

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

January 24, 2003

Informational Items



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I. FISCAL

A. Operating Budget Analysis for November 2002

1. Background/Present Situation

- a) The Financial Analysis for November 30, 2002, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending November 30, 2002, is attached as [Exhibit B](#).

GUARANTEE PROGRAM

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II. GUARANTEE PROGRAM

A. Review of Pre-Applications for Hibiscus Pointe and Alhambra Cove

1. Background

- a) Qualified Lending Institutions interested in applying for credit enhancement through the Guarantee Program are encouraged to complete the Guarantee Program Pre-Application Summary.
- b) The Housing Finance Authority of Miami-Dade County (a Qualified Lending Institution) submitted Pre-Application Summaries requesting Guarantee Program credit enhancement for the proposed Hibiscus Pointe and Alhambra Cove developments.

2. Present Situation

The Guarantee Program, along with TIBOR Partners, Inc., will be conducting a review of the Pre-Applications and will seek discussion with and guidance from the Committee, as needed.

Project	Developer	Lender	Project Type	Corp. Programs	Set-Aside	Units	Estimated Mortgage Amt.
Hibiscus Pointe	Cornerstone Group	HFA of Miami-Dade County	New Construction	Housing Credits	40% @ 60%	212	\$9,970,000
Alhambra Cove	Cornerstone Group	HFA of Miami-Dade County	New Construction	Housing Credits	40% @ 60%	240	\$11,840,000

B. Vestcor Realty Management, Inc. Ownership Change

1. Background

Vestcor Realty Management, Inc. ("VRM") is currently responsible for managing several multifamily rental developments credit enhanced by the Guarantee Program and developed by Vestcor Development Corporation, Inc. These properties include Holly Cove, Leigh Meadows, Riley Chase, Logan Heights and Noah's Landing (the "Properties"). John D. Rood is the majority interest owner of VRM. VRM has maintained a satisfactory record of managing these Properties.

GUARANTEE PROGRAM

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2. **Present Situation**

- a) The Guarantee Program has recently been notified of VRML's intent to sell the interest in its management company to CALEX Realty Group, Inc., a newly-formed management company. Cynthia A. Lucas, senior vice president for VRM, will be the sole owner of the new management company. CALEX represents that it will be making few, if any, personnel changes. Thus, the sale of the management company to CALEX is viewed by Guarantee Program staff as primarily a name change, with no significant changes in the overall management practice. Guarantee Program staff views this change as beneficial to the Properties. The Guarantee Program has, therefore, accepted CALEX to manage the Properties, to become effective upon CALEX obtaining all requisite consents and execution of the legal documents effectuating the ownership transfer. A transfer in the ownership interest of a Florida Housing approved management company to a management company owned by a senior vice president of the Florida Housing approved management company does not require Board approval.

C. **Guarantee Program Capacity ([Exhibit A](#))**

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III. LEGAL

A. Ybor III, Ltd. v. Florida Housing Finance Corporation

Developer: Citizens Housing Development Co. – Tom McMullen

1. Background

On November 29, 2001, Petitioner, Ybor III, Ltd. (“Ybor”) filed a Notice of Administrative Appeal with the First District Court of Appeal. Ybor is appealing Florida Housing’s dismissal of its petition that challenged the scoring of a competitor’s application in the 2001 Combined Cycle. All briefs have been filed. Ybor has requested oral argument.

2. Present Situation

Oral Argument has been set for February 19, 2003 at 9:00 a.m.

B. Bank of America, FSB v. Tower Place Apartments Limited, et al.

Developer: Tower Place Apartments Limited and Southern Development Partners, LLC – Walter McGill, Jr.

