

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

May 2, 2003

Consent Items



DEMONSTRATION

Consent

I. DEMONSTRATION

A. Request to Modify Homes for New Beginnings Demonstration Loan (2001/08-003HL) to Reflect New Monthly Payments

1. Background/Present Situation

- a) On January 24, 2003, the Board approved staff's recommendation to reduce the amount of the Demonstration loan from \$500,000 to \$250,000, change the set-aside and allow staff to amend the closing documents to reflect these changes.
- b) The approval did not include the adjusted payment structure for the development. The developer has not yet made payments on the development and requested Florida Housing adjust the payments to fully amortize the loan by the maturity date of September 30, 2017. This increases the payment from \$1,388.89 to \$1,445.09 per month beginning on April 30, 2003. Staff recommends this change be approved by the Board and counsel and the credit underwriter have agreed to this change.

2. Recommendation

Approve the modified loan agreement reflecting the new payment amount and payment start date.

ELDERLY HOUSING COMMUNITY LOAN PROGRAM UPDATE

Consent

II. ELDERLY HOUSING COMMUNITY LOAN PROGRAM UPDATE

A. Request Approval of the Elderly Housing Community Loan Program (EHCL) Final Credit Underwriting Report for Dowling Park Apartments, Inc. (2002-001E)

1. Background/Present Situation

- a) On August 23, 2002, the Board approved this development for participation in the 2002 EHCL cycle.
- b) On October 8, 2002, staff issued a preliminary commitment letter and invitation to credit underwriting for an EHCL second mortgage loan in an amount up to \$200,000 for the installation of a fire sprinkler system.
- c) Staff received a final credit underwriting report with a positive recommendation ([Exhibit A](#)).

2. Recommendation

- a) Staff recommends the Board approve the final credit underwriting report and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

HOME RENTAL

Consent

III. HOME RENTAL

A. Request Approval to Amend the Land Use Restriction Agreement (LURA) for Cabana Club Apartments, HOME #94DHR-013

1. Background/Present Situation

- a) During the 1994 HOME Rental Cycle, Florida Housing approved funding in the amount of \$1,545,000 to Cabana Club Apartments Associates, Ltd. ("Cabana Club"), for Cabana Club Apartments, Cutler Ridge, Florida, a 334-unit property in Miami-Dade County. The HOME Loan closed on January 30, 1996 and is scheduled to mature January 30, 2021. The property also received an allocation of Housing Credits (HC#95L-034).
- b) On March 11, 2003, staff received a request from Cabana Club Apartments Associates, Ltd. to amend the LURA removing the requirement for elderly day care, counseling, and meals, and replacing it with a lending library consisting of not less than 100 books, a manager on call 24 hours a day, and nutrition classes totaling at least eight hours a year provided on site ([Exhibit A](#)).
- c) In the Cabana Club Application, all tenant programs were worth 17.5 points each. Cabana Club committed to a sufficient number of tenant programs to maximize points without the commitment for elder day care, counseling, and meals. Cabana Club is currently out of compliance for only the three items it is requesting be removed. These tenant programs were provided by third parties at no cost to the development and are no longer available to the development. Cabana Club wishes to replace the tenant programs with items that will be under their control, not dependent on a third party.
- d) Cabana Club is also requesting that the LURA be modified to reflect "Owner" rather than "the management company" as responsible for providing closing costs upon the purchase of a home.

2. Recommendation

Approve the request to amend the LURA and direct staff to amend the LURA to reflect the changes identified above.

B. Request to Amend the Land Use Restriction Agreement (LURA) for Portillo Apartments, HOME 97HR-004

1. Background/Present Situation

- a) During the 1997 cycle, Florida Housing approved funding in the amount of \$539,500 to Alliance Tax Credit I, Inc., for Portillo Apartments, Spring Hill, Florida, a 24-unit property in Hernando County. The HOME loan closed February 11, 1998, and is scheduled to mature February 11, 2018. The property also received an allocation of Housing Credits (#97L-051).
- b) On September 9, 2002, staff received a request from Alliance Tax Credit I, Inc. ([Exhibit B](#)) to amend the LURA by removing the requirement for weekly aerobic and weight training, organized participation in sporting events, such as bowling or softball, and a neighborhood watch committee because of very low

HOME RENTAL

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levels of participation. The average age of the tenants is 79 years old. Portillo Apartments is currently out of compliance with only these items. The owner proposes replacing these tenant activities with tenant activities that will include a minimum of four annual organized tours/visits to places of interests, such as museums, theaters, theme parks or other attractions with transportation to be provided at no cost to the tenants with Portillo Apartments paying up to \$25 per resident for admission fee or meal costs for each trip.

- c) A cost analysis provided by First Housing indicates the costs to the owner for the new activities will be equivalent to or greater than the costs for the activities to be removed from the LURA ([Exhibit C](#)). Portillo Apartments received 25 points for tenant activities. The cost of these new activities will be paid for by contributions from the nonprofit general partner and will also be included as a budgeted item for Portillo Apartments. Since the borrower is proposing to replace one type of tenant activities with another type of tenant activities, points are not affected.

2. Recommendation

Approve the request to amend the LURA and direct staff to amend the LURA to reflect the changes identified above.

HOMEOWNERSHIP LOAN PROGRAM

Consent

IV. HOMEOWNERSHIP LOAN PROGRAM

A. Request for Change of Use of Funds for Timberwind / HAP 02-309

1. **Background**

- a) At its October 29, 2002 meeting, the Board of Directors approved the final rankings for Round One of the 2002 Homeownership Loan Program Cycle.
- b) Three Rivers Foundation, Inc. (“the Developer”) received a preliminary funding allocation in the amount of \$700,000 for HAP Construction funds to construct 28 homes in Walton County.
- c) In the original Application submitted October 7, 2002, the Developer specified that the funding would be used for construction purposes.

2. **Present Situation**

- a) On April 8, 2003, the Developer requested a change in the use of the funds from Construction to Purchase Assistance. ([Exhibit A](#))
- b) The underwriter has reviewed the Application and has determined that the Developer does not require HAP funds for construction purposes.
- c) Allowing the funds to be used as purchase assistance only would relieve the Developer of the additional expense associated with a full credit underwriting. However, the homebuyers will still be approved based on the guidelines set forth in the Rule Chapter 67-50, FAC (2002).

3. **Recommendation**

Allow Three Rivers Foundation to utilize the HAP funds as Purchase Assistance for the Timberwind Development.

B. Request for Change of Use of Funds for Azalea Park / HAP 02-311

1. **Background**

- a) At its October 29, 2002 meeting, the Board of Directors approved the final rankings for Round One of the 2002 Homeownership Loan Program Cycle
- b) Three Rivers Foundation, Inc., (“the Developer”) received a preliminary funding allocation in the amount of \$143,999 for HAP Construction funds to construct 8 homes in Suwannee County.
- c) In the original Application submitted October 7, 2002, the Developer specified that the funding would be used for construction purposes.

2. **Present Situation**

- a) On April 8, 2003, the Developer requested a change in the use of the funds from Construction to Purchase Assistance. ([Exhibit B](#))

HOMEOWNERSHIP LOAN PROGRAM

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- b) The underwriter has reviewed the Application and has determined that the Developer does not require HAP funds for construction purposes.
- c) Allowing the funds to be used as purchase assistance only would relieve the Developer of the additional expense associated with a full credit underwriting. However, the homebuyers will still be approved based on the guidelines set forth in the Rule Chapter 67-50, FAC (2002).

3. **Recommendation**

Allow Three Rivers Foundation, Inc. to utilize the HAP funds as Purchase Assistance for the Azalea Park Development.

