Florida Housing Finance Corporation Portfolio Preservation Action Plan

Action Supplement

Approval of Portfolio Preservation Plan

Background

In September 2016, several presentations were made to Florida Housing's Board of Directors by owners of properties in the corporation's portfolio and other stakeholders about the need to lower affordability periods on properties in the portfolio or develop recapitalization opportunities to ensure the stock remains in good condition over time. Staff began its evaluation of this issue by talking to owners and others about their long-term property approaches, evaluating the age of the stock in our portfolio, whether properties exiting the portfolio continue to provide affordable rents, and the pros and cons of shorter/longer affordability periods when considering preservation.

In July of this year, the staff presented a summary of findings on these topics and a preliminary approach for how Florida Housing could preserve properties in its portfolio. After hearing verbal support of the evaluation and preliminary approach from developer representatives, the Board asked staff to develop a final plan that would be adopted by the Board (Exhibit A).

Present Situation

Viability of Recapitalization Strategies. Florida Housing has acknowledged that we do not have enough finite (competitive) resources (9% Housing Credits, SAIL or HOME) to assist in preserving every property, and yet most properties will require some level of rehabilitation and recapitalization to ensure they reach their full 50-year affordability period in good condition. Property owners indicated to us that it will not be financially viable solely to use noncompetitive resources (Bonds and 4% Housing Credits) to recapitalize many of their properties.

Before finalizing the strategy, we sought information from property owners of 9% Housing Credit developments to help us build an understanding of what the financial situation is likely to be as these properties reach Year 30. The proformas we evaluated confirmed that each development presents a unique situation, shaped by the development's original financial structure, its physical condition and market conditions. Each owner also comes with a different set of systems, level of financial strength, and overall organizational capacity.

We also analyzed the recapitalizations that have occurred within Florida Housing's portfolio over the past twelve years using 4% Housing Credits and Bonds. Within our portfolio, 62 developments have been recapitalized preserving 7,538 affordable units. Thus, it appears that a good number of properties are in fact capable of using these noncompetitive resources.

However, for those that are not able to do this and do not have access to Florida Housing's finite resources, one of the strategies in the draft plan calls for Florida Housing to allow a portion of set-aside units to be increased from 60% of area median income to 80% of AMI at Year 30 to provide property owners with increased income that can then attract private financing for recapitalization.

The Need for Affordable Rental Housing. At the September Board meeting, the Board received public comment related to the preservation plan. One stakeholder commented that the data shows the greatest need for affordable housing is up at the 80% of area median income (AMI) and higher level. The staff believes it is important for the Board to understand that, as has been the case for many years, the greatest need for affordable rental housing lies at the lowest income levels. Families with extremely low incomes, at or below 30% AMI, have the most trouble finding affordable housing in good condition, and while households at or below 60% AMI have an easier time than ELI families, they are on balance less likely to find an affordable apartment than families at 80% AMI.

Exhibit B provides context for this information. This table breaks Florida into regions and then for each region compares supply and demand of both private market and subsidized housing (including the Florida Housing stock) to see whether there is enough supply at various income levels. Of course, higher income households are free to rent homes in the private market that are affordable to lower income renters, which then limits the number of units affordable to lower income households. There should be no surprise that the table shows that there is consistently a greater undersupply of homes affordable to the lowest income renters, and as one moves up the income ladder, the supply moves closer to being in balance (or even an over-supply) at higher income levels.

In addition, for perspective on households living in FHFC rental units, **Exhibit C** shows the average household income of those living in just the 60% AMI units (the lower and higher AMI units are not included). Some have rental assistance, and their incomes are overall lower, but even those without rental assistance are at incomes overall below 50% of AMI.

Summary. The attached plan (Exhibit A), which is proposed for adoption by the Board, includes six programmatic strategies – three for immediate implementation, and three that should be implemented in the future after we learn more about how the first three meet our preservation needs. In addition, the plan provides a suite of internal "infrastructure" actions that Florida Housing must execute to support implementation of the program strategies. The staff views the details of this plan as a beginning point and expects that we will work with the Board in the future to tweak strategies or add additional approaches based on what we learn from working with property owners, lenders and others.