1. Background

On October 2, 2001, Plaintiff, Bank of America, served a lawsuit on Florida Housing. Bank of America filed the lawsuit in the Circuit Court in Duval County and seeks to foreclose the mortgage on the development known as Tower Place Apartments. The complaint also requests an action on the note and an action to foreclose the security interest. Tower Place Apartments, Ltd., failed to make the principal and interest payment due on May of 2001 and failed to repay the loan at maturity, which was August 10, 2001. Florida Housing allocated \$380,000.00 in low-income housing tax credits for this development. First Housing was the credit underwriter for the allocation of the housing credits issued by virtue of an Extended Low-Income Housing Agreement dated December 28, 1999. Florida Housing filed its answer to the Complaint on October 12, 2001. On November 26, 2001, the Circuit Court granted Bank of America’s Motion to Require Deposit of Rents. On March 13, 2002, the Circuit Court entered an Order Setting Case for Non-Jury Trial and for Pretrial Conference. The Pretrial Conference is set for April 12, 2002, the Non-Jury Trial is set for May 8, 2002. On March 28, 2002, Tower Place filed a Notice of Pending Chapter 11 Reorganization. On April 15, 2002, Bank of America filed a Motion to Dismiss the bankruptcy. A hearing was held and a Motion for Summary Judgment was submitted by Bank of America. An Order granting the Motion for Summary Judgment was entered on August 6, 2002.

2. Present Situation

Once the Certificate of Title has been issued, Florida Housing’s Compliance Department will receive a copy of the Certificate and an IRS Form 8823 will be issued to inform the IRS that the property is no longer a tax credit property.

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C. **The State of Florida, Department of Transportation v. Aloma Bend, Inc., et al.**

Developer : T. V. Spano

1. **Background**

- a) On December 30, 1997, Aloma Bend, Inc. (“Aloma”) closed its Multi-Family Mortgage Revenue Bond loan. Florida Housing allocated \$15,500,000.00 in Multi-Family Mortgage Revenue Bond Program funds for this development.
- b) On November 21, 2000, Plaintiff, The State of Florida, Department of Transportation (“DOT”), filed a Petition in eminent domain to condemn a portion of Aloma’s property in the Circuit Court of Seminole County, Florida, seeking to take a portion of the property for widening the road adjacent to the development known as Barrington Place.
- c) On January 25, 2002, Florida Housing filed its Response and Petition for Distribution of Funds.
- d) On January 25, 2002, Florida Housing filed a Motion to Withdraw Funds with Respect to Parcel #158 and #838.
- e) On February 14, 2002, the Circuit Court of Seminole County, Florida, issued an Order Setting the trial date for April 29, 2002.

2. **Present Situation**

Florida Housing is monitoring the litigation.

D. **Ybor III, Ltd. v. Florida Housing Finance Corporation**

Developer: Citizens Housing Development Co. – Tom McMullen

1. **Background**

- a) On October 11, 2001, Petitioners, Creative Choice Homes, XI, Ltd. and Tidewater Revitalization, Ltd. (“Creative and Tidewater”) and Ybor, III, Ltd. (“Ybor”) filed challenges to the validity of Rule 67-48.005, Florida Administrative Code, which did not allow applicants to contest another applicant’s score. The Division of Administrative Hearings consolidated these cases. In October of 2001, Florida Housing’s Motion to Dismiss was denied. The parties drafted language for consideration in the 2002 Universal Application Cycle to address Petitioner’s concerns by amending Rules 67-48.005 and 67-21.0035, Florida Administrative Code. Notices of Proposed Rule Development were published in the Florida Administrative Weekly on February 15, 2002.

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- b) The rule amendments approved by the Board at the August meeting were filed for adoption on September 18, 2002 and became effective on October 8, 2002. During its review, the Joint Administrative Procedures Committee (“JAPC”) commented on some of the terminology used in the rules. Due to rulemaking deadlines, JAPC agreed that Florida Housing may address the committee’s concerns by filing a Notice of Rulemaking which implements the JAPC comments. The rules have been revised and Notices of Change (“NOC”) have been prepared. With the approval of the Board, the NOCs were filed with the Florida Administrative Weekly (FAW) for publication and with the Joint Administrative Procedures Committee (JAPC) for approval. On October 15, 2002, Petitioners, Creative and Tidewater, filed a Notice of Voluntary Dismissal of the rule challenge. On December 23, 2002, Ybor filed a Status Report and requested to hold this case in abeyance until March 15, 2003.

