction	Set Aside %: 15@28 AMI/ 85@60 AMI
Demographics: Large Family	Allocated Amount: n/a
LIHTC: \$561,000	SAIL: \$600,000

1. Background

- a) On November 29, 2001, the Petitioner 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, now 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 III's petition to the Division of Administrative Hearings for formal proceedings.
- b) The case was forwarded to the Division of Administrative Hearings for a formal hearing on May 27, 2003. The Petitioner's attorney filed a Motion for Leave to Withdraw as Counsel on June 20, 2003, which was granted on July 1, 2003. The Petitioner filed three Motions for Continuance, both of which were granted. The final hearing was held on January 30, 2004. The parties filed their Proposed Recommended Orders on March 15, 2004. The Administrative Law Judge (ALJ) issued his Recommended Order on March 30, 2004. A copy of the Recommended Order is attached as [Exhibit A](#). On April 14, 2004, the parties filed the Joint Exceptions to Recommended Order ("Joint Exceptions"). The Joint Exceptions are attached as [Exhibit B](#).

2. Present Situation

- a) In the Recommended Order the ALJ found in favor of Petitioner, holding that the Petitioner had been improperly displaced from the funding range by Florida Housing's actions on another application. The ALJ also recommended that the Petitioner be awarded funds and tax credits from the next available allocation, but neglected to include credit underwriting requirements or procedures in his recommendation. The parties have agreed to file Exceptions to the Recommended Order to clarify that the Petitioner must undergo the same credit underwriting procedures as any successful applicant for funding. The Board must decide to accept or reject the Joint Exceptions. The Board must also decide to accept or reject the Recommended Order and then enter a Final Order in this matter.

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3. Recommendation

- a) Staff recommends that the Board enter a Final Order in this matter adopting the Recommended Order with the modification to the language of the Recommendation section as outlined in the Joint Exceptions.

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B. In Re: Park Green Ltd.

Development Name: (“Development”):	Park Green Apartments
Developer/Principal: (“Developer”):	Park Green Ltd.
Number of Units: 8	Location: Florida City, Florida
Type: multifamily apartments	Set Aside: 60%@ 50% AMI; 40%@ 60% AMI
Demographics: family	Allocated Amount: \$109,148
MMRB: n/a	Housing Credits: \$57,611

1. Background

- a) During the 1997 SAIL Cycle X(a), Florida Housing awarded an allocation of \$109,148 to the Developer and issued a housing credit allocation in the amount of \$57,611.
- b) On April 20, 2004, Florida Housing received a Petition to Waiver from the Reporting Requirements, Audited Financials for Years Prior to 2004 and Request to Replace the General Partner (“Petition”), from Boston Capital (“Petitioner”). A copy of the Petition is attached as [Exhibit C](#).
- c) Rule 9I-48.006(5), F.A.C. (1997), provides in pertinent part:

The owner of the Project shall maintain complete and accurate income records pertaining to each tenant occupying a Low-Income or Very Low-Income unit. Records for each occupied Low-Income or Very Low-Income unit shall contain the following documentation:

- (a) the tenant’s application containing the name or names of each household member, employment and income information for each household member, and other information required by the owner of the Project;
 - (b) An executed lease agreement listing the term of the tenancy and all of the tenants residing in the unit;
 - (c) Verification of the income of each tenant as is acceptable to prove income under Section 8 of the U.S. Housing Act of 1937, as in effect on the date of this Rule Chapter;
 - (d) Information as to the assets owned by each tenant; and,
 - (e) Income Certification Form TIC-1 for each tenant.
- d) Rule 9I-48.006(6), F.A.C. (1997), provides in pertinent part:

The Applicant shall submit Program Reports pursuant to the following:

- (a) Program Reports shall be submitted each year of the Tax-Credit Compliance Period and due no later than on one of the following dates assigned by the Agency:

1. Recap of Tenant Income Certification Form AR-1;

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Action

2. Copies of Tenant Income Certifications executed since the last Program Report...

3. ...The Annual Owner Compliance Certification Form...

(c) The initial SAIL Program Report shall be submitted at the time of loan closing...Subsequent Program Reports shall be submitted each month and are due no later than the 25th of each month thereafter. The Program Reports shall be accompanied by copies of all Tenant Income Certifications executed since the last Program Report...

(1) Rule 9I-48.010(5), F.A.C. (1997), states in pertinent part:

(a) By April 15 of each year of the SAIL loan term, the Developer shall provide the Agency and its servicer with a certification detailing the information needed to determine the annual payment to be made...The certification shall require submission of audited financial statements, the SAIL annual reporting form (Form SR-1) and other documents that may be required by the Agency and/or its servicer.

e) Petitioner requests a waiver of all outstanding reports.

f) On April 30, 2004, the Notice of Petition was published in the Florida Administrative Weekly.

g) To date, Florida Housing has not received any comments concerning the 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 principles of fairness.

