

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
September 26, 2008
Action Items



HOMEOWNERSHIP LOAN PROGRAM

Action

I. HOMEOWNERSHIP LOAN PROGRAM

A. Request for Approval for the Extension of the Construction Period for We Help Community Development Corporation for Abidjan Estates

Applicant Name (“Applicant”):	We Help Community Development Corporation (Non-Profit)
Development Name (“Development”):	Abidjan Estates
Developer/Principal (“Developer”):	Dr. D.M. Walker
Number of Units: 76	Location: Palm Beach County, Florida
Type: Purchase Assistance Loan	Allocated Amount: \$2,000,000

1. Background

- a) The Applicant submitted an application during the 2003 Homeownership Loan Program Cycle, which scored within the funding range and was invited into credit underwriting on February 2, 2004.
- b) The final credit underwriting report, dated September 2, 2004, was approved at the September 10, 2004 Board Meeting. On September 13, 2004, a firm commitment letter was issued to the Developer which specified a 3-year construction period scheduled to end on September 13, 2007.
- c) On January 25, 2008 the Board granted an extension of the construction period from September 13, 2007 until September 13, 2008, contingent upon satisfactory resolution of the issues identified in the market study and appraisal, the purchase price increase, a firm commitment from Palm Beach County for down payment assistance for all homes in this Development, and proof that the developer will be able to repay the PLP loan, subject to further approvals by the credit underwriter, counsel, and the appropriate corporation staff.
- d) To date, the Developer has completed and closed on 3 homes, utilizing \$119,100 out of the original \$2,000,000 that was awarded.

2. Present Situation

- a) On July 11, 2008, the Developer requested an additional one-year extension, advising of problems in obtaining credit-worthy eligible homebuyers. The letter is attached as [Exhibit A](#).
- b) However, due to the age of this Development and the fact that a previous one-year extension had already been granted by the Board, staff contacted the Developer to discuss her progress in more detail, as it is necessary to conclude the Homeownership Loan Program, whose last application cycle was held in 2003. The Developer has provided documentation which included 33 purchase contracts with matching building permits for those lots.
- c) On September 9, 2008, Palm Beach County Housing and Community Development provided a letter verifying their commitment to provide mortgage subsidies of up to \$60,000 to at least 40 eligible homebuyers. The letter is attached as [Exhibit B](#).

HOMEOWNERSHIP LOAN PROGRAM

Action

- d) On September 12, 2008, Dennis Jones with Construction Analysis Systems, Inc., (“CASI”), submitted a letter detailing the results of his Plan and Cost Review. This review was conducted in response to the issues raised in the previous market study for Abidjan Estates regarding construction upgrades. The letter from CASI outlines several areas where upgrades in the units could be eliminated to potentially bring down the purchase price of the units. The letter is attached as **Exhibit C**.
- e) Applicant has repaid \$45,000 of the \$500,000 that it owes to Florida Housing under the terms of its PLP loan. If the Applicant is able to successfully construct and close the 33 homes that are the subject of this extension request, then under the terms of the current repayment plan the Applicant will be able to repay the \$500,000 owed.

3. **Recommendation**

Staff recommends that the Board grant an extension of the construction period in order for the Developer to complete the closings on the contracts for the 33 pending borrowers, but in no event shall the extension be for a period longer than one year, until September 13, 2009, and to de-obligate any remaining funds after that date. Staff will continue to work with the credit underwriter and the Developer to resolve the items found in the market study and the plan and cost review and determine the purchase price of the remaining units.