2. Present Situation

The Division of Administrative Hearings issued an order holding this case in abeyance until March 17, 2003.

E. In Re: 2002 Homeownership Program Petitions – HOME and HAP

1. Background

All of the Applicants timely submitted applications to Florida Housing for the award of HOME/HAP funds in the 2002 Homeownership program. Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. All applicants had until November 21, 2002 to file a petition contesting the application scores.

2. Present Situation

Informal hearings regarding four (4) of the applications are scheduled for January 23, 2003.

F. In Re: 2002 Universal Cycle

1. Present Situation

- a) Cases referred to the Division of Administrative Hearings:
 - (1) Fifth Avenue Estates, Ltd. – A status report is due on January 31, 2003, at which time the case will be set for hearing.
 - (2) Florida Low Income Housing Associates, Inc. (There are three cases which have been consolidated: Magic Lake Villas – Ranking and Scoring dispute/Magnolia Village – Ranking dispute) – Set for hearing on February 25, 2003.
- b) Final Orders on appeal with the First District Court of Appeal:
 - (1) Brisben Tierra Bay Limited Partnership – The Initial Brief of Appellant is due January 17, 2003.

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Informational

- (2) Tidewater Revitalization, Ltd. – The Initial Brief of the Appellant was due January 2, 2003.

G. Seminole County, et al. v. TWC Ninety-Five, Ltd., et al. (Windchase Apartments)

Developer : TWC NINETY-FIVE, LTD.

1. Background

- a) On May 15, 1997, TWC Ninety-Five, Ltd. (“TWC”) closed its loan. Florida Housing allocated \$15,100,000 in Housing Revenue Bonds (1997 Series C) funds for this development.
- b) On October 28, 2002, Plaintiff, Seminole County, filed a Petition in eminent domain to condemn a portion of TWC Twenty-Five, Ltd.’s property in the Circuit Court of Seminole County, Florida, seeking to take a portion of the property for widening the road adjacent to the development known as Windchase Apartments.
- c) Section 11 of the Land Use Restriction Agreement requires that the proceeds of any condemnation be deposited with the Trustee.

2. Present Situation

- a) Florida Housing is monitoring the litigation.

H. In re: City of Cocoa SHIP Program

1. Background

- a) In February 1999, a routine inspection of the City of Cocoa’s SHIP program revealed a pattern of poor record keeping. Software designed and provided to track SHIP expenditures was not being used. The documentation maintained by the City did not support the data presented in the corresponding annual report required by Section 420.9075, Florida Statutes, in that the amounts of expenditures found in local documents did not match the amounts reported. The staff was re-trained on the use of the tracking software and assured the Corporation that the software would be used in the future to accurately track SHIP expenditures, and reminded that SHIP expenditures should be tracked by SHIP fiscal years.
- b) On December 19, 2001, another routine SHIP program review and physical inspection was conducted on the City of Cocoa. This review and inspection revealed numerous violations and unsatisfactory conditions, including, but not limited to: recipient files missing important documentation including Income Certifications, Inspection Reports, Closing Statements, Award Letters and Purchase Contracts; inability to specifically identify or track more than one of ten SHIP recipient award expenditures; undated SHIP award applications; missing information to calculate monthly mortgage affordability (8 files); incorrectly performed income verifications; and, expenditures not tracked by SHIP fiscal year.