C. **Request for Change of Use of Funds for Trails End / HAP 02-304**

1. **Background**

- a) At its October 29, 2002 meeting, the Board of Directors approved the final rankings for Round One of the 2002 Homeownership Loan Program Cycle
- b) The Housing Authority of Tarpon Springs (“the Developer”) received a preliminary funding allocation in the amount of \$302,500 for HAP Construction funds to construct 11 homes in Pinellas County.
- c) In the original Application submitted October 7, 2002, the Developer specified that the funding would be used for construction purposes.

2. **Present Situation**

- a) On April 14, 2003, the Developer requested a change in the use of the funds from Construction to Purchase Assistance. ([Exhibit C](#))
- b) The underwriter has reviewed the Application and has determined that the Developer does not require HAP funds for construction purposes.
- c) Allowing the funds to be used as purchase assistance only would relieve the Developer of the additional expense associated with a full credit underwriting. However, the homebuyers will still be approved based on the guidelines set forth in the Rule Chapter 67-50, FAC (2002).

3. **Recommendation**

Allow the Housing Authority of Tarpon Springs to utilize the HAP funds as Purchase Assistance for the Trails End Development.

D. **Request for Change of Use of Funds for Midtown Ventures / HAP 02-307**

1. **Background**

- a) At its October 29, 2002 meeting, the Board of Directors approved the final rankings for Round One of the 2002 Homeownership Loan Program Cycle

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- b) St. Petersburg Neighborhood Housing Services, Inc. (“the Developer”) received a preliminary funding allocation in the amount of \$2,062,500 for HAP Construction funds to construct 75 homes in Pinellas County.
- c) In the original Application submitted October 7, 2002, the Developer specified that the funding would be used for construction purposes.

2. **Present Situation**

- a) On April 10, 2003, the Developer requested a change in the use of the funds from Construction to Purchase Assistance. ([Exhibit D](#))
- b) The underwriter has reviewed the Application and has determined that the Developer does not require HAP funds for construction purposes.
- c) Allowing the funds to be used as purchase assistance only would relieve the Developer of the additional expense associated with a full credit underwriting. However, the homebuyers will still be approved based on the guidelines set forth in the Rule Chapter 67-50, FAC (2002).

3. **Recommendation**

Allow St. Petersburg Neighborhood Housing Services, Inc. to utilize the HAP funds as Purchase Assistance for the Midtown Ventures Development.

E. **Request for Change of Use of Funds for Hollywood Neighborhood Revitalization Project / HH 02-008**

1. **Background**

- a) At its October 29, 2002 meeting, the Board of Directors approved the final rankings for Round One of the 2002 Homeownership Loan Program Cycle.
- b) Broward Alliance for Neighborhood Development, Inc. (“the Developer”) received a preliminary funding allocation in the amount of \$887,750 for HOME Construction funds to construct 30 homes in Broward County.
- c) In the original Application submitted October 7, 2002, the Developer specified that the funding would be used for construction purposes.

2. **Present Situation**

- a) On April 10, 2003, the Developer requested a change in the use of the funds from Construction to Purchase Assistance. ([Exhibit E](#))
- b) The underwriter has reviewed the Application and has determined that the Developer does not require HAP funds for construction purposes.
- c) Allowing the funds to be used as purchase assistance only would relieve the Developer of the additional expense associated with a full credit underwriting. However, the homebuyers will still be approved based on the guidelines set forth in the Rule Chapter 67-50, FAC (2002).

HOMEOWNERSHIP LOAN PROGRAM

Consent

3. **Recommendation**

Allow Broward Alliance for Neighborhood Development, Inc. to utilize the HOME funds as Purchase Assistance for the Hollywood Neighborhood Revitalization Project Development.

F. **Request for Approval of the Analytical Review Report for Marion County Scattered Sites III /HH02-004**

1. **Background**

- a) An Application was submitted on behalf of Marion County Scattered Sites II during Round One of the 2002 Homeownership Loan Program Cycle.
- b) On October 30, 2002, Florida Housing issued an invitation into credit underwriting and a preliminary commitment letter to Florida Low Income Housing Associates Inc., for a HOME Purchase Assistance Loan in the amount of \$1,000,000 to assist in the construction of 50 homes in Marion County.

2. **Present Situation**

- a) The credit underwriter has provided Staff with a Final Analytical Review dated April 17, 2003, outlining the parameters of the proposed Development. ([Exhibit E](#))
- b) Staff has reviewed the report and concurs with the credit underwriter's recommendation to reserve HOME funds in the amount of \$1,000,000 for purchase assistance to the homebuyer

3. **Recommendation**

Staff recommends that the Board approves the Final Analytical Review and authorize Staff to issue a firm commitment letter in the amount of \$1,000,000 to Florida Low Income Housing Associates, Inc. to be utilized as HOME Purchase Assistance loans to the homebuyers, subject to further terms, conditions and approvals by the credit underwriters, counsel and the appropriate corporation Staff.

G. **Request for Approval of the Analytical Review Report for Timberwind /HAP02-309**

1. **Background**

- a) An Application was submitted on behalf of Timberwind during Round One of the 2002 Homeownership Loan Program Cycle.
- b) On October 30, 2002, Florida Housing issued an invitation into credit underwriting and a preliminary commitment letter to Three Rivers Housing Foundation, for a HAP Construction Loan in the amount of \$700,000 to assist in the construction of 28 homes in Walton County.

HOMEOWNERSHIP LOAN PROGRAM

Consent

2. **Present Situation**

- a) On April 8, Staff received a Board petition to allow the funds to be used as purchase assistance to the homebuyer instead of a construction loan. This request is part of the consent agenda for this meeting. The credit underwriter has reviewed the application and has indicated that the funds are not needed for construction and may be used for purchase assistance.
- b) The credit underwriter has provided Staff with a Final Analytical Review dated April 7, 2003 outlining the parameters of the proposed Development. ([Exhibit G](#))
- c) Staff has reviewed the report and concurs with the credit underwriter's recommendation to reserve HAP funds in the amount of \$700,000 for purchase assistance to the homebuyer, subject to the board's approval of the consent agenda.

3. **Recommendation**

Staff recommends that the Board approves the Final Analytical Review and authorize Staff to issue a firm commitment letter in the amount of \$ 700,000 to Three Rivers Housing Foundation, to be utilized as HAP Purchase Assistance loans to the homebuyers, subject to further terms, conditions and approvals by the credit underwriters, counsel and the appropriate corporation Staff.

H. **Request for Approval of the Analytical Review Report for Ravenswood Forest/HH02-015**

1. **Background**

- a) An Application was submitted on behalf of Ravenswood Forest during Round One of the 2002 Homeownership Loan Program Cycle.
- b) On October 30, 2002, Florida Housing issued an invitation into credit underwriting and a preliminary commitment letter to Ravenswood Forest Development LLC, for a HOME Purchase Assistance Loan in the amount of \$2,110,225 to assist in the construction of 81 homes in St. Johns County.

2. **Present Situation**

- a) The credit underwriter has provided Staff with a Final Analytical Review dated April 7, 2003 outlining the parameters of the proposed Development. ([Exhibit H](#))
- b) Staff has reviewed the report and concurs with the credit underwriter's recommendation to reserve HOME funds in the amount of \$2,110,225 for purchase assistance to the homebuyer.

HOMEOWNERSHIP LOAN PROGRAM

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3. **Recommendation**

Staff recommends that the Board approves the Final Analytical Review and authorize Staff to issue a firm commitment letter in the amount of \$2,110,225 to Ravenswood Forest Development LLC to be utilized as HOME Purchase Assistance loans to the homebuyers, subject to further terms, conditions and approvals by the credit underwriters, counsel and the appropriate corporation Staff.

I. **Request to reallocate funding for Homes of Naranja / 00HH-009**

1. **Background**

- a) On September 20, 2001, Florida Housing's Board of Directors issued final orders adopting the recommended orders in connection with the 2000 HOME Home Ownership Cycle. As a result Villas of Naranja, Ltd. was issued an invitation into credit underwriting for a HOME Construction Loan in the amount of \$1,603,500 to assist in the building of 60 units in Miami-Dade County.
- b) At its March 2002, the Board of Directors granted a rule waiver to allow the use of the HOME allocation for purchase assistance only.