Recommendation

Propose that the Board approve the Portfolio Preservation Plan in Exhibit A and direct the staff to continue implementation of the strategies in the plan on the timeline outlined in the plan.

Florida Housing Finance Corporation's Portfolio Preservation

Action Plan

This action plan is Florida Housing's "road map" to implement strategies to promote recapitalization of aging properties already in our portfolio. Strategies 1-3 are immediate strategies to be implemented now, while strategies 4-6 are strategies that may be implemented in the future as needs dictate. Strategies 1-3 are structured to use resources that are currently freely available to Florida Housing for use.

1. SAIL Program Changes to Allow First Mortgage Refinancing for Recapitalization

Concept: Targeted to older SAIL properties which require some capital investment (i.e., $5,000-$10,000/unit), but do not require significant rehab funding to remain viable. The proceeds from refinancing the first mortgage could be used for this rehab, but the SAIL rule creates a barrier to this approach by only allowing an increase in the amount of the first mortgage if a proportionate amount of the increase is used to reduce the outstanding SAIL loan balance, rather than using the entire amount of the proceeds for rehab. The rule could be revised to allow such a refinance to include new funds up to a certain amount per unit to be used solely for capital improvements &/or reserves per an approved credit underwriting report and CNA, with no cash out or developer fee to the owner, before the SAIL outstanding loan balance is paid down (if at all). This would include specified debt service coverage ratios and other terms as appropriate to ensure that properties are not too highly leveraged.

<u>Timeline</u>: For immediate Implementation

- A "term sheet" to implement this approach has been developed, workshopped with the development community and presented to the Board.
- Pilot will be available via rule waiver.

2. Use of 4% Housing Credits/Bonds to Recapitalize Properties at or after 15 Years

Concept: Targeted to properties over 15 years old, some owners and developers will find it useful to use these noncompetitive programs to rehabilitate and recapitalize their own properties or buy older properties and rehabilitate them. Currently there are some barriers in the way of using these programs for this purpose, barriers that Florida Housing can work through to ensure these programs are available for this purpose.

<u>Timeline</u>: For immediate implementation

- Staff has held internal discussions to articulate barriers and develop responses, mainly related to appraisal issues.
- Once an internal approach is determined, hold discussions with appropriate servicer(s)/stakeholders to discuss issues and develop solutions.

3. Viability Analysis to Determine How to Provide Recapitalization/Rehabilitation Financing after Year 30

Concept: To assist Housing Credit properties reaching Year 30 to remain financially viable and in good physical condition. This approach may not be useful in lower income census tracts where getting maximum rents at or above 60 percent of area median income (AMI) could be difficult.

Timeline: **For immediate Implementation**

This approach includes two options for properties post-Year 30:

- **Option 1:** Allow properties to use income averaging, now available for new developments through the Housing Credit program, which would allow a range of incomes up to 80% AMI to be served as long as the average income served does not exceed 60% AMI. While providing additional operating income, this approach would allow the property to come back in for Housing Credits for recapitalization. This approach is available to any Housing Credit property reaching Year 30 that undertakes recapitalization.

- **Option 2:** A viability analysis may be requested by the property owner or initiated by Florida Housing starting at Year 28. This analysis will include a capital needs assessment, market study/review and analysis of other information as required by FHFC, as well as underwriting operations for the final 20 years of the affordability period. The purpose of this analysis will be to evaluate the viability of completing rehabilitation and recapitalization of the property for the next 20 years with new financing. If the analysis shows that the property is unable to remain viable for the remainder of the restricted use period, Florida Housing may amend the set-aside restrictions to include a portion of total units, not to exceed 80 percent, to increase to 80% of AMI, as required by the needs identified in the analysis. In any case, a minimum of 10 percent of the units shall be affordable at extremely low-income AMI levels, and the other 10 percent must be restricted to at or below 60% of AMI. This approach is available only to Family or Elderly 9% Housing Credit properties that undertake recapitalization. Note that, even if the extended use agreements are modified to allow a portion of set-aside units to be increased from 60% of AMI to 80% of AMI at Year 30, a qualified low-income person has rights as third party beneficiaries to enforce the extended use restrictions within the original extended low-income housing commitment.[1]

