FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
September 18, 2009
Information Items

COMMUNICATIONS

Information

I. COMMUNICATIONS

A. Corporate Marketing and Outreach

1. <u>Background/Present Situation</u>

a) Communications and Special Needs staffs continue to work together on marketing the newly expanded affordable rental housing locator online at www.floridahousingsearch.org. Marketing materials (one pagers, post cards, flyers, etc.) were created and sent out to local government, housing authorities, elected officials, landlords, and other rental housing providers and advocates.

b) Also, Communications staff drafted an article and opinion editorial (op-ed) that was distributed in August to the large and small minority newspapers in targeted counties. Program staff continues to see an increase in the site's usage as time progresses

c) Communications and Special Programs staffs continue work on the "Going Green" Web site for Florida Housing, which will serve as a resource guide to help homebuyers, housing providers and advocates throughout the state *go green* in their affordable homes or rental properties. The site should be live fall 2009.

d) Finally, Communications staff recently participated as an exhibitor at the Florida League of Cities Conference in Orlando, Florida. Approximately 800-1,000 local elected officials attended. In September, we will exhibit/attend the Florida Housing Coalition (FHC) Annual Conference in Orlando.

II. FISCAL

A. Operating Budget Analysis for July 2009

a) The Financial Analysis for July 31, 2009, is attached as Exhibit A.

b) The Operating Budget for the period ending July 31, 2009, is attached as Exhibit B.

III. GUARANTEE PROGRAM

A. Status of Defaults within the Guarantee Program Portfolio

1. Background/Present Situation

a) In November 1994, the Guarantee Program entered into an agreement with HUD to participate in the Risk-Sharing Program; characterized by a 50/50 sharing of default risk in connection with the mortgage guarantee. Since then, the Guarantee Program and HUD have closed 76 multifamily bond-financed transactions, representing approximately $940 million of combined risk in force, facilitating the construction of over 19,400 multifamily units in Florida. Of the 96 multifamily developments in the Guarantee Program portfolio today, 62 are Risk-Sharing transactions.

b) The five (5) claims filed between November 2008 and March 2009 represented the only multifamily claims incurred in the 15-year history of the Guarantee Program.

c) As of August 31, 2009, there are five (5) developments in the portfolio in various stages of monetary default due to the borrower's failure to make timely payments on the note. Of those, four (3) are Risk-Sharing transactions and two (2) are not, as outlined below:

Development	Location	Closing Date	Total units	Mtg. bal.	Risk-share	Gen Ptr	Ltd Ptr	Status
Woods of Vero Beach	Vero Beach	9/21/1999	176	7,144,774	No	Creative Choice	Alliant Capital	Past due: 8/1/09 pmt
Andros Isle	Lehigh Acres	6/20/2001	229	9,509,167	No	Creative Choice	Alliant Capital	Past due: 7/15/09 & 8/15/09 pmts
Tuscan Isle	Naples	12/4/2002	298	17,879,708	Yes	Creative Choice	Capmark Capital	Past due: 7/15/09 & 8/15/09 pmts
Sarah's Place	Clermont	12/30/1997	330	12,472,672	Yes	Sarah's Place LLC	Key Bank	Past due: 7/1/09 & 8/1/09 pmts
Nelson Park	Clermont	2/25/2000	358	14,654,944	Yes	Nelson Park LLC	Key Bank	Past due: 7/1/09 & 8/1/09 pmts
Noah's Landing	Naples	11/14/2001	264	16,276,618	Yes	Vestcor Development	Centerline Capital	Past due: 8/15/09 pmt

d) At any given time over the past 7 years, the Guarantee Program has had a handful of transactions (3 to 5) in default, usually in "rolling default" for an extended period. The current level of defaults is not extraordinary in relation to the portfolio's historical performance and overall financial capacity. However, the five (5) claims filed to date are unprecedented.

