

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
May 6, 2016
Action Items



FORECLOSURE COUNSELING PROGRAM

Action

I. FORECLOSURE COUNSELING PROGRAM

A. Request Approval of Implementation Plan for the Expansion of Activities Under the Foreclosure Counseling Program (FCP)

1. Background

- a) On January 17, 2013, the Legislative Budget Commission approved a \$10 million allocation from National Mortgage Settlement funds to provide foreclosure counseling services to be administered by Florida Housing. The funding has allowed Florida Housing to carry out the following objectives:
 - Help prevent homeowners from going into foreclosure; and
 - Provide at-risk homeowners with financial management education to help them better manage their money and assist them with credit problems to become financially stable.
- b) Through March 31, 2016, 4,095 households have participated in FCP and 2,038 households have received financial management education from the 45 nonprofit housing counseling agencies (HCAs) participating through the program. \$1,195,350 in funds have been expended for program activities and administration with \$3,685,500 reserved for ongoing foreclosure counseling activities for active program participants. The most recent quarterly report is attached as [Exhibit A](#).
- c) While the performance in providing these services has been steady over the first two years of the program, the number of households assisted has not kept pace with original estimates. Staff believes that this is mainly due to the slow housing recovery and a lessening need for foreclosure counseling services. Due to this, staff has worked to determine whether additional services related to housing counseling under FCP could be added in order to best address the needs of Florida's citizens.

2. Present Situation

- a) As part of the housing bill passed by the 2016 Legislature and signed by the Governor, language related to the FCP program allows Florida Housing to expand the types of counseling that can be provided to homeowners and prospective homebuyers.
- b) The following is a list of services/activities that are now eligible under FCP and that staff believes would benefit households that are in need of counseling related to foreclosure prevention, loan modification and home purchase:
 - Marketing of FCP services statewide conducted by Florida Housing, and local marketing conducted by the individual HCAs designed to create public awareness of the wide array of services.

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- Financial counseling and coaching in the post loan modification period to provide homeowners additional support after their loan has been modified to ensure that they are educated as to how to avoid further problems with their mortgage. While financial counseling is more didactic and prescriptive, financial coaching supports clients through listening and questions to help them work towards their goals and maximize their financial potential in a manner that is not done under the traditional foreclosure counseling provided through FCP.
 - Training housing counselors in financial coaching in order to implement the new service listed above.
 - Post-foreclosure re-entry counseling to assist former homeowners complete the financial recovery to become a homeowner again.
 - Pre-purchase counseling for potential homebuyers (with an emphasis on households that are above 80% AMI who are ineligible to receive counseling through HUD).
 - Up to \$3 million in funds for counseling (primarily pre-purchase counseling) provided through local government SHIP offices for first time homebuyers to ensure that they are educated prior to purchasing a home.
- c) The following is an estimated timeline of when specific tasks would be completed in order to implement the new activities:
- | | |
|-----------|--|
| May 2016 | Present webinar for HCAs related to marketing |
| June 2016 | Approve marketing funding for HCAs based on submission of marketing plans |
| June 2016 | Present webinar to HCAs on additional services available through the program |
| Ongoing | Provide onsite technical assistance visits as requested/needed |
| July 2016 | Provide information and application to SHIP local governments to request funds |
| July 2016 | Present webinar for local government SHIP staff |

3. **Recommendation**

- a) Approve staff recommendation to expand activities allowed under the Foreclosure Counseling Program.

MULTIFAMILY PROGRAMS

Action

II. MULTIFAMILY PROGRAMS

A. Request for Applications (RFA) 2015-108 for Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County

1. Background/Present Situation

- a) On September 21, 2015, Florida Housing staff issued RFA 2015-108 offering an estimated \$4,920,258 of Housing Credits available for award to proposed Developments located in Miami-Dade County. The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Thursday, November 19, 2015.
- b) Florida Housing received 50 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Amy Garmon, Multifamily Programs Manager (Chair); Elizabeth O'Neill, Multifamily Programs Manager; Eva Fambro-Price, Multifamily Programs Manager; Jean Salmonsens, Multifamily Housing Development Manager; and Brantley Henderson, Assistant Director of Multifamily Programs. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- c) At its April 20, 2016 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Four B of the RFA.
- d) The RFA 2015-108 All Applications chart (provided as [Exhibit A](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- e) The Review Committee considered the following two (2) motions:
 - (1) A motion to adopt the scoring results, as set out on Exhibit A; and
 - (2) A motion to tentatively select the Applications set out on [Exhibit B](#) for funding and invite the Applicants to enter credit underwriting.
- f) Both of the motions were passed unanimously.
- g) As outlined in subsection 67-48.0072(1), F.A.C., at the completion of all litigation and approval by the Board of all Recommended Orders with regard to this RFA, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting.