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[1] The Internal Revenue Code provides independent enforcement rights to third parties. Specifically, 26 U.S.C. (42(h)(6)(B)(ii)) requires the extended low-income housing commitment contain an agreement "which allows individuals who meet the income limitation ... the right to enforce in any State court ..." Furthermore, the court in Nordbye v. BRCP/GM Ellington, 266 P.3d 92 (Or. Ct. App. 2011) affirmed this position when stating that the "release agreement" did not override a qualified low-income person's right to enforce the extended use agreement as created under Section 42(h)(6)(B)(ii) of the Code. The appeals court also rejected an argument that a Chevron deference (see below) should apply to the Oregon agency's interpretation of federal statutory requirements. The court said such deference only applies to a federal agency's administrative interpretation of

- To implement this approach, determine whether rule revisions are needed in the regular rule update in 2019.

4. Limited Rehabilitation or Full Recapitalization Using SAIL (with or without bonds and 4% LIHTC)

Concept:
Option 1 – Provide $5,000-$10,000/unit in rehab targeted to older SAIL properties which require some capital investment based on a CNA, with no or very limited developer fee.
Option 2 – Provide SAIL with 4% LIHTC/bonds for full recapitalization for much older properties (~25 years and older).

Timeline: To be developed after 2019

- Develop priority matrix to determine which types of properties have priority for these options, based in part on which properties need these options.
- Once priority matrix is completed, then develop this strategy.
- Evaluate the type of properties that will be targeted for full recapitalization and the timing necessary to assist properties based on their age; based on this, develop timeline.
- Begin development of limited rehabilitation approach, and complete necessary rule revisions with a goal to implement possibly starting September 2019.

5. Full Recapitalization Using 9% LIHTC

Concept: Provide financing for specifically identified properties aged 30+ years old based on a priority matrix and based on which properties need 9% LIHTC for recapitalization.

Timeline: Not to be developed at this time

- Develop approach only after priority matrix is developed, other program options above are in place, and most of the infrastructure strategies below are completed. Timing 2020 or after. The initial focus should be to get the other strategies moving first.
- Recommend that the preservation plan approved by the Board acknowledge this strategy, but that any development of this strategy be put off.
- Competitive Housing Credits should be used rarely for portfolio preservation.

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federal laws, not to interpretation by a state agency. Several circuits have held either that state agency interpretations are not entitled to Chevron deference, or that they are only entitled to Chevron deference if the interpretation is expressly approved by a federal agency. (Chevron, USA, Inc v Natural Resources Defense Council, Inc, 467 US 837 (1984) – holding that where Congress's intent is not unambiguously expressed in a statute in light of common canons of construction, courts should give deference to a reasonable interpretation of the statute by the federal agency in charge of administrating the statute at issue).

6. Allow Certain Properties to Exit the Portfolio Earlier than Specified Affordability Period

Concept: Maintain longer affordability periods as a requirement of initial funding, but at a determined time in the property's lifecycle, negotiate shorter periods (~ 30+ years old) on a case-by-case basis based on parameters to be developed. This strategy would be best for properties in lower income areas that are deemed to remain naturally affordable. An assessment tool should be developed for this purpose.

Timeline: Not to be developed at this time

- Develop approach only after priority matrix is developed, other program options above are in place, and most of the infrastructure strategies below are completed. Timing TBD.

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FHFC Infrastructure Strategies Implement Recapitalization Programs

A. Develop a more robust portfolio management structure. FHFC currently oversees a property's financial performance, physical condition and compliance with applicable regulations.

Concept: Enhance the asset management structure to incorporate additional physical, operational and financial performance measures of both individual properties and portfolios owned by principals for a more focused understanding of a property's past, current and potential performance as well as to identify strategies to improve operations and inform future RFA methodologies. Develop indicators of performance as they relate to locations/markets throughout the state for comparisons among developments.