3. **Recommendation**

Staff recommends that the Board grant the Petitioner's request for a waiver of Rules 9I-48.006(5), 9I-48.006(6), and 9I-48.010(5), Florida Administrative Code (1997), as to all outstanding reports due to Florida Housing. Staff recommends the Board deny the Petitioner's request for a waiver of Rules 9I-48.002(3) and 9I-48.004(3), Florida Administrative Code (1997).

MINUTES

Action

III. MINUTES

- A. Consider Approval of the April 2, 2004, [Board of Directors' Meeting Minutes](#).

PROFESSIONAL SERVICES SELECTION (PSS)

Action

IV. PROFESSIONAL SERVICES SELECTION (PSS)

A. Real Estate Brokerage Services

1. Background

- a) As Florida Housing may acquire affordable multifamily and single family property, by foreclosure or other means, Florida Housing will have a need for qualified firms with real estate brokerage expertise to provide real estate marketing and brokerage services and to assist Florida Housing with the disposition of multifamily and single family housing developments and/or single family properties.
- b) At its April 2, 2004 meeting Florida Housing's Board authorized staff to distribute a Request for Qualifications (RFQ) for the purpose of creating a short list of pre-qualified bidders prepared to respond on an expedited basis to Florida Housing's Request for Proposals (RFP) to purchase foreclosed or acquired properties. The Board further authorized staff to issue future RFP to purchase foreclosed or acquired properties.

2. Present Situation

Florida Housing staff has a need to engage the services of a pool of qualified real estate brokers to assist Florida Housing with the disposition of foreclosed or acquired properties.

3. Recommendation

Staff recommends that the Board authorize staff to begin the RFQ process for Real Estate Brokerage services and establish a review committee. Florida Housing expects to engage the services of a pool of brokers that propose to provide all of the services specified in the RFQ.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Cash Flow Verification Agent Services

1. Background

- a) In the past Florida Housing has utilized the services of Causey Demgen & Moore, Inc. to provide cash flow verifications for insured low income, single-family and multi-family mortgage revenue bonds. Fannie Mae, the major rating agencies and bond insurers require verification of alternative cash flows for GNMA, FHA and Fannie Mae insured multi-family mortgage revenue bonds for cash flow and security coverage under alternative mortgage take down assumptions.
- b) Fla. Admin. Code R. 67-49.002(1)(b), Florida Housing's procurement rule, provides that when the purchase price of commodities or contractual services exceeds or is estimated to exceed twenty-five thousand dollars (\$25,000), in any twelve (12) month period, purchases of these commodities or contractual services, except as otherwise provided in subsection 67-49.002(4),(5) and (6), must be made pursuant to an Invitation to Bid, Invitation to Negotiate, Request for Proposals (RFP) or Request for Qualifications.

2. Present Situation

Rule 67-49.002(1)(b) applies when the anticipated aggregate amount paid for any service will exceed \$25,000 in a fiscal year. Florida Housing staff believes the RFP process for these services should be initiated.

3. Recommendation

Staff recommends that the Board authorize staff to begin the RFP process for cash flow verification services and establish a review committee.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

C. Affordable Housing Catalyst Program

1. Background

- a) House Bill 1857 passed the Legislature on Friday, April 30, 2004 and is expected to become law. The bill authorizes the transfer of the Affordable Housing Catalyst Program from the Department of Community Affairs (DCA) to Florida Housing Finance Corporation effective July 1, 2004.
- b) The Affordable Housing Catalyst Program is funded through the State Housing Trust Fund and provides training and technical assistance mainly to local governments and community based organizations on state and federal housing programs. The Affordable Housing Catalyst Program has been outsourced since its inception, with great success.
- c) In view of the impending transfer, Florida Housing's General Counsel has discussed with DCA's General Counsel the feasibility of DCA assigning the solicitation process to Florida Housing. DCA and Florida Housing staff concurs that since Florida Housing will be administering the Affordable Housing Catalyst Program beginning July 1, 2004, there is no need for DCA to be involved any further than normal program administration, processing of payments for April through June services, and the preparation of program files to be transferred to Florida Housing.

2. Present Situation

- a) The term of the Affordable Housing Catalyst Program contract between DCA and the current service provider, the Florida Housing Coalition, expires June 30, 2004. Staff believes entering into a contract on an emergency basis is supportable under the circumstances, to avoid a gap in service.
- b) Because of an anticipated increase in the Affordable Housing Catalyst Program budget, Florida Housing cannot clearly define the scope of work. Staff believes initiation of an Invitation to Negotiate (ITN) would be in the best interest of Florida Housing in order to select one or more entities with which to commence negotiations for the procurement of the Affordable Housing Catalyst Program services.

3. Recommendation

Staff recommends that the Board authorize staff to enter into a contract, on a month by month basis not to exceed ninety (90) days, with the Florida Housing Coalition, and authorize staff to begin the ITN process to select one or more entities with which to commence negotiations for the procurement of the Affordable Housing Catalyst Program services.