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- c) The Community Development Department of the City of Cocoa responded to the results of the review and inspection on February 1, 2002, attached as [Exhibit "A"](#) stating that the deficiencies listed above, and others not listed, had all been corrected or were due to misunderstandings that had been resolved.
- d) A follow-up review and investigation was conducted on March 19, 2002. Despite assurances that the previous problems had been addressed, substantially the same deficiencies that had been found during the December 19, 2001 review and inspection were still in evidence. The City had no method to track SHIP expenditures in place, and program personnel had no plans to provide the missing information from SHIP recipient files, despite clearly stating otherwise in the February 1, 2002, response.
- e) The City responded to this follow-up report on April 8, 2002 attached as [Exhibit "B"](#), stating that it would be difficult if not impossible to bring the deficient files into compliance, but that all new files would be properly documented. The City also stated that a copy of the SHIP Automated Tracking System software had been located, installed, and was being used to track expenditures, and that contact had been made with the Housing and Finance Coalition to schedule Technical Assistance Training to ensure adequate data collection and reporting.
- f) Another visit was conducted on June 4, 2002, to further monitor the program's progress towards correcting the above deficiencies and to provide technical assistance. The City had improved its record keeping practices, but still failed to track SHIP expenditures by SHIP fiscal year, and that although the tracking software was found on an office computer, it had not been updated in several years. The SHIP Administrator was unaware of how much money was available in any of the open SHIP fiscal years.
- g) The deficiencies described above establish a pattern of violation of the criteria for a local housing assistance plan established under Sections 420.907 – 420.9079, Florida Statutes, and Chapter 67-37, Florida Administrative Code.
- h) Accordingly, payment of SHIP funds to the City of Cocoa was suspended, effective August 22, 2002, until such time as the City demonstrates correction of the above deficiencies and complete compliance with the requirements of Chapter 420, Part VII, Florida Statutes, and Chapter 67-37, Florida Administrative Code. A copy of the letter is attached as [Exhibit "C."](#)
- i) The City of Cocoa responded on November 8, 2002 Attached as [Exhibit "D."](#) with proposed solutions for its SHIP program. Florida Housing replied with requests for further information regarding the practicality and funding sources for the plan, as well as for a response to several unanswered items in the August 22, 2002, letter of suspension.

2. Present Situation

Florida Housing replied to Cocoa's response on January 8, 2002, attached as [Exhibit "E."](#)

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I. In re: Monroe County SHIP Program

1. Background

- a) A SHIP Program Review and Physical Inspection of the Monroe County SHIP program was conducted on October 22-24, 2002.. The report resulting from this review is attached hereto as [Exhibit "F."](#) This report includes unsatisfactory findings regarding the documentation of files and records, applications and processing, income verification, income certification (both home ownership and rental), rental development records, down payment and closing cost assistance, new construction, rehabilitation or emergency repairs and recipient file discrepancies. The report also noted unsatisfactory administrative procedures, including annual report submission, organization and supervision, staffing, operating procedures and manuals and training. As a result, the overall rating of the SHIP Program Review was determined to be unsatisfactory.
- b) The deficiencies identified in the attached report constitute a pattern of violation of the criteria for a local housing assistance plan established under Sections 420.907 – 420.9079, Florida Statutes, and Chapter 67-37, Florida Administrative Code. Accordingly, all SHIP fund disbursements from the Florida Housing Finance Corporation to Monroe County, Florida were suspended, effective December 5, 2002, and continuing until such time as the County demonstrates correction of the identified deficiencies and complete compliance with the requirements of Chapter 420, Part VII, Florida Statutes and Chapter 67-37, Florida Administrative Code. A copy of Florida Housing's letter is attached as [Exhibit "G."](#)
- c) The Monroe County SHIP program filed a response on December 16, 2002 attached as [Exhibit "H."](#) which was non-responsive to the letter of December 5, 2002.

2. Present Situation

Florida Housing replied to Monroe County's response on January 7, 2003, attached as [Exhibit "I."](#)

MULTIFAMILY BONDS

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IV. MULTIFAMILY BONDS

A. The Transfer of Ownership of a small parcel of property on the site of Victoria Park Apartments, 2002 Series J, \$19,400,000, Tax-Exempt Bonds and \$4,400,000, Taxable Bonds, 520 Units, Jacksonville, Duval County, Florida