LEGAL

Action

II. LEGAL

A. In Re: 2008 CWHIP Appeals

1. Background

- a) On or before January 29, 2008, Applicants submitted applications to Florida Housing for the award of CWHIP (Community Workforce Housing Innovation Program) funds.
- b) On May 5, 2008, Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes, and an Election of Rights form.
- c) On or about May 27, 2008, petitioners filed 19 petitions challenging Florida Housing's scoring decisions. Requests for hearings are as follows:
 - (1) Three applicants filed petitions requesting informal hearings which were heard before a contract hearing officer: Essential Workforce Housing; Model City Plaza, Neighborhood Renaissance.
 - (2) 16 applicants requested a formal hearing. The remaining cases have been forwarded to the Division of Administrative Hearings and a hearing is expected in December.
 - (3) Informal hearings were held before Florida Housing contract Hearing Officers on June 24, June 27 and July 10, 2008.

2. Present Situation

- a) The resulting Recommended Orders are attached. No written argument in opposition to Recommended Order was filed in Model City Plaza or Neighborhood Renaissance.
 - (1) [Exhibit A](#) –Model City Plaza
 - (2) [Exhibit B](#) –Neighborhood Renaissance
 - (3) [Exhibit C](#) – Essential Workforce Housing – A separate write-up is attached
 - (4) [Exhibit D](#) – Petitioner's Written Argument and Exceptions to Recommended Order
 - (5) [Exhibit E](#) – Response to Petitioner's Written Argument and Exceptions to Recommended Order

3. Recommendation

Staff recommends that the Board accept all of the Recommended Orders and enter Final Orders in these matters.

LEGAL

Action

B. Re: Essential Workforce Housing v. Florida Housing Finance Corporation, FHFC Case No. 2008-022CW

1. Background

- a) On or about January 29, 2008, Essential Workforce Housing, Inc. (“Essential”) applied for funding through the Rep. Mike Davis Community Workforce Housing Innovation Pilot Program (“CWHIP”) in the 2007 funding cycle. Florida Housing determined during preliminary scoring that Essential’s CWHIP application failed to demonstrate site control, a threshold requirement, as its Qualified Contract, an Option to Purchase, did not show the Applicant as the buyer of the development site, and no assignment of the contract was provided. As a cure, Essential provided an unsigned Assignment of the Option to Purchase to Essential. The assignment contained a provision stating that Essential would execute a note for \$200,000 upon execution of the assignment. Neither the assignor nor Essential had executed the assignment.
- b) The CWHIP application instructions, as adopted by and incorporated in to R. 67-58.003(1)(a), Fla. Admin. Code, require that where the Applicant is not the buyer on a Qualified Contract, the Applicant must provide a fully executed assignment of rights to the Applicant. Florida Housing did not accept the unexecuted assignment as proof of site control, and rejected Essential’s application for failing to document site control. Essential timely filed its Petition, and a hearing was conducted before Florida Housing Hearing Officer Chris H. Bentley, on June 24, 2008.
- c) During the hearing, Essential presented a witness who testified regarding a verbal acceptance of the Assignment by Essential. Florida Housing objected, and the Hearing Officer agreed, that testimony as to the verbal acceptance is not relevant because the application requires that such a document be fully executed; further, that any evidence of acceptance should have been provided before the cure deadline.

2. Present Situation

A Recommended Order was filed on August 14, 2008. A copy is attached as [Exhibit C](#). Essential timely filed its “Petitioner’s Written Argument and Exceptions to Recommended Order,” which contained eight “Exceptions,” on August 19, 2008. A copy is attached as [Exhibit D](#). Florida Housing filed a “Response to Petitioner’s Written Argument and Exceptions to Recommended Order,” on September 5, 2008. A copy is attached as [Exhibit E](#).

3. Recommendation

Staff recommends that the Board deny each and all of the eight exceptions contained in Essential’s “Argument in Opposition to Recommended Order,” for the reasons stated in Florida Housing’s Response. Further, Staff recommends that the Board adopt the findings of fact and conclusions of law contained in the Recommended Order as its own, and that the Board enter an order dismissing the Petition.