2. **Present Situation**

- a) On April 9, 2003, Staff received a letter from the developer, National Development Foundation, requesting that the funds be de-obligated for this development due to environmental issues encountered with the property.
[\(Exhibit 1\)](#)

3. **Recommendation**

Staff recommends that the Board accept the Developer's wish to return the funds and approve the return of the funds to Single Family Bonds.

HOUSING CREDITS

Consent

V. HOUSING CREDITS

A. Request from the Applicant of Bradenton Village to readdress an issue previously approved by the Board at the September 2001 meeting

1. Background

- a) Bradenton Village is a 2000 Competitive Housing Credit, New Construction, HOPE VI Development providing 159 set-aside units in Manatee County. Florida Housing allocated \$1,200,000 in Housing Credits to this development in December of 2000.
- b) The Applicant committed to provide a gated community with carded entry for this development. On the September, 2001 Board meeting, the Board approved the Applicant's request to substitute that commitment with a security office and security staff that will interact closely with the residents and work directly with the Bradenton Police Department. The Applicant established a \$140,000 fund to provide for the security staffing.

2. Present Situation

The Applicant notified staff that its previous request (as approved by the Board) contained a typographical error. The letter inadvertently stated, "This new security office will work ...", but should have stated "This new security officer will work ...". The Applicant is requesting that the Board permit the Applicant to correct this error and approve the request to provide a security officer, rather than an office. ([Exhibit A](#)) This change would not cause a reduction in the score of the Application, as the Applicant selected enough amenities in this portion of the Application to receive maximum points even without the gated community.

3. Recommendation

Staff recommends that the Board approve the Applicant's request.

B. Request from the Applicant of Emerald Dunes Apartments to modify the unit mix proposed in the Application

1. Background/Present Situation

- a) Emerald Dunes is a 2002 Competitive Housing Credit, New Construction, Front Porch Development providing 141 set-aside units in Miami-Dade County. This Development is currently in Credit Underwriting and if successful will receive a binding commitment for 2003 Housing Credits up to \$1,093,404.00.
- b) On March 5, 2003, Florida Housing received a request from the Applicant to alter the unit mix committed to in the Application. [Exhibit B](#). The Applicant requests that the number of three-bedroom units be reduced from 20 to 12 and the number of two-bedroom units be increased from 73 to 81 with the 8 additional two-bedroom units to include a den. The Applicant will rent all the two-bedroom units at the same rate regardless of square footage. This proposal would modify the unit mix required by the Application commitment but would not change the amount of set-aside units. This change would not affect the scoring or ranking of the Application.

HOUSING CREDITS

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2. Recommendation

Staff recommends that the Board approve the Applicant's request.

C. **Request from the Applicant of Pelican Cove Apartments to change an amenity selected in the Application.**

1. Background/Present Situation

- a) Pelican Cove is a development that was the subject of a 2002 Competitive Housing Credit, Rehabilitation and Rural Development Application proposing 84 set-aside units in Citrus County. This Development is currently in Credit Underwriting and if successful will receive 2002 Housing Credits up to \$163,490.00.
- b) On March 9, 2003, Florida Housing received a request from the Applicant to change an amenity selected in the Application. [Exhibit C](#). The Applicant would like to change "Double-pane windows with minimum solar heat gain coefficient < 0.60 and minimum of 0.70 U Value" to "Double-pane glass on all windows." Both items have an equal point value in the Application. The cost savings to the Applicant is approximately \$6,212. The Applicant would use these funds to provide decorative window shutters to all the front windows, which would cost approximately \$6,689.

2. Recommendation

Staff recommends that the Board approve the Applicant's request.

D. **Request from the Applicant of Calusa Cove Apartments to change an amenity selected in the Application and for approval of a reduction unit size.**

1. Background/Present Situation

- a) Calusa Cove Apartments is a development that was the subject of a 2001 Competitive Housing Credit, New Construction Development Application providing 144 set-aside units in Miami-Dade County. This Development received an \$861,120.00 allocation of 2001 Housing Credits and is currently in credit underwriting for SAIL.
- b) On February 10, 2003, Florida Housing received a request from the Applicant to change an amenity selected in the Application and for approval of a reduction in unit sizes. Please see [Exhibit D](#). Due to a significant change in the developable area on the site, the Applicant was required to reconfigure the buildings resulting in a significant reduction in unit sizes. The appraiser has analyzed the reduction in square footage and believes that the market will support the development with the smaller unit sizes. The Credit Underwriter for the proposed SAIL Application did take the reduction in square footage into consideration when preparing the SAIL credit underwriting report.

HOUSING CREDITS

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- c) The Applicant also requests that the basketball court referenced in the Application be changed to a volleyball court. The amenities are of equal point value and would not affect the score or ranking of the HC Application or the SAIL Application.

2. **Recommendation**

Staff recommends that the Board approve the Applicant's request.

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Consent

VI. LEGAL

A. In Re: Bimini Bay of Lee Co., Ltd.

1. Background

- a) During the 2002 Universal Cycle, Florida Housing awarded an allocation of low-income housing credits and multifamily mortgage revenue bonds to Bimini Bay of Lee Co., Ltd.
- b) On February 12, 2003, Florida Housing received a Petition for Waiver of Rules 67-21.002(30) and 67-21.003(14)(b) to Change Developer (“Petition”), Davis Heritage, Ltd. (“Petitioner”). A copy of the Petition is attached as [Exhibit A](#).
- c) Rule 67-21.002(30), Florida Administrative Code, states in pertinent part:

The Developer, as identified in an Application, may not change until the construction of the Development is complete.
- d) Rule 67-21.003(14)(b), Florida Administrative Code, states in pertinent part:

Notwithstanding any other provisions of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline...Any attempted change to these items will not be accepted. Those items are as follows...Name of the Developer.
- e) Petitioner requests a waiver to change the developer entity from Davis Heritage Ltd., an accrual basis taxpayer, to Davis Heritage Development Ltd., a cash basis taxpayer. The requested change is necessary to protect the accrual basis taxpayer Davis Heritage Ltd., from substantial and economic hardship. This new entity is owned by the same individuals with the same percentage of ownership as Davis Heritage Ltd.
- f) The change of the developer entity is being requested solely to avoid unanticipated, negative tax consequences resulting from the use of an accrual basis developer as opposed to a cash basis developer entity.
- g) The Petitioner also advised that there will be no distribution of funds or other compensation as result of changing the developer entity. (See Exhibit “B” from the March 7, 2003 Consent Package).
- h) On February 28, 2003, the Notice of Petition was published in the Florida Administrative Weekly.
- i) To date, Florida Housing has not received any comments concerning the Petition.

LEGAL

Consent

2. Present Situation

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 the Board grant the Petitioner's request for a waiver of Rules 67-21.002(30) and 67-21.003(14)(b), Florida Administrative Code, as to the change in the developer entity

B. Huntington Oaks of Hillsborough Co., Ltd.

Developer: Davis Heritage Ltd.

1. Background

- a) During the 2002 Universal Cycle, Florida Housing awarded an allocation of low-income housing credits and multifamily mortgage revenue bonds to Huntington Oaks of Hillsborough Co., Ltd.
- b) On February 12, 2003, Florida Housing received a Petition for Waiver of Rules 67-21.002(30) and 67-21.003(14)(b) to Change Developer ("Petition"), Davis Heritage, Ltd. ("Petitioner"). A copy of the Petition is attached as [Exhibit B](#).
- c) Rule 67-21.002(30), Florida Administrative Code, states in pertinent part:

The Developer, as identified in an Application, may not change until the construction of the Development is complete.