Timeline: In progress

- Dashboard, benchmarks and reporting requirements for ProLink software have been identified and will include critical asset management financial indicators such as three – five-year trends for economic vacancy rates, Debt Service Coverage Ratios, Net cash Flow Per Unit Per Year (PUPY), Total Operating Expenses PUPY, Expense Ratio, Net Cash Flow as a % of Total Revenues and Net Cash Flow as a % of Expenses.
- The FHFC Project Manager is developing a plan for implementation, including database and staffing resources needed for this structure.
- A staff position has been requested for the 2019 FHFC operational budget.
- Begin and complete first phase of this iterative structure in 2019.

B. Implement and fine tune the new CNA system to ensure that only those Florida Housing resources necessary are used to improve properties.

Timeline: In progress

C. Develop and implement a "Development Management Scoring" system to monitor the performance of principals during both the development and management phases of their developments and score applications for new funding based on that performance.

Concept: This was first proposed and discussed publicly in 2016, but implementation was put off until Florida Housing brings on its new software system to manage data throughout the application-to-asset management lifecycle of properties. This approach will complement priorities to be set for preservation based in part on owner/principal actions and practices resulting in good development and management.

Timeline: Begin development in 2020

- On hold waiting for new software to be installed and working at full capacity to support existing development and asset management functions.

D. Develop parameters for prioritizing developments for recapitalization within each program strategy.

Concept: Matrix to include such parameters as:

- Market where property is located; access to jobs, schools, grocery stores, etc.
- Demographic served by the property.
- Owner decisions related to use of replacement reserves and owner out-of-pocket or other funds to maintain properties; compliance and past due issues.
- Become more knowledgeable about other public/private financing options that can be used with 4% LIHTC/bonds and other programs to ensure that Florida Housing's finite resources are used only where necessary.
- End of affordability period nearing.

Timeline: Preliminary conceptual matrix has been completed, see attachment to this plan; use the conceptual matrix as a starting point to develop a usable matrix before SAIL or 9% LIHTC is used for portfolio preservation.

E. Determine whether to carry out a replacement reserve study to learn how and when reserves are being used.

Concept: Evaluate what is required for reserves, how they are being used and best practices across the country. This will assist Florida Housing in developing criteria and requirements for rehabilitation and preservation transactions.

Timeline: **To be completed in 2019-2020**

- Determine study parameters and budget.
- If staff believes such study could be beneficial, request budget funding and carry out study in 2020.

F. Review recapitalization proposals and/or property financial statements to ensure qualifying rental developments are receiving the statutory 50% reduction in ad valorem property taxes.

Concept: Multifamily rental development with more than 70 units subject to a recorded land use restriction agreement (LURA) with Florida Housing may apply for a 50% discount from ad valorem taxes beginning in the 16th year of the LURA. Developments that qualify for this discount would generate additional net operating income and qualify for a higher loan amount when refinancing.

Timeline: **In progress**

- Instruct staff and servicers to review property tax for discount.
- Provide instructions for development owners to apply for reduction with their local property tax appraiser's office.

Conceptual Matrix to Prioritize Rental Developments in FHFC's Portfolio for Preservation

Proposed for Future Discussion 12/2018

When Florida Housing begins discussions in the future about using valuable, competitive resources for portfolio preservation, it would be useful to consider how to prioritize properties to receive this funding. This matrix is a starting point for those discussions and can be tailored to the priorities of the day. One or more of these factors may apply to a property; by themselves, they may not be particularly important; altogether, it may spell great risk. This matrix is unnecessary for situations when non-competitive funds are available for a property to recapitalize.

