

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
September 1, 2011
Action Items



PROFESSIONAL SERVICES SELECTION (PSS)

Action

I. PROFESSIONAL SERVICES SELECTION (PSS)

A. Invitation to Negotiate (ITN) for Business Insurance

1. Background

Chapter 420.507 Powers of the corporation (11) provides the following: “To insure and procure insurance against any loss in connection with any bonds of the corporation and the corporation’s operations or property...” To implement this provision, Florida Housing carries business insurance to cover Commercial General Liabilities, Director and Officers Liability, Employment Practices and Fiduciary Liability.

2. Present Situation

Florida Housing’s current business insurance policies expire on January 1, 2012 for general liability and January 15, 2012 for Directors and Officers Liability.

3. Recommendation

Florida Housing staff recommends that the Board authorize staff to begin the ITN process and establish a review committee to select an insurance provider for Florida Housing’s business insurance.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

II. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request to Use Remaining State Apartment Incentive Loan Program Funding

1. Background

- a) Florida Housing experienced eight claims/foreclosures in the Guarantee Fund multifamily portfolio with the first claim in November 2008 and the last claim occurring in April 2010 (see the Guarantee Fund Informational Item for a list of those claims/foreclosures). In 2009, the insurer strength rating of the Guarantee Fund was downgraded to an A- by Fitch – and Fitch affirmed that A- rating with a “negative” rating outlook in July 2011. Further claims against the Guarantee Fund pose a risk of further downgrade to the rating. In addition to the loss of those Guarantee Fund development units that would occur in the event of a claim and subsequent foreclosure, such claims and further potential downgrade of the Fund’s rating put at risk future state housing trust fund resources.
- b) To mitigate against further claims/foreclosures in the Guarantee Fund portfolio, Florida Housing has attempted to (1) halt cannibalization of current Guarantee Fund developments by keeping new units serving similar households from being built in close proximity to existing Guarantee Fund transactions with low occupancy; (2) provide resources through the Subordinate Mortgage Initiative to aid struggling transactions in the Fund’s portfolio for a short term period; and, (3) provide Extremely Low Income (ELI) funding preference to developments in the Guarantee Fund portfolio, to “buy down” the debt on units currently targeted to families earning 60% Area Median Income (AMI) so that those units will be set-aside for ELI households instead (generally meaning households earning 30% to 35% AMI and below). A detailed narrative of the Guarantee Program is attached as [Exhibit A](#).
- c) Florida Housing has many units in its portfolio, including the Guarantee Fund portfolio, that are targeted to households earning up to 60% of AMI that, in many of the softer rental markets throughout the state, are currently empty. Each year, Florida Housing carries out an evaluation of six months of physical occupancy data for Florida Housing’s entire portfolio. This analysis, along with more detailed information about the Guarantee Fund properties and data on new affordable rental units under construction, allows Florida Housing to target financing to areas of the state where housing is most needed. Based on data gathered for the 2011 Universal Application Cycle, staff proposed to increase the number of entire counties or areas of counties considered to be saturated from 24 in 2009 to 35 – over half of the state. The statewide rental needs study, however, indicates a great need for units targeted to households earning extremely low incomes.

2. Present Situation

Florida Housing has \$28,663,298 of uncommitted SAIL monies for the SAIL program. The monies resulted from developments returning awarded SAIL funds, interest and principal payments on SAIL loans, and earnings from the investment of SAIL funds. Earlier this year, the Legislature passed a bill that the Governor signed into law prohibiting the use of state funding for new construction in the current state fiscal year.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

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3. **Recommendation**

Authorize staff to allocate the SAIL resources in the following manner:

Award the SAIL funding through a Request for Proposals process to existing Florida Housing developments, giving preference to developments in the Guarantee Fund portfolio, including a preference for those developments that are able to demonstrate the ability to refinance out of the Guarantee Fund portfolio. The primary use of the SAIL funds would be to require the applicants to set-aside a portion of the units currently restricted to households earning 60% or less of AMI to households earning up to the Extremely Low Income AMI in exchange for paying down existing bond debt with the awarded SAIL funds.