- d) Rule 67-21.003(14)(b), Florida Administrative Code, states in pertinent part:

Notwithstanding any other provisions of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline...Any attempted change to these items will not be accepted. Those items are as follows...Name of the Developer.

Petitioner requests a waiver to change the developer entity from Davis Heritage Ltd., an accrual basis taxpayer, to Davis Heritage Development Ltd., a cash basis taxpayer. The requested change is necessary to protect the accrual basis taxpayer Davis Heritage Ltd., from substantial and economic hardship. This new entity is owned by the same individuals with the same percentage of ownership as Davis Heritage Ltd.

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- e) The change of the developer entity is being requested solely to avoid unanticipated, negative tax consequences resulting from the use of an accrual basis developer as opposed to a cash basis developer entity.
- f) The Petitioner also advised that there will be no distribution of funds or other compensation as result of changing the developer entity. (See Exhibit "B" from the March 7, 2003 Consent Package).
- g) On February 28, 2003, the Notice of Petition was published in the Florida Administrative Weekly.
- h) To date, Florida Housing has not received any comments concerning the Petition.

2. Present Situation

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 the Board grant the Petitioner's request for a waiver of Rules 67-21.002(30) and 67-21.003(14)(b), Florida Administrative Code, as to the change in the developer entity.

C. **In Re: Stratford Mill of St. Johns Co., Ltd.**

Developer: Davis Heritage Ltd.

1. Background

- a) During the 2002 Universal Cycle, Florida Housing awarded an allocation of low-income housing credits and multifamily mortgage revenue bonds to Stratford Mill of St. Johns Co., Ltd
- b) On February 12, 2003, Florida Housing received a Petition for Waiver of Rules 67-21.002(30) and 67-21.003(14)(b) to Change Developer ("Petition"), Davis Heritage, Ltd. ("Petitioner"). A copy of the Petition is attached as [Exhibit C](#).
- c) Rule 67-21.002(30), Florida Administrative Code, states in pertinent part:

The Developer, as identified in an Application, may not change until the construction of the Development is complete.

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- d) Rule 67-21.003(14)(b), Florida Administrative Code, states in pertinent part:

Notwithstanding any other provisions of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline...Any attempted change to these items will not be accepted. Those items are as follows...Name of the Developer.

- e) Petitioner requests a waiver to change the developer entity from Davis Heritage Ltd., an accrual basis taxpayer, to Davis Heritage Development Ltd., a cash basis taxpayer. The requested change is necessary to protect the accrual basis taxpayer Davis Heritage Ltd., from substantial and economic hardship. This new entity is owned by the same individuals with the same percentage of ownership as Davis Heritage Ltd.
- f) The change of the developer entity is being requested solely to avoid unanticipated, negative tax consequences resulting from the use of an accrual basis developer as opposed to a cash basis developer entity.
- g) The Petitioner also advised that there will be no distribution of funds or other compensation as result of changing the developer entity. (See Exhibit "B" from the March 7, 2003 Consent Package).
- h) On February 28, 2003, the Notice of Petition was published in the Florida Administrative Weekly.
- i) To date, Florida Housing has not received any comments concerning the Petition.

2. Present Situation

Section 120.542(2), Florida Statutes provides in pertinent part:

Variations 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 the Board grant the Petitioner's request for a waiver of Rules 67-21.002(30) and 67-21.003(14)(b), Florida Administrative Code, as to the change in the developer entity.

D. In Re: Barclay Forge of Hernando Co., Ltd.

Developer: Davis Heritage Ltd.

1. Background

- a) During the 2002 Universal Cycle, Florida Housing awarded an allocation of low-income housing credits and multifamily mortgage revenue bonds to Barclay Forge of Hernando Co., Ltd.

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- b) On February 12, 2003, Florida Housing received a Petition for Waiver of Rules 67-21.002(30) and 67-21.003(14)(b) to Change Developer (“Petition”), Davis Heritage, Ltd. (“Petitioner”). A copy of the Petition is attached as [Exhibit D](#).
- c) Rule 67-21.002(30), Florida Administrative Code, states in pertinent part:

The Developer, as identified in an Application, may not change until the construction of the Development is complete.
- d) Rule 67-21.003(14)(b), Florida Administrative Code, states in pertinent part:

Notwithstanding any other provisions of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline...Any attempted change to these items will not be accepted. Those items are as follows...Name of the Developer.
- e) Petitioner requests a waiver to change the developer entity from Davis Heritage Ltd., an accrual basis taxpayer, to Davis Heritage Development Ltd., a cash basis taxpayer. The requested change is necessary to protect the accrual basis taxpayer Davis Heritage Ltd., from substantial and economic hardship. This new entity is owned by the same individuals with the same percentage of ownership as Davis Heritage Ltd.
- f) The change of the developer entity is being requested solely to avoid unanticipated, negative tax consequences resulting from the use of an accrual basis developer as opposed to a cash basis developer entity. (See Exhibit “B” from the March 7, 2003 Consent Package).
- g) The Petitioner also advised that there will be no distribution of funds or other compensation as result of changing the developer entity.
- h) On February 28, 2003, the Notice of Petition was published in the Florida Administrative Weekly.
- i) To date, Florida Housing has not received any comments concerning the Petition.

2. Present Situation

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.

LEGAL

Consent

3. **Recommendation**

Staff recommends the Board grant the Petitioner's request for a waiver of Rules 67-21.002(30) and 67-21.003(14)(b), Florida Administrative Code, as to the change in the developer entity.

E. **In Re: Deer Creek I: FHFC Case NO. 2001-057**

1. **Background**

- a) Florida Housing received a petition from Deer Creek, LLC on August 27, 2001, requesting the Board of Directors to allow them to use funding initially approved for construction to be used solely as purchase assistance to the homebuyer.
- b) The petition for waiver was brought before the Board of Directors on October 25, 2001, with a recommendation to grant the waiver in part with a set of conditions outlined in the Order. The petition was granted and signed at the Board meeting ([Exhibit E](#)).

2. **Present Situation**

- a) On or about March 17, 2003, Florida Housing received information indicating that the Order Granting In Part Petition for Waiver contained erroneous information which imposed a tremendous hardship on the Deer Creek I development.
- b) The Order indicated that each of the 80 HOME assisted units needed a certificate of occupancy issued prior to January 1, 2004 or the funds would be subject to recapture.
- c) Additionally, the Order obtained inaccurate information regarding the date the Applicant was invited into credit underwriting and the amount of requested funding. The firm commitment contained similar discrepancies.
- d) Pursuant to HUD regulations, the participating jurisdiction has the responsibility to ensure that the funds allocated are expended over a five year time span or the funds would be subject to de-obligation. In order to ensure compliance, the Applicant normally has three (3) years from the loan closing in which to build the homes. This traditionally has allowed Florida Housing time to monitor the sub-recipient to ensure compliance with the firm commitment issued by Florida Housing.
- e) After further review and research, staff has determined that the Applicant should have been given until December 31, 2004 in which to evidence certificates of occupancy and to drawn down on any funds that they were allocated. Additionally, the date of the invitation into credit underwriting should reflect October 2, 2001 and the request for funding amount should be \$1,500,000.

3. **Recommendation**

Approve the Corrected Order Granting In Part Petition for Waiver to reflect information referenced above.

LEGAL

Consent

F. Corporation Clerk Rule

1. Background

Florida Housing's Corporation Clerk Rule, Rule Chapter 67-1, Florida Administrative Code, is new.

2. Present Situation

Florida Housing currently outlines the requirements for the filing of administrative appeals in several of its rules. Staff has drafted proposed revisions to these rules to consolidate the requirements and to create a Corporation Clerk and prescribe the Corporation Clerk's duties. A draft is attached as [Exhibit F](#).