	TIER 1 **Higher Priority**	**TIER 2** **Middle Priority**	**TIER 3** **Lower Priority**	**COMMENTS**
Property Risk Factor				
Affordability Expiration: Risk of loss of lower income units due to ability to increase rents b/c of strong market	Strong rental market with no impediments to conversion	Strong market, but weak performer or poor location; OR weak market, but strong performing, attractive property	Weak market or inability of property to compete for market rate tenants	Factors to consider: regulatory issues, marketability of property, conversion costs, owner mission, etc.
Affordability Expiration: Risk of loss of units serving high priority demographic population	Imminent loss due to affordability expiration	Loss of property in next 2-4 years due to affordability expiration	Loss of property in 5-10 years due to affordability expiration	Possible mitigation if nonprofit ownership structure and housing still fits nonprofit's mission; however, other concerns, such as property condition , combined with location in strong market, might mean property is lost
Aging Stock: Risk of impacts/loss due to deteriorating physical condition	Imminent loss due to condemnation proceedings or governmental action to close the property	Probable loss of the property in the next 2-4 years. Likely to have significant code and safety issues	Risk of loss, but time unknown: poor physical inspections and/or tenant complaints	Factors to Consider: Year property was built, # years since last rehab, annual replacement reserves contribution, total reserves balance
Aging Stock: Risk of impacts/loss due to financial viability	Lender has declared a default	Property is not current on loan or covenants but no default has been declared	Property is financially troubled but able to maintain loan payments	Analysis based on 3 yrs of financials. Factors to consider: vacancy, municipal liens, sponsor financial condition, owner & property mgmt practices
Qualified Contract: Risk of loss in a strong market if qualified contract not obtained	Imminent QC request risk due to timing, market and property location	QCP occurs in next 2-4 years, and market is strong; or QCP imminent but market or property location is less strong	QCP is 5+ years out, and/or market where property located is weak	Factors to consider: regulatory issues, marketability of property, conversion costs, owner mission, etc.
Market Condition Opportunity	Unique opportunity to purchase a project at a below market price due to seller motivations	Sale price based on present value of reduced income stream - value will increase as expiration date approaches	Property for sale - no particular economic benefit to purchase at this moment	

	TIER 1 Higher Priority	TIER 2 Middle Priority	TIER 3 Lower Priority	COMMENTS
General Criteria for All Projects				
Certain demographic served or unit mix	For example: Majority of units with 1 bedroom	For example, general family occupancy	For example, restricted to elderly occupancy only	This might be based on likelihood of certain properties being more or less able to go to market
Project based rental assistance	Most units have long term rental assistance (doesn't include vouchers unless project based)	Some units have long term rental assistance	No units have rental assistance	Recognizes value of federal subsidy, but also must consider the possibility of owner's choice not to renew if other program restrictions have come to an end
ELI units and/or high proportion of ≤60% AMI units at the property	High % of ELI units	Some ELI units	No ELI units	ELI = extremely low income
Risk of tenant displacement	No tenant protections	Some tenants protected	Vouchers (regular or enhanced) for all tenants	Relates to existing tenant income profile
Importance of the property in the community: is this the only affordable housing? Are broader losses occurring or imminent? What is the scale of loss?	To be determined	To be determined	To be determined	For example, if an at-risk project = 40% of all the affordable rental units in a locale, this might make it a high priority. Or what if many other properties are also expiring in the area in the same 5-year period?
Location, e.g., close to amenities, transit, opportunity areas	Near schools, transit, jobs	Near schools, transit OR jobs	Not close to schools, transit, jobs	Must be evaluated among like communities (i.e., higher and lower population centers)
Owner development and management performance	Strong owner performance	Moderate owner performance	Poor owner performance	Performance to be defined, but could focus on "Development Management Scoring" items (if implemented) or more specifically on asset management activities. Poor owner performance could be mitigated by sale to or takeover by another entity

Affordable and Available Rental Homes per 100 Renter Households at Various Income Levels

EXHIBIT B

This table measures the availability of rental housing affordable to various income groups (both private and subsidized housing). If a number is under 100 (in **RED**), it means there is a lack of housing, and the lower the number, the worse the problem. Numbers at or over 100 mean there is enough or even a surplus of housing. The closer the number is to 100, the closer the demand and supply are in balance. In most cases, surpluses don't show up until higher up the income ladder. Higher income households are free to occupy rental homes in the private market that are affordable to lower income households, limiting that housing for low-income households and giving higher income households a broader range of housing options affordable to them.