e) Of the five transactions highlighted in the above chart, three are with Creative Choice Homes (Dilip Barot), each of which has been in a "rolling" default status for nearly a year. In March 2009, the general partner and limited partners reached agreements to share in the funding of operating deficits and, according to the general partner, cure the monetary defaults within a month. The latter obviously never came into fruition.

f) The subsequent two properties, Sarah's Place and Nelson Park, were originally developed by Worthwhile Development (H. J. "Jay" Royall), each having a history of defaults between March 2007 and October 2008. The limited partner cured the defaults in late 2008, and they remained current on the mortgage until falling back into default in July 2009.

g) Noah's Landings has been in a 30-day rolling default status for several months. The owner/borrower attributes the property's financial issues to the depressed local market. The Guarantee Program was granted final judgment of foreclosure on another Vestcor Development property, Riley Chase, on August 28, 2009.

B. Redemption of Guarantee Fund Capitalizing Bonds, 2002 Series A

1. <u>Background/Present Situation</u>

a) At the March 13, 2009 meeting, the Board directed staff to redeem capitalizing bonds using corpus if the Guarantee Fund (the "Fund") contained excess capacity not expected to be needed in the reasonably foreseeable future provided the leveraging ratio after redemption fell within the previously approved parameter of 5:1.

b) On May 1, 2009, in the context of not exceeding the 5:1 leveraging, the Fund utilized excess Corpus capacity to redeem in full the series 2002A bonds ($89,925,000 par), reducing negative arbitrage in the Fund while maintaining conservative risk-to-net capital leveraging of 3.7:1.

C. Depfa Bank's Termination of Liquidity Support on the 2000A Bonds

1. <u>Background/Present Situation</u>

a) On June 5, 2009, Depfa Bank plc (Depfa) sent a 30-day notice of termination of liquidity support on the Series 2000A bonds. The bonds are insured by Ambac Assurance Corporation (Ambac), which has been downgraded to below investment grade. By virtue of Ambac's downgrade, Depfa exercised authority provided by the Bond Insurer Adverse Change provision within the supporting Standby Bond Purchase Agreement. Term-out is triggered upon expiration, calling for repayment of the bonds ($60,000,000 par) over an accelerated term of five (5) years in equal semi-annual installments of principal plus accrued interest. The first term-out payment will be due in January 2010. Payments due in 2010 under the term-out provisions total $12 million in principal plus interest.

b) Staff is currently negotiating with another financial institution for an irrevocable direct-pay letter of credit (LOC). The LOC would effectively remove Depfa Bank as the current liquidity provider, as well as Ambac as the bond insurer, thereby avoiding term-out and facilitating successful remarketing of the bonds.

D. Removal of $10 Million Surety from the Debt Service Reserve Fund

1. Background/Present Situation

a) The Debt Service Reserve Fund (DSRF) includes a $10 million surety bond from Ambac, expiring in 2013. Ambac is currently rated below investment grade by the rating agencies Moody's and Standard & Poor's (S&P). Fitch withdrew its rating in 2008. Ambac has not been deemed insolvent or failed to pay claims to date, and there are no Indenture provisions requiring the surety's replacement. Nevertheless, Fitch Ratings (Fitch), in its most recent annual review of the Fund, assigned zero value to the surety, citing it as a point of concern in supporting its decision to downgrade the Fund's insurer financial strength rating.

b) Staff is considering terminating the $10 million Ambac surety, replacing it with approximately $7 million cash, subject to funding via Board-approved allocation of documentary stamp collections (see Fiscal action item, , in order to maintain the minimum required balance in the DSRF.

E. Downgrade of the Guarantee Fund and its Capitalizing Bonds

1. Background/Present Situation

a) On August 18, 2008, Fitch downgraded the Fund's insurer financial strength rating from "A+ / Stable" to "A- / Negative", and downgraded the Fund's capitalizing Bonds, 1993A, 1999A and 2000A from "A+ / Stable" to "BBB / Ratings Watch Negative". Based on Fitch's report, the primary drivers for downgrading the Fund and Bonds were increased risk-to-capital ratio and decreased documentary stamp tax revenues, respectively. As additional contributing factors, Fitch also cited the recent multifamily claim payments, bond insurer downgrades and the Ambac surety (in the DSRF).

b) S&P is currently conducting its annual review of the Fund and Bonds, both currently rated "A+ / Stable." Their analysis and corresponding ratings action is anticipated in the near future.