SPECIAL ASSETS

Action

III. SPECIAL ASSETS

A. Request Approval of the Workout of the Community Workforce Housing Innovation Pilot Program (CWHIP) Loan to Boynton Village, LLC for The Preserve at Boynton Beach (CWHIP 06-05)

Development Name: The Preserve at Boynton Beach (“Development”)	Location: Palm Beach County
Developer/Principal: Boynton Village, LLC. (“Borrower”) Cornerstone Group Development	Set-Aside: CWHIP: 80% @ 140% AMI, 50% reserved for Essential Services Personnel; LURA: 30 years
Number of Units: 60	Allocated Amount: CWHIP: \$5,000,000
Demographics: Family	Servicer: Seltzer

1. Background

Through Request for Proposal (RFP) 2006-05, Florida Housing Finance Corporation (“FHFC”) awarded a second mortgage CWHIP loan in the original principal amount of \$5,000,000 to Boynton Village, LLC, a Florida Limited Liability Company (“Borrower”), to provide construction financing for The Preserve at Boynton Beach, a 60-unit Homeownership development in Palm Beach County, Florida. The CWHIP loan closed on August 20, 2008, and matured on April 14, 2009. A modification to the CWHIP Mortgage and Loan Documents was completed June 8, 2009, which extended the maturity date to April 14, 2010. At the April 30, 2010 Board meeting, the Board approved an extension of the CWHIP loan, subject to the extension of the first mortgage construction loan (First Mortgage), with the maturity date to be coterminous with the First Mortgage but in no case longer than one year. The Borrower has been negotiating an extension/workout with the First Mortgage lender since Board approval and currently has a proposed Settlement Agreement. The Borrower sold four of the units in the Development to eligible CWHIP homeowners.

2. Present Situation

- a) The Borrower proposes an approximately 122 unit rental property in replacement of the previously contemplated 60 unit "for-sale" transaction. The Borrower has presented a draft Settlement Agreement with the First Mortgage lender that includes terms for release of the First Mortgage lender’s lien on the property and a proposal to renegotiate the terms of the matured CWHIP loan. After negotiations and review from the credit underwriter, staff is proposing renegotiated terms to include the \$5,000,000 from the original loan agreement bifurcated into two separate tranches: the first (tranche A), representing the outstanding indebtedness related to the failed “for-sale” transaction, totaling \$2,625,035, plus accrued interest; the second (tranche B), representing the remaining funding totaling \$1,974,964.70 (the original \$5,000,000 less funds that have already been drawn and expended and adjusted for the four units that have been sold).

SPECIAL ASSETS

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- b) In conjunction with the proposed rental transaction closing, the existing guarantors will make a \$378,000 principal reduction payment towards tranche A. At construction completion, the existing guarantors will make a principal reduction payment of \$320,000 towards tranche A. Interest will be due annually at 1% based on available cash flow. Existing guarantors will make annual principal payments equal to the amount of deferred developer fee paid in that same year. Tranche A will have a 30 year term and any unpaid principal and interest amounts will be due at maturity.
- c) Tranche B will have a 30 year term, a 1% interest rate, with annual payments of interest only based on available cash flow and unpaid principal and interest amounts due at maturity.
- d) The renegotiated loan would continue to be subordinate to the first mortgage of the proposed rental transaction.
- e) This action will allow Seltzer Management Group, the Credit Underwriter for Preserve at Boynton Beach I, a Multi-family Mortgage Revenue Bond (MMRB) transaction, to conclude their analysis and issue a Credit Underwriting Report for consideration at a future board meeting. The proposed rental development will be credit enhanced by Freddie Mac through the New Issue Bond Program (NIBP).

3. **Recommendation**

Approve the renegotiated terms of the loan, subject to further approvals and verifications by the credit underwriter, counsel and appropriate Florida Housing staff and direct staff to proceed with loan document modification activities.