3. Recommendation

Staff recommends that the Board direct staff to start the process to amend Rule Chapter 67-21, 67-40 and 67-48 Florida Administrative Code, and to create a new 67-1, Florida Administrative Code, pursuant to Florida's Administrative Procedure Act.

G. Corrected Resolution Numbers

1. Background

At the January 24, 2003, board meeting, a series of three bond resolutions addressing the bond transaction for the issue of Tax-Exempt Multifamily Mortgage Revenue Bonds for the Hunter's Run II project. The Corporation Clerk, at bond counsel's request, assigned number 2003-008 for a resolution for this project. Counsel prepared three resolutions, numbering same 2003-008, 2003-009, and 2003-010. Counsel was unaware that the Clerk had previously assigned numbers 2003-009 and 2003-010 to corporation resolutions delegating authority to execute and to attest and to certify certain documents to various officers and employees of the corporation.

2. Present Situation

There are duplications of resolution numbers 2002-009 and 2003-010.

3. Recommendation

Staff recommends that the board direct staff to renumber resolutions 2003-009 and 2003-010, regarding the Hunter's Run Bond Issue as numbers 2003-017 and 2003-018, respectively.

MULTIFAMILY BONDS

Consent

VII. MULTIFAMILY BONDS

A. Request Approval of the Final Credit Underwriting Report for Thomas Chase Apartments, a 2002 Bond Application in the amount of \$12,200,000 Tax-Exempt Bonds, 268 Units, located in Jacksonville, Duval County, Florida.

1. Background

- a) An application was submitted by Vestcor Fund XIX, Ltd. (“The Applicant”) on behalf of the proposed Development during the 2002 Application Cycle. The Applicant requested funds to finance the construction of the Development via the issuance of tax-exempt bonds in the amount of \$12,250,000.
- b) At the October 11, 2002 Board meeting, the Board authorized the adoption of an Acknowledgement Resolution in an amount not to exceed \$12,250,000 in tax-exempt bond financing to construct the Development.

2. Present Situation

- a) The current Program Rule does not prohibit changes or modifications of the proposed Development during credit underwriting. However, the Board has directed staff to advise it of any changes from the Application, which are detailed below:
 - (1) Funding Sources: The development cost has increased from \$21,223,414 in the application to \$21,526,657 in this report. The primary reason for the increase is a \$378,000 increase in the developer fee.
 - (2) The Tax Credit Syndicator has changed from Related Capital in the Application to Wachovia Affordable Housing Community Development Corporation. This change will not have a material impact on the Development.
 - (3) The management company has changed from Vestcor Realty Management in the Application to Calrex Realty Group. Calrex purchased the assets of Vestcor Realty Management in late 2002 and manages all of Vestcor’s multifamily properties. In addition, the employees of Calrex are comprised primarily of former Vestcor Realty Management employees. This change will not have a material impact on the Development.
 - (4) The square footages for various unit types in the Application are as follows: 1 bedroom – 691 Square feet, 2 bedroom – 925 Square feet , and 3 bedroom - 1,167 Square Feet. These square footages have been increased as follows: 1 bedroom – 705 Square Feet, 2 bedroom – 1025 to 1038 square feet and 3 bedroom – 1,218 square feet to 1,231 square feet. These increases in square footages should have a positive impact on the marketability of the property.

MULTIFAMILY BONDS

Consent

- (5) During the construction period, the general contractor is required to defer \$317,008 or 24.3% of its total Contractor's fee of \$1,303,076. This type of deferral is not unusual but it was not contemplated in the Application. This deferral should not have a material impact on the Development.
 - (6) The underwriter has increased the developer fee from \$2,667,767 to \$3,033,289, which is 18% of the Development cost before land/developer fee. This change is allowed by Florida Housing's rules. This increase will not have a material impact on the Development.
- b) A Final Credit Underwriting Report dated April 15, 2003, labeled as [Exhibit A](#) is attached.

3. Recommendation

Approve the recommendation of the Credit Underwriter outlined in the Final Credit Underwriting Report dated April 15, 2003 to finance the construction of Thomas Chase Apartments subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

B. Request approval of the Final Credit Underwriting Report for Grande Court North Port Apartments, \$6,300,000 Tax-Exempt Bonds, 126 units, located in Sarasota County, Florida.

1. Background

- a) Grand Court North Port Associates, Ltd. ("The Applicant") submitted an application on behalf of the proposed Development during the 2002 Application Cycle. The general partner (with a 1% ownership interest) is Grande Court North Port, Inc., a Florida Corporation. Currently, the limited partners of Grande Court North Port Associates, Ltd. are W. Douglas Pitts (49.50%) and the Alec P. Courtelis Investment Trust, Kiki Lisa Courtelis, Trustee (49.50%). Boston Capital Partners, Inc. is anticipated to be the syndicator of the Housing Credits ("HC"), and will replace W. Douglas Pitts and the Alec P. Courtelis Investment Trust as the 99.99% limited partner prior to or concurrent with the closing, and the general partner's interest will be reduced to 0.01%.
- b) Grande Court North Port, Inc., the general partner, is owned by the Alec P. Courtelis Investment Trust, Kiki Lisa Courtelis, Trustee, (46.25%), W. Douglas Pitts (46.25%), and Elias Vassilaros (7.50%). These individuals are also officers and/or directors of the general partner. Additionally, these individuals are owners, officers and/or directors of the developer, Courtelis Development Company, and Courtelis Construction Company, the proposed general contractor.
- c) At the October 11, 2002 Board meeting, the Board authorized the adoption of an Acknowledgement Resolution in the amount not to exceed \$6,800,000 in tax-exempt bond financing to construct the Development.

MULTIFAMILY BONDS

Consent

2. Present Situation

- a) The current Program Rule does not prohibit changes for modifications of the proposed Development during credit underwriting. However, the Board has directed staff to advise it of any changes from the application, which are detailed as follows:
- (1) Loan Request: The Applicant requested a Multifamily Mortgage Revenue Bond financed loan totaling \$6,800,000 and later revised its request to \$6,300,000.
 - (2) Credit Enhancement: The application anticipated that the Multifamily Mortgage Revenue Bonds would be purchased by William R. Hough & Co. The financing structure has changed to reflect credit enhancement by Wachovia Bank, N.A. during the construction/stabilization phase and by GMAC Commercial Mortgage Affordable Housing Division as DUS Servicer for Fannie Mae during the permanent phase.
 - (3) Local Government Contribution: The application contained a Local Government Verification of Contribution form dated April 8, 2002 from Sarasota County to provide a \$400,000 second mortgage loan at an interest rate of 3% per annum for up to 32 years. Based on a March 19, 2003 commitment letter (which has not been amended), a second mortgage loan in the amount of \$600,000 will be provided by Neighborhood Lending Partners of West Florida, Inc. as the Lender and Sarasota County as the SHIP Matching Funds Provider at an interest rate of 3% per annum for up to 32 years.
 - (4) Features and Amenities: The Applicant intends to provide “ceiling fans in all bedrooms and the living area of each unit” in lieu of “heat pumps with a minimum HSPF of 7.5 instead of electric resistance” as committed to in the application. The Applicant reports the cost savings between providing heat pumps and providing electric resistance heating is \$300 per unit or \$37,800, and the cost of providing ceiling fans in all bedrooms and living areas of each unit is \$100 per ceiling fan or \$38,400. The points assigned to each of these amenities is the same. The plans and specifications do not show these changes to the features and amenities; however, the Applicant states all features and amenities will be shown on the final “signed, sealed, and approved for construction” plans and specifications that are required to be submitted to the Credit Underwriter thirty days before real estate closing.
 - (5) Syndicator: The syndicator has changed from Wachovia Securities as shown in the application to Boston Capital Partners, Inc. The syndication rate has increased from \$0.85 per dollar of syndicated HC under the Wachovia Securities commitment to \$0.86 per dollar of syndicated HC under the Boston Capital Partners, Inc. commitment.