MULTIFAMILY PROGRAMS

Action

2. **Recommendation**

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 50 Applications (set out on Exhibit A) and authorize the tentative selection of the 2 Applications (set out on Exhibit B) for funding and invitation to enter credit underwriting.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on Exhibit B.
- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.

MULTIFAMILY PROGRAMS

Action

B. Request for Applications (RFA) 2016-101 HOME Financing to be used for Rental Developments Located in Rural Areas

1. Background

- a) On January 22, 2016, Florida Housing Finance Corporation (Florida Housing) issued RFA 2016-101 offering \$15,000,000 in HOME funding to Applicants proposing the construction of affordable housing utilizing HOME Investment Partnerships (HOME-rental) Program funding for Developments in Rural Areas.
- b) Fifteen percent of the total HOME funding available (\$2,250,000) was made available for Applicants that qualified as HOME Community Housing Development Organization (CHDO) Applicants.
- c) The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Thursday, February 25, 2016.

2. Present Situation

- a) Florida Housing received 9 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were David Woodward, Federal Loan Program Manager (Chair), Elizabeth Thorp, Multifamily Programs Manager, and Eva Fambro-Price, Multifamily Programs Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its April 20, 2016 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Four B of the RFA.
- c) The RFA 2016-101 All Applications chart (provided as [Exhibit C](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- d) The Review Committee considered the following motions:
 - (1) A motion to adopt the scoring results, as set out on Exhibit C;
 - (2) A motion to tentatively select the Applications set out on [Exhibit D](#) for funding and invite the Applicants to enter credit underwriting.
- e) The motions passed unanimously.
- f) As outlined in subsection 67-48.0072(1), F.A.C., at the completion of all litigation and approval by the Board of all Recommended Orders with regard to this RFA, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting.

MULTIFAMILY PROGRAMS

Action

3. **Recommendation**

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the nine (9) Applications (set out on Exhibit C), and authorize the tentative selection of the three (3) Applications (set out on Exhibit D) for funding.
- b) An unallocated balance of \$1,469,000 of funding remains. As provided in Section Four B of the RFA, any remaining funding will be distributed as approved by the Board.
- c) Staff further recommends that the Board allocate available program income and the remaining balance of the HOME funding in this RFA and authorize the tentative selection of the remaining eligible Applications.
- d) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on Exhibit D.
- e) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.

MULTIFAMILY PROGRAMS

Action

C. Request for Applications (RFA) 2016-104 for SAIL Funding to Preserve Farmworker and Commercial Fishing Worker Housing

1. Background/Present Situation

- a) On February 5, 2016, Florida Housing staff issued RFA 2016-104 offering an estimated \$4,500,000 of State Apartment Incentive Loan (SAIL) funding for the Moderate Rehabilitation/Substantial Rehabilitation or Acquisition and Moderate Rehabilitation/Substantial Rehabilitation of existing Farmworker or Commercial Fishing Worker Developments that are currently in the Florida Housing Finance Corporation portfolio and/or the United States Department of Agriculture Rural Development (RD) portfolio. The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Thursday, March 3, 2016.
- b) Florida Housing received 1 Application in response to this RFA. The Review Committee members, designated by the Executive Director, were Kevin Tatreau, Director of Developmental Finance (Chair); Elizabeth O'Neill, Multifamily Programs Manager; Nancy Muller, Policy Director; Elaine Roberts, Senior Supportive Housing Analyst; and Jean Salmonsens, Multifamily Housing Development Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- c) At its April 21, 2016 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Four B of the RFA.
- d) This RFA included a requirement that if an Applicant includes a non-corporation funding proposal from a mortgage lender that does not meet the definition of a Regulated Mortgage Lender, the Applicant must provide documentation from the lender that it has the ability to fund the mortgage in order for the funding to be included as a source for the proposed development.
- e) The sole Applicant for this RFA submitted a non-corporation funding proposal that was not from a Regulated Mortgage Lender and which also did not include evidence of ability to fund the proposal. As such, this source was not counted, creating a funding shortfall for the proposed development.
- f) The submitted Application was found to be ineligible for funding. The RFA 2016-104 Applications chart (provided as [Exhibit E](#)) lists the ineligible Application.
- g) The Review Committee considered the following motion:
 - (1) To adopt the scoring results, as set out on Exhibit E.
 - (2) The motion was passed unanimously.