F. Guarantee Program Capacity (Exhibit A)

IV. LEGAL

A. *Villa Capri Associates Ltd. v Florida Housing Finance Corporation*, 1st DCA Case No. 1D08-5235; FHFC Case No. 2008-058UC

1. <u>Background</u>

a) During the 2008 Universal Cycle, Villa Capri Associates, Ltd. ("Petitioner") applied for funding to finance the construction of Villa Capri Apartments (the "Development") located in Miami-Dade County, Florida.

b) Petitioner's application failed threshold and Petitioner timely filed a petition challenging Florida Housing's scoring of its application. An informal hearing was held on August 27, 2008. On September 8, 2008, the designated Hearing Officer entered a Recommended Order recommending that Florida Housing's final scoring of the Petitioner's application be upheld, and that Petitioner's application be rejected for failure to establish the threshold requirement that electricity be available to the project as of the application deadline. On September 26, 2008, Florida Housing's Board adopted the Recommended Order and entered a Final Order rejecting Petitioner's application for failure to establish the threshold requirement that electricity be available to the project as of the application deadline.

c) On October 22, 2008, Florida Housing received Petitioner's "Motion for Reconsideration" ("Motion"). Subsequent to the filing of its Motion for Reconsideration, Villa Capri appealed the Final Order entered in this matter to the First District Court of Appeal. A copy of Villa Capri's Notice of Administrative Appeal was served on Florida Housing on October 24, 2008. The Motion for Reconsideration was denied, as jurisdiction lay with the First District Court of Appeal.

d) On May 13, 2009, Villa Capri filed its Initial Brief. Its appeal states that an earlier Rental Recovery Loan Program case, *Eclipse West Associates, Ltd., v. Florida Housing Finance Corporation*, FHFC Case No. 2006-078RLP (Final Order March 16, 2007), was "almost identical" to the Villa Capri case, and that Vila Capri was denied the benefit of having the *Eclipse West* case to argue in its case, as Florida Housing had failed to post the *Eclipse West* Final Order in the usual place for final orders on the Florida Housing website.

e) On June 29, 2009, Florida Housing filed its Answer Brief, arguing that the *Eclipse West*, while involving somewhat similar factual issues, was decided on a legal basis different enough that it would not change the outcome of the *Villa Capri* case; further, that *Villa Capri* could not reasonably claim that E*clipse West* was concealed from it, as Villa Capri's principal had filed the NOPSE that initiated the *Eclipse West* case, and was provided actual notice of the *Eclipse West* hearing.

2. **Present Situation**

Villa Capri's Reply Brief is due to be filed on July 20, 2009. Oral Argument has been scheduled for October 20, 2009.

V. SINGLE FAMILY BONDS

A. Single Family Professional Development and Outreach

a) Florida Housing continues to honor our commitment to have funds available for qualifying first time homebuyers through our First Time Homebuyer Program. In our uncertain housing market, Florida Housing's program provides needed assistance to help eligible homebuyers achieve the "American Dream" of homeownership by offering low cost 30-year, fixed rate mortgages together with down payment and closing cost assistance.

b) To help ensure that we are providing this assistance to homebuyers who can not only complete the purchase process but also maintain homeownership after the home is purchased, we have recently implemented a minimum FICO score requirement for our program. Rather than increasing the FICO requirement to 620 or higher as many lenders have done with their own programs, we have established a modest 600 (mid-score) FICO requirement for our borrowers. Our delinquency data analysis showed that borrowers below this threshold show a high rate of serious delinquency. We want to make sure our program is part of the solution in providing homeownership opportunities, not part of the problem. Lenders may still continue to manually underwrite loans for borrowers with no FICO score based upon Agency underwriting guidelines. Because of the scrutiny of a loan being manually underwritten, this group of borrowers performs very well in terms of maintaining homeownership. We will continue to monitor loan performance and make necessary program adjustments as needed.