LEGAL

Action

C. In Re: 2008 Universal Cycle Appeals

1. Background

- a) On or before April 7, 2008, Applicants submitted applications to Florida Housing for the award of SAIL, MMRB or HOME funds and/or an allocation of Housing Credits in the 2008 Universal Cycle program.
- b) On July 16, 2008, Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes, and an Election of Rights form.
- c) On or about August 7, 2008, petitioners filed 4 petitions challenging Florida Housing's scoring decisions. Requests for hearings were as follows:

All applicants filed petitions requesting informal hearings which were heard before a contract hearing officer: Colonial Lakes Apartments, Ltd., Bonita Cove, LLC, Villa Capri Associates, Ltd., and SP Winter Haven Gardens LP.

- d) Informal hearings were held before Florida Housing contract Hearing Officers on August 27, 2007.

2. Present Situation

- a) The resulting Recommended Orders are attached as follows:
 - (1) [Exhibit F](#) – Bonita Cove, LLC
 - (2) [Exhibit G](#) – Villa Capri Associates, Ltd.
 - (3) [Exhibit H](#) – SP Winter Haven Gardens LP
- b) The following petition was withdrawn prior to hearing:
 - (1) [Exhibit I](#) – Colonial Lakes Apartments, Ltd.

3. Recommendation

Staff recommends that the Board accept all of the Recommended Orders and the one withdrawal and enter Final Orders in these matters.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

III. PROFESSIONAL SERVICES SELECTION (PSS)

A. Request for Proposals (RFP) 2008-06 for Auditing Services

1. Background

At its September 21, 2007 meeting the Board authorized Florida Housing staff to issue an RFP for auditing services and authorized the Executive Director to establish a Review Committee to make a recommendation for an independent certified public accounting firm to the Board.

2. Present Situation

- a) RFP 2008-06 was issued on Friday, August 8, 2008. The deadline for receipt of proposals was 2:00 p.m., Wednesday, September 3, 2008. The RFP is provided as [Exhibit A](#).
- b) Six (6) Responses were received by the deadline from the following:
 - (1) Cherry Bekaert & Holland LLP
 - (2) Clifton Gunderson
 - (3) Deloitte & Touche LLP
 - (4) Ernst & Young
 - (5) KPMG
 - (6) Thomas Howell Ferguson P.A. & Law Redd Crona & Munroe P.A.
- c) The Review Committee members, designated by the Executive Director, Angie Sellers (Chairperson), Comptroller, Wayne Conner, Deputy Development Officer, Kirsten Helms, Assistant Comptroller, Denise Monzingo, Accounting Manager, Kenny Derrickson, Bond Fund Administrator and Diane Carr, Loan Servicing Administrator.
- d) Each member of the Review Committee individually reviewed the proposals submitted prior to convening for the Review Committee meetings which were held at 2:00 p.m., Tuesday, September 9, 2008 and 2:00 p.m., Thursday, September 11, 2008.

3. Recommendation

- a) Results of the Review Committee's scores and ranking is provided to the Board as [Exhibit B](#) and the Review Committee recommends that the Board conduct oral interviews with the top three (3) ranked Offerors which are i) Ernst & Young, ii) Thomas Howell Ferguson P.A. & Law Redd Crona & Munroe, P.A., and iii) Deloitte & Touche LLP; select from among them an Offeror to whom to award the contract for Auditing Services; and authorize staff to enter into contract negotiations with that Offeror under the condition that all the information requested in Section Six Part A of the RFP is provided prior to commencement of negotiations.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- b) The Review Committee further recommends that if negotiations with the first selected Offeror fail authorize staff to enter into contract negotiations with another Offeror as selected by the Board, provided that all information requested in Section Six Part A is provided prior to commencement of negotiations.

UNIVERSAL CYCLE

Action

IV. UNIVERSAL CYCLE

A. 2008 Universal Cycle Ranking

1. Background/Present Situation

Upon Board approval of the recommended orders, staff will present the final ranking of the Applications for the Board's consideration and approval. Staff will provide supplemental materials at the Board meeting.

2. Recommendation

Approve the ranking and direct staff to proceed with the issuing of invitations to credit underwriting and preliminary commitment letters to those Applicants that are in funding range.