MULTIFAMILY PROGRAMS

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- h) As outlined in the RFA, at the completion of all litigation and approval by the Board of all Recommended Orders with regard to this RFA, the Corporation shall offer all eligible Applicants within the funding range an invitation to enter credit underwriting.

2. Recommendation

- a) Approve the Committee's recommendation that the Board adopt the scoring results of the Application (as set out on Exhibit E).
- b) An unallocated balance of \$4,500,000 remains. As provided in Section Four B of the RFA, any remaining funding will be distributed as approved by the Board.
- c) Though the Review Committee recommended that the Applicant be found ineligible due to a funding shortfall associated with the non-corporation funding proposal, there was only one Applicant for the available funding. For this reason staff recommends that the Board fund this Applicant and authorize staff to issue an invitation to credit underwriting, with the condition that the Applicant provide acceptable documentation from the mortgage lender within 21 days of this Board meeting that it has the ability to fund as required in the RFA for mortgage lenders that are not Regulated Mortgage Lenders. If no such documentation is timely provided, or if Florida Housing determines that any submitted documentation does not meet the provisions of Section Four A.12.d.(4) of the RFA, then this authority to issue an invitation to credit underwriting will be considered rescinded and the Applicant will not be considered eligible for funding.
- d) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing an invitation to enter credit underwriting to an Applicant in the funding range.

MULTIFAMILY PROGRAMS

Action Supplement

I. MULTIFAMILY PROGRAMS

A. Request for Approval to Allocate Remaining and Returned State Apartment Incentive Loan (SAIL) Funding

1. Background

- a) At its December 11, 2015 meeting, Florida Housing's Board awarded SAIL funding to applications received in response to Request for Applications (RFA) 2015-112 for SAIL Financing of Affordable Multifamily Housing Developments to be used in Conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits. The agenda item from that meeting is attached as [Exhibit A](#).
- b) At its March 18, 2016 meeting, Florida Housing's Board resolved the pending litigation that resulted from the awards approved at the December meeting.

2. Present Situation

- a) Florida Housing has approximately \$17 million in SAIL funding that remained unallocated from the RFA process and that has been returned from transactions that were awarded funding, but could not move forward.

3. Recommendation

- a) Authorize staff to allocate the remaining/returned SAIL funding to the highest ranked eligible unfunded applications from RFA 2015-112, regardless of demographic commitment and county award tally, and invite those applications to enter credit underwriting.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

III. PROFESSIONAL SERVICES SELECTION (PSS)

A. Request for Proposals (RFP) 2016-02, Homebuyer Loan Program Servicing

1. Background

- a) At the January 29, 2016 meeting, the Board authorized Florida Housing staff to issue a solicitation to procure a firm which will perform all of the loan servicing functions for the Homebuyer Loan Program.

2. Present Situation

- a) Request for Proposals (RFP) 2016-02 was issued on Friday, January 29, 2016. The deadline for receipt of responses was 2:00 p.m., Tuesday, February 23, 2016. A copy of the RFP is provided as [Exhibit A](#).
- b) One response was received by the deadline from U.S. Bank Home Mortgage HFA Division.
- c) Members of the review committee were Melanie Weathers, Senior Financial Administrator (Chairperson); Charles White, Single Family Programs Administrator; Kenny Derrickson, Assistant Comptroller; Michelle Connelly, Financial Manager; and Sandy Smith, Single Family Programs Manager.
- d) Each member of the Review Committee individually reviewed the proposal submitted prior to convening for the Review Committee meeting which was held at 10:00 a.m., Tuesday, March 8, 2016.
- e) At the March 8th meeting, the Review Committee members provided their final scores for the response received. The score sheet is provided as [Exhibit B](#).