MULTIFAMILY BONDS

Consent

- (6) Other Changes:
- (a) The bridge loan provider has changed from Wachovia Securities as shown in the application to Wachovia Bank, N.A.
 - (b) The management company has changed from Vestcor Realty Management, Inc. as shown in the application to CALEX Realty Group, Inc. Both firms are currently a FHFC approved management company.
- b) A Final Credit Underwriting Report dated April 11, 2003, labeled as [Exhibit B](#).

3. **Recommendation**

Approve the recommendation of the Credit Underwriter outlined in the Final Credit Underwriting Report dated April 11, 2003 to finance the construction of Grand Court North Port Apartments subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

C. **Request Approval for prepayment of the outstanding note on Mandarin Trace Apartments, 1992 Series A & B, 119 Units, Duval County, Florida and College Trace Apartments, 1992 Series A & B, 111 units, Escambia County, Florida.**

1. **Background**

- a) Mandarin Trace Apartments is a 119 unit development located in Duval County, Florida and College Trace Apartments is a 111 unit development located in Escambia County, Florida, which received a \$3,757,100 loan and a \$3,252,723 loan, respectively, from the proceeds of a \$47,000,000 bond issue (Series 1982 A). They were originally funded in 1982 from a FHA 221(d)(4) pool bond program. The loans were secured by a standard form FHA mortgage and the FHA provided mortgage insurance through the 221(d)(4) program. The borrower is paying approximately 12% interest rate on these loans. The borrower is also receiving Section 8 subsidies for the units. As a result of the Section 8 subsidies these developments were designated for participation in the Mark to Market Program. The 1982 bonds were refunded in 1992. None of the interest rate savings from the refunding were passed on to the borrower. Currently, Florida Housing divides the savings with HUD on a 50/50 basis. We must use our share for certain specific purposes, all of which are related to providing housing for low and very low income tenants.
- b) On April 14, 2003 Florida Housing received a request, which is attached as [Exhibit C](#), from the current owners asking if the Corporation will consent to a prepayment of this loan. The Mortgage Notes for these loans have a provision that states that prepayment may only occur with the approval of the Agency (now Corporation) and FHA. The exact language is as follows:

"Except as hereinafter provided, there shall be no payments made hereunder, other than regularly scheduled payments of principal hereunder, to reduce the principal amount of the debt evidenced hereby in whole or in part prior to July 31, 1992. On or after August 1, 1992 privilege is reserved, subject to approval of the Secretary and only if the written consent of the Agency has been obtained, which consent shall not be withheld unless the Agency determines such

MULTIFAMILY BONDS

Consent

prepayment would affect the tax-exempt Status of the Bonds issued to finance the loan evidenced by this Note...”

“If this debt is paid in full prior to maturity and while insured under the National Housing Act, as amended, all parties liable for payment of this debt hereby agree to be jointly and severally bound to pay to the holder hereof any adjusted premium charge required by the applicable Regulations”

- c) Pursuant to the terms of the Note, the Corporation must be provided 30 days written notice of the intent to prepay and the Corporation is entitled to charge the borrower (subject to the Commissioner’s approval) the reasonable fees and charges associated with redeeming the Bonds.
- d) We have been advised that HUD would consider allowing the prepayment if the Corporation provided them written consent. The Bonds are not due to mature until December 1, 2023 and February 1, 2024.

2. **Present Situation**

- a) The Borrower is asking the Corporation to provide HUD with the following:
 - (1) Written consent to prepayment of the loan.
 - (2) A resolution authorizing the execution of a satisfaction of mortgage upon prepayment.
 - (3) The execution of the HUD Form 9807 by the Corporation requesting the termination of the HUD insurance.

3. **Recommendation**

- a) Approval of the following Staff recommendations, subject to confirmation that a thirty day written notice has been provided:
 - (1) To consent to the prepayment subject to HUD also consenting, provided that this consent does not waive any other rights to which Florida Housing would otherwise be entitled.
 - (2) Approval of the resolution provided subject to HUD approving the prepayment.
 - (3) Authorizing the execution of HUD Form 9807 and it's submission to HUD if HUD has approved the prepayment.
 - (4) Agreement by the Borrower to pay any cost incurred as a result of the prepayment.

MULTIFAMILY BONDS

Consent

D. Request Approval to amend the Land Use Restriction Agreement (“LURA”) for Chapel Trace Apartments, 2003 Series C in the amount of \$12,165,000 Tax-Exempt Bonds and \$4,055,000 Taxable Bonds, 312 Units, located in Orlando, Orange County, Florida

1. Background

In 2003, Florida Housing financed the construction of Chapel Trace Apartments with \$12,165,000 in tax-exempt bonds, and \$4,055,000 taxable bonds, designated as 2003 Series C.

2. Present Situation

- a) Florida Housing received a memorandum dated April 7, 2003 from the Credit Underwriter. The Developer has requested a change in the amenities committed to in the Application and incorporated in the LURA. Features to be deleted would be microwave ovens and ceramic tile flooring in the bathrooms. These features would be replaced with a 30 year roof and gated community. This exchange results in a net gain of 4 points from the original scoring of the features and amenities and the cost is roughly equivalent.
- b) The Memorandum which includes the Credit Underwriter’s recommendation to grant this request is attached as [Exhibit D](#).

3. Recommendation

Approve the LURA amendment for Chapel Trace Apartments subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

E. Request Approval to amend the Land Use Restriction Agreement (“LURA”) for Pinnacle Lakes Apartments, 2002 Series B in the amount of \$8,650,000 Tax-Exempt Bonds and \$275,000 Taxable Bonds, 226 Units, located in Miami-Dade County, Florida.

1. Background

- a) In 2002, Florida Housing financed the construction of Pinnacle Lakes Apartments with \$8,650,000 in tax-exempt bonds, and \$275,000 taxable bonds, designated as 2002 Series B.

2. Present Situation

- a) Florida Housing received a letter dated April 16, 2003 from the Developer requesting a change in the amenities committed to in the Application and incorporated in the LURA. Features to be deleted would be security gates (\$19,500). This feature would be replaced with microwave ovens installed in each unit (\$22,000) and steel entry doors and frames (\$89,100). This exchange results in an increase of two points from the original scoring of the features and amenities and results in a greater benefit to the tenants. The Developer has also committed to providing on-site, uniformed security guards.
- b) The letter, which includes a cost comparison, is attached as [Exhibit E](#). The Credit Underwriters review and recommendation, dated April 16, 2003, is attached as [Exhibit F](#).

MULTIFAMILY BONDS

Consent

3. **Recommendation**

Approve the LURA amendment for Pinnacle Lakes Apartments subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

F. **Assignment of Bond Underwriters and Structuring Agents**

1. **Background**

- a) Pursuant to the request regarding the issuance of bonds to finance the construction of the proposed Developments referenced below, Final Credit Underwriting Reports are being presented to the Board for approval simultaneous with this request to assign the appropriate professionals to these transactions. A brief description of the Developments is detailed below along with the Staff's recommendation for the assignments.
- b) Additionally, the Corporation's Senior Financial Advisor has prepared method of bond sale letters. Staff has reviewed these method of sale letters and Board approval is requested at the current meeting.

2. **Present Situation**

- a) The Credit Underwriters, the Senior Financial Advisor and Florida Housing Staff have reviewed the financing structures for the proposed Developments.
- b) The Senior Financial Advisor's recommendation for the methods of bond sale is being presented to the Board at the current meeting during the Multifamily Bond Program Update of items on the agenda.

3. **Recommendation**

- a) Approve the assignments of the recommended professionals as shown in the chart for the proposed Developments.