		Affordable & Available Units per 100 Renter Households					
Region	**County**	**0-30% AMI**	**0-40% AMI**	**0-50% AMI**	**0-60% AMI**	**0-80% AMI**	**0-120% AMI**
Cape Coral-Fort Myers, FL MSA	Lee	23	27	40	55	94	114
Central Nonmetropolitan Area (minus Putnam & Sumter)	Citrus	50	55	86	115	129	127
Deltona-Daytona Beach-Ormond Beach, FL MSA & Palm Coast, FL MSA	Flagler, Volusia	16	16	27	39	82	103
Fort Walton Beach-Crestview-Destin, FL MSA	Okaloosa	41	62	64	89	108	109
Ft. Lauderdale	Broward	20	20	22	30	64	106
Gainesville, FL MSA (minus Gilchrist)	Alachua	21	41	67	91	121	129
Jacksonville, FL MSA plus Putnam	Baker, Clay, Duval, Nassau, Putnam, St. Johns	33	43	57	74	100	111
Lakeland, FL MSA	Polk	21	30	34	53	83	102
Miami-Dade and Monroe	Miami-Dade, Monroe	28	29	29	30	43	85
Naples-Marco Island, FL MSA	Collier	22	31	41	65	88	112
Northeast Nonmetropolitan Area (plus Gilchrist)	Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Madison, Suwannee, Taylor, Union	67	76	85	104	123	121
Northwest Nonmetropolitan Area (plus Bay, Gadsden, Jefferson, & Wakulla)	Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Liberty, Wakulla, Walton, Washington	46	66	84	103	119	135
Ocala, FL MSA	Marion	25	29	44	68	102	114
Orlando-Kissimmee, FL MSA plus Sumter	Lake, Orange, Osceola, Seminole, Sumter	12	15	21	36	77	111
Palm Bay-Melbourne-Titusville, FL MSA	Brevard	25	36	55	78	106	117
Pensacola-Ferry Pass-Brent, FL MSA	Escambia, Santa Rosa	39	52	62	72	104	111
Port St. Lucie, FL MSA	Martin, St. Lucie	21	28	43	56	87	114
Punta Gorda, FL MSA	Charlotte	20	30	55	60	102	115
Sarasota-Bradenton-Venice, FL MSA	Manatee, Sarasota	19	25	42	65	96	113
Sebastian-Vero Beach, FL MSA	Indian River, Okeechobee	10	27	66	74	124	135
South Nonmetropolitan Area (minus Monroe & Okeechobee)	DeSoto, Glades, Hardee, Hendry, Highlands	17	32	45	75	94	109
Tallahassee, FL MSA (minus Gadsden, Jefferson & Wakulla)	Leon	17	24	50	72	101	110
Tampa-St. Petersburg-Clearwater, FL MSA	Hernando, Hillsborough, Pasco, Pinellas	18	25	34	54	88	108
West Palm Beach-Boca Raton	Palm Beach	19	22	25	37	73	110
Florida		23	29	37	51	81	107

Uses a 30% of income affordability threshold -- this assumes that a unit will be affordable at 30% of one's income at the top AMI limit listed. This is similar to how HUD sets rent limits across programs.

Source: Shimberg Center analysis of U.S. Census, 2017 American Community Survey.

EXHIBIT C

Average Income of Households Living in FHFC Rental Units Restricted to 60% of Area Median Income*

Note: This table does not include units at any restriction lower or higher than 60% AMI. This means average incomes are not skewed by lower income units.

	Average Household Income as Percent of AMI			
Households	**Total**	**Family**	**Elderly**	**Homeless/ Disabled**
Total Households	45.3%	45.5%	37.1%	30.4%
No Rent Assistance	49.2%	49.4%	42.2%	36.0%
Project Based Rent Assist	25.3%	25.2%	25.4%	19.4%
Tenant Based Rent Assist	27.1%	27.3%	26.5%	18.8%

September 2018 Tenant Income Data