3. Recommendation

- a) The Review Committee recommends that the Board authorize Florida Housing to enter into contract negotiations with U.S. Bank Home Mortgage HFA Division. Should contract negotiations with U.S. Bank Home Mortgage HFA Division fail, the review committee recommends issuing a new solicitation for these services.

STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM

Action

IV. STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM

A. Request Approval to Begin Rule Development Process

1. Background

- a) The SHIP Program was created in 1992 to provide funds to local governments to finance affordable home ownership and rental housing for lower income families. Funds are allocated on a statutory population-based formula with a minimum annual allocation of \$350,000 per county. Funds are distributed to all 67 counties and 52 of Florida's larger cities. SHIP is governed by Sections 420.907-420.9079, Florida Statutes, and Rule 67-37, Florida Administrative Code. The current version of the rule became effective on November 23, 2009.

2. Present Situation

- a) Over the past few years, the Legislature has made a number of changes to the SHIP program through statutory revision. The changes include requirements to expend at least 20% of funds on Households with Special Needs, expanded use of funds for rental assistance, changes to compliance requirements for rental developments and changes in the requirements related to the composition of the local affordable housing advisory committee.
- b) These changes, along with revisions to clarify program requirements and to rectify incorrect statutory cross references created by the Legislative changes, must be incorporated into the program rule. In order to do this, staff is recommending that the SHIP rule be opened for rule development. This process will include receiving input from local governments and other stakeholders through a workshop and public comment period. The final rule will be presented to the Board prior to adoption.

3. Recommendation

- a) Authorize staff to proceed with the rule development process for the SHIP program rule 67-37, Florida Administrative Code.

LEGAL

Action Supplement

I. LEGAL

A. REDDING DEVELOPMENT PARTNERS, LLC, AND HTG HAMMOCK RIDGE, LLC, Petitioners, v. FLORIDA HOUSING FINANCE CORPORATION, Respondent, JIC GRAND PALMS, LLC, BROWNSVILLE MANOR, LP, GROVE MANOR PHASE I, LTD., and RST THE PINES, LP, Intervenor., FHFC Case Nos. 2016-0007BP, 2016-0009BP

1. Background

- a) This case regards RFA 2015-106, Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties (the "RFA"). On September 3, 2015, Florida Housing issued the RFA soliciting applications for federal low-income housing tax credit funding (tax credits). Only the applications for developments in medium counties are at issue here. Ninety-eight applications were submitted in response to the RFA. On January 29, 2016, Florida Housing posted a notice of its intended decision to award funding to eight applicants, including Grove Manor, Grand Palms, Madison Palms, and The Pines. While the applications of HTG, Brownsville, and Redding were deemed to be eligible, they were not entitled to a preliminary award of funding because of their lottery number ranking. Pursuant to section 120.57(3), Florida Statutes (2015), HTG timely filed a formal written protest to the award of tax credits to Grove Manor. Although HTG and Grove Manor received the same score, Grove Manor had a more favorable lottery number than HTG and was preliminarily awarded the tax credits. The matter was referred to DOAH and assigned Case No. 16-1137BID. Because Grove Manor agreed that its score should be adjusted downward, HTG is the next applicant in the funding range and should be awarded tax credits. No party has challenged the scoring of HTG's application.
- b) In a separate formal written protest to the same RFA, Redding Development Partners, LLC (Redding), which was not awarded tax credits due to a higher lottery number, challenged the number of points given Grove Manor, The Pines, Grand Palms, and Madison Palms. It also challenged the score of Brownsville, which was not awarded tax credits but ranked ahead of Redding due to a lower lottery number. The two cases were consolidated by Order dated March 1, 2016. Redding contends that Brownsville, which has a lower lottery number, should have been deemed ineligible or assigned a lower score so that it would no longer be in the funding range.
- c) Madison Palms and Grove Manor agreed that they are either ineligible or out of the funding range. Madison Palms agreed that the public bus stop identified in its application is not a public bus stop as defined in the RFA, which results in a loss of proximity points and renders it ineligible for funding. Also, Grove Manor agreed that the public school identified in its application is not a public school as defined in the RFA, resulting in a loss of proximity points. While still eligible, Grove Manor is no longer in the funding range. HTG is now ranked as the next eligible applicant for funding.
- d) In order for Redding to be awarded credits, it must establish that at least one of its remaining targets (Grand Palms, Brownsville, and The Pines) is ineligible or should be assigned fewer points. No party has challenged the scoring of Redding's application.