PROFESSIONAL SERVICES SELECTION (PSS)

Action Supplement

I. PROFESSIONAL SERVICES SELECTION (PSS)

A. Military Housing Needs Assessment

1. Background

- a) At its February 27, 2004 meeting, Florida Housing's Board authorized staff to begin the Request For Proposals (RFP) process and establish a review committee to select a market analyst firm to complete the Military Housing Needs Assessment.
- b) Senate Bill 1604 passed the Legislature on Friday, April 30, 2004, and is expected to become law. One section of this bill directs Florida Housing to perform an assessment of the affordable housing needs of active duty military personnel and their families. The assessment is to be delivered, along with recommendations, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by December 31, 2004.
- c) An RFP process was initiated and RFP 2004/03 was issued on March 19, 2004. Responses to the RFP were due on or before 2:00 p.m., Friday, April 16, 2004.
- d) Three responses were received. They are as follows:
 - (1) Danter Company
 - (2) Gulf Engineers & Consultants, Inc.
 - (3) Strategic Planning Group, Inc.
- e) The Review Committee members, designated by the Executive Director, were Nancy Muller, Housing Policy Director; Wallisa Cobb, Single Family Programs Administrator; Susan Parks, Technology Facilitator; Rachael Fink, Housing Policy Senior Analyst; and Shane Gager, Guarantee Program Analyst.

2. Present Situation

Each member of the Review Committee individually reviewed the responses to the RFP prior to convening the Review Committee meeting. The Review Committee was held on Monday, May 10, 2004, at 2:00 p.m. Results of the Review Committee's evaluation of the scored items are provided in [Exhibit A](#).

PROFESSIONAL SERVICES SELECTION (PSS)

Action Supplement

3. **Recommendation**

- a) The Review Committee recommends that the Board authorize staff to enter into contract negotiations with the top ranked Offeror, which is Gulf Engineers & Consultants, Inc., to perform a military housing needs assessment for military installations in Florida selected by Florida Housing. If Florida Housing staff is unable to successfully negotiate a contract with Gulf Engineers & Consultants, Inc., the Review Committee further recommends that the Board authorize staff to enter into contract negotiations with Strategic Planning Group, Inc. If Florida Housing staff is unable to successfully negotiate a contract with Strategic Planning Group, Inc., the Review Committee recommends that the Board authorize staff to enter into contract negotiations with the Danter Company.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

V. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval of Workout Proposal for Liberty Center I (89S-046)

Development Name: Liberty Center I (“Development”)	Location: Duval County
Developer/Principal: Harris Group, Inc./Robert Harris (“Developer”)	Set-Aside: 100% @ 60% AMI
Number of Units: 109	Allocated Amount: \$719,899
Type: SRO/Transitional Housing	Housing Credits: \$232,959
Demographics: Homeless	

1. Background

- a) During the 1988-89 SAIL Cycle I, Florida Housing awarded a \$719,899 construction/permanent loan to Liberty Center, Ltd., for the Development, a 109-unit SRO development for the Homeless in Jacksonville, Duval County. The SAIL loan closed on March 23, 1989 and matured on April 1, 2004. The property also received a 1988 allocation of low-income housing tax credits. The Development had a 10 year SRO HUD Grant which expired and is now allocated on a yearly basis. This Developer is also the general partner for a \$1,429,329 SAIL loan and an allocation of \$269,428 in Housing Credits for Liberty Center II, a 134-unit SRO development for the Homeless; \$1,800,000 SAIL loan for Liberty Center III, a 100-unit SRO development for Homeless; and an award of \$2,000,000 in SAIL funds and an allocation of \$401,534.00 for Liberty Center IV, a 100-unit SRO development for Homeless also in Jacksonville.
- b) In its original application, Liberty Center, Ltd. committed to extend the low income set-aside for Liberty Center I to 50 years. Pursuant to Fla. Admin. Code R. 9I-28.006(7) (1988), \$486,286.84 of the total deferred interest of \$866,525.01, is eligible for forgiveness.

2. Present Situation

- a) On March 10, 2004, Florida Housing contacted the Borrower to discuss their plans for repayment of the loan. On March 16, 2004, the Borrower submitted a workout proposal requesting Florida Housing forgive all deferred interest on the maturing loan and renew the loan at 1% interest for fifteen years.
- b) On March 29, 2004, the Borrower submitted their revised workout proposal requesting Florida Housing forgive all deferred interest on the maturing loan; and renew the principal at 1% interest for fifteen years, with monthly amortization of principal and interest beginning on November 1, 2004.
- c) The Borrower expects to payoff their first mortgage with Duval County Housing Finance Agency on October 1, 2004 and has made timely payments to Florida Housing. In addition, the Borrower has no outstanding material compliance issues.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

3. **Recommendation**

Staff recommends that the Board approve the revised workout proposal to renew the principal at 1% interest for fifteen years, with monthly amortization of principal and interest beginning on November 1, 2004, subject to review and approval of a petition for rule waiver to forgive all deferred SAIL interest on the maturing loan and a positive credit underwriting report.