Development Name	Location of Development	Number of Units	Method of Bond Sale	Recommended Professional
Thomas Chase	Duval	268	Competitive	Morgan Keegan and Co., Inc.
Grand Court at North Port	Sarasota	126	Competitive	RBC Dain Rauscher, Inc.
Spring Haven	Hernando	176	Competitive	Stern Brothers and Company

MULTIFAMILY BONDS

Consent

G. Request Approval of the Method of Sale Recommendations from Florida Housing’s Senior Financial Advisor

1. Background/Present Situation

- a) The Credit Underwriter has provided Final Credit Underwriting Reports for the proposed Developments below. Florida Housing seeks Board approval pursuant to the recommendation of the Credit Underwriter and the appropriate Florida Housing staff.
- b) Pursuant to Rule 67-21.0045, F.A.C., Staff has requested a review of the proposed bond structure by the Senior Financial Advisor in order to make recommendations to the Board for the methods of bond sale.
- c) WLJ Capital has prepared analysis and recommendations for the methods of bond sale for the Developments. These recommendation letters are labeled [Exhibit G](#).

Development Name	Location of Development	Number of Units	Method of Bond Sale
Thomas Chase	Duval	268	Competitive
Grand Court at North Port	Sarasota	126	Competitive
Spring Haven	Hernando	176	Competitive

2. Recommendation

Accept the recommendation of the Senior Financial Advisor for the methods of bond sale for the above Developments.

H. Request Approval of the Purchase in Lieu of Redemption and Extension of the Maturity Date of the Bonds for Lakeside North at Carrollwood Apartments, 1990 Series F, \$6,130,000, Tax-Exempt Bonds, 168 Units, Tampa, Hillsborough County, Florida.

1. Background

- a) In 1982, Florida Housing financed the construction of Lakeside North at Carrollwood Apartments with \$6,150,000 tax-exempt bonds, designated as 1982 Series B.
- b) In 1990, Florida Housing approved the refunding of the bonds for Lakeside North at Carrollwood Apartments, with \$6,130,000 tax-exempt bonds, designated as 1990 Series F.
- c) In 1998, Florida Housing approved the transfer of ownership of the property to Carrollwood Lakeside North Partners, Ltd. (“Owner”)

MULTIFAMILY BONDS

Consent

2. **Present Situation**

- a) Florida Housing received a letter from AIMCO Properties, LP, dated April 1, 2003, requesting permission for Apartment Investment and Management Company ("AIMCO") (since 1999 the holder of the membership interests in the sole general partner and the sole limited partner of the Owner) to purchase the bonds in lieu of redemption and extend the bond maturity date by one year to June 1, 2004. The bonds are currently set to mature on June 1, 2003. This letter is attached as [Exhibit H](#).
- b) The bonds have technically been in default since 1991 and are not currently credit enhanced, because the original credit enhancer, Mutual Benefit Life Insurance Company, has been in rehabilitation proceedings in the New Jersey Superior Court, Chancery Division since 1991. Payments on the bonds are current at an interest rate set in the court proceedings.
- c) It is contemplated that the bonds will be refunded within a year and will receive credit enhancement through Freddie Mac or Fannie Mae.

3. **Recommendation**

Approve the Purchase in Lieu of Redemption on June 1, 2003 and the one year Extension of the Maturity Date of the Bonds for Lakeside North at Carrollwood Apartments subject to further approvals by the credit enhancer, the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

PREDEVELOPMENT LOAN PROGRAM (PLP)

Consent

VIII. PREDEVELOPMENT LOAN PROGRAM (PLP)

A. Approval of Loan from PLP funds for Opa-Locka CDC

1. Background/Present Situation

- a) On October 1, 2002, Florida Housing issued an invitation to participate in the PLP program to Opa-Locka CDC for Westview Terrace (PLP 00-026). The development, located in Miami-Dade County, will consist of 421 rental units.
- b) The Technical Assistance Provider (TAP) assisted Opa-Locka CDC in preparing a development plan and budget ([Exhibit A](#)). Staff has reviewed the development plan and budget and has determined that all budget items are PLP eligible. The TAP has approved the development plan and has recommended a loan amount of \$500,000 for PLP eligible activities ([Exhibit B](#)).

2. Recommendation

Approve a loan from PLP funds for \$500,000 for Opa-Locka CDC for predevelopment costs related to Westview Terrace as recommended by the TAP.

B. Approval of Loan from PLP funds for We Help Community Development Corporation

1. Background/Present Situation

- a) On October 10, 2002, Florida Housing issued an invitation to participate in the PLP program to We Help CDC for a development known as Abidjan Estates (PLP 00-027) formerly known as Paradise Lakes Estates. The development, located in Palm Beach County, will consist of 140 homeownership units.
- b) The Technical Assistance Provider (TAP) assisted We Help CDC in preparing a development plan and budget ([Exhibit C](#)). Staff has reviewed the development plan and budget and has determined that all budget items are PLP eligible. The TAP has approved the development plan and has recommended a loan amount of \$500,000 for PLP eligible activities ([Exhibit D](#)).

2. Recommendation

Approve a loan from PLP funds for \$500,000 for We Help CDC for predevelopment costs related to Abidjan Estates as recommended by the TAP.

C. Approval of Loan from PLP funds for the Housing Authority of the City of Bradenton

1. Background/Present Situation

- a) On January 14, 2003, Florida Housing issued an invitation to participate in the PLP program to the Housing Authority of the City of Bradenton for New Singletary (PLP 00-033). The development, located in Manatee County, will consist of 117 rental units.

PREDEVELOPMENT LOAN PROGRAM (PLP)

Consent

- b) The Technical Assistance Provider (TAP) assisted the Housing Authority of the City of Bradenton in preparing a development plan and budget ([Exhibit E](#)). Staff has reviewed the development plan and budget and has determined that all budget items are PLP eligible. The TAP has approved the development plan and has recommended a loan amount of \$500,000 for PLP eligible activities ([Exhibit E](#)).

2. **Recommendation**

Approve a loan from PLP funds for \$500,000 for the Housing Authority of the City of Bradenton for predevelopment costs related to New Singletary as recommended by the TAP.

D. **Request for Forgiveness of Outstanding PLP Funds for Maxwell Place (PLP 98-037)**

1. **Background**

- a) After successfully competing in the 1998 Application Cycle, staff issued an Invitation to Participate in the Program to Grand Avenue Economic CDC for a development called Maxwell Place. The developer accepted the invitation. The acceptance to participate included a provision that the borrower may receive an advance of funds to pay for certain expenses including a market and feasibility analysis (MFA). Florida Housing advanced the cost of completing the MFA for the development. The MFA was completed and demonstrated that conditions were favorable for the proposed development. The cost was \$5,000.
- b) Several developments have previously sought and received forgiveness from the Board for the cost of the MFA despite receiving a positive MFA.

2. **Present Situation**

- a) The developer notified Florida Housing that they will not proceed with their development and requested that Florida Housing forgive repayment of the advance ([Exhibit G](#)).
- b) The 1998 PLP Rule provided for forgiveness of the advance if the market study is unfavorable. The Rule did not address the issue of forgiveness when the market study is favorable. However, Florida Housing repealed section the section (67-38.006) and there is no current rule governing this issue. Staff believes that it is in the best interest of the PLP program to encourage and facilitate the withdrawal of Applicants funded under the 1998 PLP program in order to fund new program participants.

3. **Recommendation**

Forgive the \$5,000 for the MFA to the Maxwell Place development.

PROFESSIONAL SERVICES SELECTION (PSS)

Consent

IX. PROFESSIONAL SERVICES SELECTION (PSS)

A. Special Counsel Contracts

1. Background

In May 2002 Florida Housing entered into contracts for Special Counsel Services with the following firms:

- (1) Adorno & Zeder, P.A. effective May 14, 2002
- (2) Allen, Lang, Curotto & Peed, P.A. effective May 16, 2002
- (3) Clyne & Self, P.A. effective May 21, 2002
- (4) Nabors, Giblin & Nickerson, P.A. effective May 14, 2002

2. Present Situation

- a) The term of each of the contracts ends one year from the effective dates with an option to renew, on a yearly basis, for a period of up to two (2) years after the expiration of the initial term. Renewals shall be contingent upon Special Counsel satisfactorily performing its obligations under the Contract.
- b) The quality of service performed by these providers during the initial term has been satisfactory. Staff supports the recommendation to extend the contracts.