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- e) Redding has challenged the number of proximity points awarded to The Pines for proximity to a medical facility and public school, Grand Palms for proximity to a pharmacy, and Brownsville for proximity to a public bus transfer stop. The Development Location Point (DLP) is representative of where the development is located and must be on or within 100 feet of an existing residential building or a building to be constructed. The distance from the DLP to the selected service is how the proximity points are awarded. The coordinates for the services must "represent a point that is on the doorway threshold of an exterior entrance that provides direct public access to the building where the service is located" (RFA pg. 25). Redding contends that the coordinates for certain services selected by The Pines, Grand Palms, and Brownsville are not on the doorway threshold.
- f) Redding challenged the proximity score for The Pines' Medical Facility and Public School alleging that the Pines' coordinates for its Medical Facility and Public School were not on the threshold of the entrance that provides direct public access. Redding also challenged the proximity score for Grand Palms' selected Pharmacy alleging that the coordinates provided were not on the threshold of the entrance that provides direct public access. Grand Palms provided evidence demonstrating that its surveyor made an error on the Surveyor Certification Form in regards to the coordinates of its Pharmacy, but that such error did not affect the distance of the Pharmacy from the DLP.
- g) Redding challenged the eligibility of Brownsville's application for failure to provide a DLP that complies with the DLP requirements for a Scattered Site. Brownsville's proposed development is a "Scattered Site" as defined by Florida Housing's Rules. The RFA requires that "[f]or a Development which consists of Scattered Sites, [the Development Location Point] means a single point on the site with the most units that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development." (RFA pg. 25). The development site for the proposed Brownsville development consists of two parcels divided by a publicly-maintained road. The RFA also requires that coordinates for a Public Bus Transfer Stop "must represent the location where passengers may embark and disembark the bus..." (RFA pg. 25). Redding alleged that the coordinates provided by Brownsville for its Public Bus Transfer Stop were not on embark/disembarkation point.

2. Present Situation

- a) A hearing was conducted on March 23, 2016, before Administrative Law Judge D.R. Alexander, at the Division of Administrative Hearings in Tallahassee, Florida. The parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order on April 19, 2016. The Recommended Order recommended the following disposition:

The Pines:

1. Doorway threshold coordinates for its Medical Facility and Public School is found to be a **minor irregularity**.

Grand Palms:

2. Doorway threshold coordinates for its Pharmacy is found to be a **minor irregularity**.

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Brownsville Manor:

3. Embark/Disembark location coordinates for its Public Bus Stop is found to be a **minor irregularity**.
4. Development Location Point coordinate provided is found to be an **error that is material and non-waivable and awarding points under these circumstances would be clearly erroneous and give Brownsville a competitive advantage over the other applications**.

Grove Manor:

5. The Public School selected is for special needs students and not a school whose admission criteria is based on geographic proximity and does not meet the requirements specified in the RFA.

Madison Palms:

6. The Public Bus Stop selected does not meet the requirements specified in the RFA.

- b) It is recommended that Florida Housing Finance Corporation enter a final order rescinding the preliminary award to Grove Manor Phase I, Ltd. and Madison Palms, Ltd.; determining that Brownsville Manor, LP, is ineligible for funding; and designating HTG Hammock Ridge, LLC, and Redding Development Partners, LLC, as the recipients of tax credits being made available for developments in RFA 1015-106. A copy of the Recommended Order is attached as [Exhibit A](#).
- c) Brownsville filed three Exceptions to the Recommended Order on April 25, 2016. A copy of Brownsville's Exceptions are attached as [Exhibit B](#). Both Redding and Florida Housing filed Joint Responses to the Exceptions on May 2, 2016. A copy of Redding and Florida Housing's Joint Responses to Exceptions are attached as [Exhibit C](#).

3. **Recommendation**

- a) Staff recommends that the Board adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with such decisions.