c) Single Family Programs staff continues to teach a three hour DBPR approved continuing education course offered through local Realtor Boards since 2003. We contract through the local Board of Realtors in the various counties to guarantee a minimum attendance of 20 Realtors per class. Florida Housing charges $25 per attendee to help defray our cost to travel. Our August 22 class was held in Orlando, during the Florida Association of Realtors annual convention. Our September 2nd class will be in Fort Lauderdale, at the Realtor Association of Greater Ft. Lauderdale. Program staff has been reaching out to local Board of Realtor offices in smaller, rural counties in an effort to increase our network of lending partners in these often overlooked areas.

d) Our next lender training for new lenders is scheduled for September 10, 2009. FHFC single family staff, along with participants from US Bank, the program Master Servicer, and eHousing, the program compliance team, conduct these quarterly training sessions via a teleconference format called WebEx. The WebEx format allows lenders from offices around the state along with some out of state support centers to dial in via conference call and participate in an interactive computer based training session. We conduct two 3 hour classes which allows up to 300 registered participants in each session. The morning session is for loan officers and processors while the afternoon session is for underwriters, closers, shippers, and funders. By tailoring each class to the intended target group we find that we are able to provide useful more detailed information that is group specific.

e) Florida Housing sponsors a toll-free telephone line (800-814-HOME) for first time homebuyers to call for information about our program. For the month of July we received 1,171 total calls from first time homebuyers, Realtors, and lenders via the first time homebuyer line; of which 762 were transferred to the single family staff. The remaining callers were able to receive the information they were looking for online using the First Time Homebuyer Wizard tool. We will continue to monitor these calls and evaluate the best way to handle the call volume in the long term.

B. Single Family Bonds Information (Exhibit A).

VI. STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM (SHIP)

A. STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM (SHIP)

1. Background/Present Situation

a) The Florida Homebuyer Opportunity Program (FL HOP), created during the 2009 regular legislative session, provides $30 million in financial assistance to first time homebuyers eligible to receive the federal first time homebuyer tax credit established through the American Recovery and Reinvestment Act of 2009. Eligible FL HOP applicants can receive up to $8,000 in purchase assistance, which is expected to be repaid by the applicant upon receipt of his/her federal tax refund.[1]

b) The FL HOP program is being administered through the SHIP program with funds being allocated to all 67 counties and 53 Community Development Block Grant (CDBG) entitlement cities. In order to receive the allocated funds, each eligible local government is required to adopt a new strategy to administer the funds into their local housing assistance plan (LHAP).

c) As of August 28, 2009, 61 local governments have submitted and received approval on their strategies. The remaining local governments are in the process of securing approval at the local level prior to submission to Florida Housing for final approval.

d) Funding for FL HOP is subject to monthly documentary stamp tax collections . For the month of July 2009, $8.6 million was available for disbursement to local governments. However, funds have only been disbursed to local governments with approved FLHOP strategies. As of August 28, 2009, $5.1 million has been disbursed. Remaining funds will be disbursed as strategies are approved, and each month as documentary stamp tax collections are released to Florida Housing, they will be disbursed to SHIP communities up to the $30 million appropriation.

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[1] Note that the legislative proviso states that if this funding is not fully used for this purpose by the time the federal tax credit ends (November 30, 2009), remaining funds may be used in local SHIP programs. There is some talk at the federal level of extending the tax credit beyond this date.

VII. UNIVERSAL CYCLE

A. 2009 Universal Cycle Update

1. Background/Present Situation

a) The 2009 Universal Cycle opened on July 21, 2009 and closed on August 20, 2009.

b) A report of the Applications submitted, describing such information as number of applications received, demographic commitments, designation selections, etc., is provided as Exhibit A.

c) Staff anticipates issuing preliminary scores on September 23, 2009.