3. Recommendation

- a) Staff believes that it is in the best interest of Florida Housing to continue to retain our current Special Counsel pursuant to the existing contracts, and recommends that the Board direct staff to proceed with the contract renewal process for each provider for one (1) year.

B. SHIP Program Compliance Monitoring Services

1. Background

- a) Florida Housing entered into contracts to provide SHIP Program Compliance Monitoring services with Seltzer Management Group, Inc. and First Housing Development Corporation of Florida, effective July 2, 2001, and with Florida Planning Group, Inc. effective July 10, 2001.
- b) Each contract contains a provision for up to two (2) one-year renewals after the expiration of the initial term. Renewals are contingent upon satisfactory performance evaluations by Florida Housing.
- c) On April 26, 2002, the Board directed staff to proceed with the contracts modification process to extend the contracts for one year.

PROFESSIONAL SERVICES SELECTION (PSS)

Consent

2. **Present Situation**

- a) The term of all three of the SHIP Compliance Monitoring contracts expires June 30, 2003.
- b) The quality of the reports submitted by these providers has been satisfactory. All areas of analysis and review included in the reports are thoroughly checked by each provider. Staff supports the recommendation to extend the contracts.

3. **Recommendation**

Staff believes that it is in the best interest of Florida Housing to continue to retain our current SHIP compliance monitoring providers, and recommends that the Board direct staff to proceed with the contracts modification process to extend the contracts for one year.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

X. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval of Credit Underwriting Report for Calusa Cove Apartments, Cycle XIV (2002-017S)

1. Background/Present Situation

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On November 4, 2002, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$1,449,387 for this 144-unit large family development in Miami-Dade County.
- c) On April 1, 2003, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$1,449,387 ([Exhibit A](#)). The applicant is requesting to make the following changes:
 - (1) Substitute a volleyball court in lieu of a basketball court. Both items are worth 2 points and are in the same grouping of optional features for new construction developments.
 - (2) Substitute a library area consisting of 100 books and five current magazine subscriptions in lieu of two parking spaces per unit. Both items are worth 1 point and are in the same grouping of optional features for new construction developments.
 - (3) Substitute wall insulation of R-7 or better in lieu of a hydronic (combo unit) HVAC. Both are worth 2 points and are energy conservation feature options.
- d) Staff has reviewed this report and finds that the development meets all of the requirements of SAIL Rule 67-48, F.A.C.

2. Recommendation

- a) Approve the final credit underwriting report with the requested changes and direct staff to proceed with issuance of a firm loan commitment and loan closing activities (conditioned upon the approval of the reduction in unit size from the unit size reflected in the 2001 Housing Credits application as described in the Housing Credits section of this Board package).

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

B. Request Approval of Credit Underwriting Report for Pinnacle at Abbey Park, Cycle XIV (2002-068S)

1. Background/Present Situation

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On October 22, 2002, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$1,000,000 for this 160-unit family development in Palm Beach County.
- c) On April 9, 2003, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$1,000,000 ([Exhibit B](#)). The general contractor listed in the application was BJ & K Construction Inc. Subsequently, the Applicant proposed to change the general contractor to Summit Contractors, Inc. The new general contractor meets the minimum requirement of the application. The underwriter recommends that Summit Contractors, Inc. be accepted as the general contractor.

2. Recommendation

Approve the final credit underwriting report with the change in general contractor and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

C. Request Approval of Credit Underwriting Report for Tuscany Place Apartments, Cycle XIV (2002-035S)

1. Background/Present Situation

- a) On January 24, 2003, the Board adopted the recommended orders of the Hearing Officer and directed staff to proceed with all necessary credit underwriting activities.
- b) On January 29, 2003, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$2,000,000 for this 340-unit family development in Miami-Dade County.
- c) On April 15, 2003, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$2,000,000 ([Exhibit C](#)).

2. Recommendation

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

D. Request Approval of Credit Underwriting Report for Thomas Chase Apartments, Cycle XIV (2002-126BS)

1. Background/Present Situation

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On October 22, 2003, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$2,000,000 for this 268-unit large family development in Duval County. This development was also awarded a Multifamily Revenue Bond allocation. The credit underwriting report is addressed in the Multifamily Revenue Bond Section of this Board package. Staff has reviewed this report and finds that the development meets all of the requirements of SAIL Rule 67-48 F.A.C.

2. Recommendation

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

E. Request Approval of Credit Underwriting Report for Merritt Place Estates, Cycle XIV (2002-010CS)

1. Background/Present Situation

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On October 14, 2002, staff issued a preliminary commitment letter and an invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$2,000,000 for this 159 single family rental community in Miami-Dade County. Forty percent of the total units in the development will be set aside for farmworkers.
- c) The general contractor listed in the application was Jencra, Inc. Subsequently, the Applicant proposed to change the general contractor to Hunt Building Corporation. The new general contractor meets the minimum requirement of the application. The underwriter recommends that Hunt Building Corporation be accepted as the general contractor.
- d) On April 15, 2003, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$2,000,000 ([Exhibit D](#))

2. Recommendation

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

F. Request Approval of Credit Underwriting Report for Eden Park at Ironwood Apartments, Cycle XII (2000-067S)

1. Background/Present Situation

- a) On December 6, 2001, the Board approved the use of available SAIL appropriation to fund Eden Park at Ironwood Apartments.
b) On February 20, 2002, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$1,025,000 for this 104-unit family development in Alachua County.
c) Staff received a final credit underwriting report with a positive recommendation for this loan (Exhibit E). The general contractor listed in the application was Joyner Construction, Inc. Subsequently, the Applicant proposed to change the general contractor to Davis and Sons Construction, LLC. The new general contractor meets the minimum requirement of the application. The underwriter recommends that Davis & Sons Construction, LLC. be accepted as the general contractor.
d) The unit mix has changed as follows:

Table with 4 columns: # of Units in Application, # of Bedrooms in Application, Revised # of Units, Revised # of Bedrooms. It contains two rows of data showing unit and bedroom counts before and after a revision.

2. Recommendation

Approve the final credit underwriting report with the changes listed above and direct staff to proceed with issuance of a firm loan commitment and loan closing activities (subject to receipt, review and approval of the final plan and cost analysis by the credit underwriter and Florida Housing). Staff will provide an update as a supplement to the Board package.

G. Request Approval of Credit Underwriting Report for Magnolia Walk Apartments Phase II, Cycle XIV (2002-159CS)

1. Background/Present Situation

- a) On October 10, 2002, the Board approved the final scores and ranking for the 2002 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
b) On October 14, 2002, staff issued a preliminary commitment letter and invitation to credit underwriting for a SAIL second mortgage loan in an amount up to \$1,000,000 for this 144-unit family development in Marion County.
c) On April 14, 2003, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$1,000,000 (Exhibit F). The credit underwriting report notes that Compass Bank will replace Wachovia Securities as the Construction/Permanent lender. The underwriter recommends that Compass Bank be accepted as the construction/permanent lender.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

- d) Staff has reviewed this report and finds that the development meets all of the requirements of SAIL Rule 67-48 F.A.C.

2. **Recommendation**

Approve the final credit underwriting report with the requested changes, permit Compass Bank to replace Wachovia Securities, and direct staff to proceed with issuance of a firm loan commitment and loan closing activities (subject to receipt, review and approval of the final plan and cost analysis by the credit underwriter and Florida Housing). Staff will provide an update as a supplement to the Board package.