1. Background

- a) In 1983 and 1984, Florida Housing financed the construction of Mandarin Oaks I, Mandarin Oaks Phase II and Mandarin Place (collectively Oaks at Mandarin) Apartments with \$8,825,000, \$5,125,000, \$5,420,000, respectively, in tax-exempt bonds, designated as 1983 Series A, D, and 1984 Series B, respectively.
- b) In 1988, Florida Housing approved the refunding of the bonds for Oaks at Mandarin, Phases I, II and III, with \$8,825,000, \$5,125,000, \$5,420,000 in tax-exempt bonds respectively, designated as 1988 Series A, E, and F.
- c) In 2002, Florida Housing approved the refunding of the bonds for Victoria Park Apartments (formerly Oaks at Mandarin, Phases I, II and III), with \$19,400,000, in tax-exempt bonds, designated as 2002 Series J.

2. Present Situation

- a) Florida Housing received a letter dated November 15, 2002, requesting permission to transfer a minor encroachment of an adjoining structure on an open area of the development. This minor encroachment is approximately 271 feet long by 30 feet wide. The encroaching neighbor has agreed to purchase this small portion of the property for \$30,000. This letter is attached as [Exhibit A](#).
- b) The proposed transaction will be reviewed by the Credit Underwriter, Bond Counsel, Special Counsel, Disclosure Counsel, Credit Enhancer and the appropriate Florida Housing staff.

B. The Refunding of Fairmont Oaks Apartments (1989 Series E), \$8,020,000, Alachua County, (178 Units)

1. Background

- a) Florida Housing issued the bonds for Fairmont Oaks Apartments (1985 Series Z) in the amount of \$8,020,000. The Bonds were refunded in 1989 (1989 Series E) and remarketed in July of 1996.
- b) Florida Housing approved and executed a transfer of partnership interest in Fairmont Oaks Limited Partnership and a substitution of credit enhancement in September of 2002.

2. Present Situation

- a) Florida Housing received a letter dated January 02, 2003 ([Exhibit B](#)) requesting initiation of the process to approve the refunding of Fairmont Oaks Apartments.

MULTIFAMILY BONDS

Informational

- b) The Owner intends to extend the Qualified Project Period for a period of ten years beyond the period required by federal tax law and intends to set aside an additional 10% of the developments units for lower income tenants.
- c) The Credit Underwriter, Bond Counsel and the appropriate Florida Housing Staff are evaluating the request for consideration by the Board at a future meeting.

C. Modification of the Trust Indenture on Iona Lakes Apartments (2000 Series B), Lee County (350 Units)

1. Background

Florida Housing issued the bonds for Iona Lakes Apartments (1985 Series Y) in the amount of \$17,400,000. The Bonds were refunded in 1989 (1989 Series D) in the amount of 17,155,000 and again in 2000 (2000 Series B) in the amount of 17,155,000.

2. Present Situation

- a) Florida Housing received a letter dated January 06, 2003 ([Exhibit C](#)) requesting a modification of the Trust Indenture to extend the current term of the initial fixed rate period to a date approximately ten years in the future.
- b) The Credit Underwriter, Bond Counsel and the appropriate Florida Housing Staff are evaluating the request for consideration by the Board at a future meeting.

D. Vestcor Realty Management, Inc. Ownership Change

1. Background

Vestcor Realty Management, Inc. ("VRM") is currently responsible for managing several multifamily rental developments credit enhanced by the Guarantee Program and developed by Vestcor Development Corporation, Inc. These properties include Holly Cove, Leigh Meadows, Riley Chase, Logan Heights and Noah's Landing (the "Properties"). John D. Rood is the majority interest owner of VRM. VRM has maintained a satisfactory record of managing these Properties.

2. Present Situation

The Guarantee Program has recently been notified of VRM's intent to sell the interest in its management company to CALEX Realty Group, Inc., a newly-formed management company. Cynthia A. Lucas, senior vice president for VRM, will be the sole owner of the new management company. CALEX represents that it will be making few, if any, personnel changes. Thus, the sale of the management company to CALEX is viewed by the Multifamily Bond staff and the Guarantee Program staff as primarily a name change, with no significant changes in the overall management practice. The Multifamily Bond staff and the Guarantee Program staff views this change as beneficial to the Properties. The Multifamily Bond Program and the Guarantee Program have, therefore, accepted CALEX to manage the Properties, to become effective upon CALEX obtaining all requisite consents and execution of the legal documents effectuating the ownership transfer.

SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM

Informational

V. SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM

A. 2002 1-3 Single-Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On April 26, 2002, the Board authorized issuance of the 2002 Series 1, 2, and 3 Bonds. The origination period began on November 8, 2002.
 - (1) Lendable proceeds totaling \$50,689,250 are currently originally offered at an interest rate of 5.92%.
 - (2) Special targeting is as follows:
 - (a) \$1,520,677 was set aside for purchases in HOPE VI and Front Porch Communities. The interest rate is 4.99%.
 - (b) \$3,041,355 was set aside for purchases in Urban Infill and Targeted Areas. The interest rate is 4.99%.
 - (c) \$506,411 was set aside for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program. The interest rate is 4.99%.

- b) As of January 6, 2003, the following activity was reported:

Allocation Pool	Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	32,120,806	6,573,866	78	25,546,940	20.5%
Builder	13,500,000	4,131,981	45	9,368,019	30.6%
Urban Infill	3,041,355	3,031,295	43	10,060	99.7%
HOPE VI/ Front Porch	1,520,677	148,189	2	1,372,488	10%
RD Self Help	506,411	444,262	6	62,149	87.7%
HAP D/P	Pooled	853,000	85	Pooled	N/A
Home Loans	Pooled	1,046,200	70	Pooled	N/A
Fannie Mae	Pooled	5,000	1	295,000	N/A

SHIP

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VI. SHIP PROGRAM

A. Local Housing Assistance Plans

1. Background

To receive SHIP funds, a local government must submit a Local Housing Assistance Plan for approval by the Corporation's SHIP Review Committee. These plans have a minimum effective date of one state fiscal year and a maximum of three state fiscal years. A local government may amend its plan to add or delete strategies consistent with SHIP Program requirements.

2. Present Situation

- a) By May 2, 2003, twenty-seven (27) local governments are required to submit new Local Housing Assistance Plans to maintain eligibility to receive SHIP funds.
- b) One (1) local government has submitted and received approval with comments of their Local Housing Assistance Plan.

B. Local Housing Assistance Program Annual Reports

1. Background

Annually, by September 15, a county or eligible municipality participating in the SHIP Program must submit a report of its local affordable housing program accomplishments, fund expenditure and leveraging, using forms provided by the Corporation per Section 420.9075(9), Florida Statutes. The annual reports document the local government's compliance with program requirements and must be timely and correctly filed as a condition of receiving funds.

2. Present Situation

- a) The reports were due to the Corporation by September 15, 2002 to cover activities and expenditures for state fiscal years 1999-2000 (close out reports as of 6/30/02), fiscal year 2000-2001 and fiscal year 2001-2002 (interim reports as of 06/30/02).
- b) Currently, annual reports have been received from all local governments.
- c) Nine (9) local governments have expenditure extensions for fiscal year 1999-2000 funds: City of Gainesville, City of Pompano Beach, City of Fort Lauderdale, City of Tallahassee, Flagler County, Jefferson County, Leon County, Marion County and Osceola County.

C. Chapter 67-37, F.A.C., Rulemaking

1. Background

Due to legislative changes, SHIP staff has initiated Rulemaking to revise the Florida Administrative Code. Notice of Proposed Rule Development was published in the

SHIP

Informational

Florida Administrative Weekly on September 27, 2002, which provided Rule Development Workshop dates of October 15, 2002 and October 17, 2002.

2. Present Situation

- a) Currently, comments are being received from the above referenced workshops and interested parties.
- b) After incorporating changes to the Rule, a Notice of Proposed Rulemaking and Rule Hearing will be published in the Florida Administrative Weekly. The strikethrough version of the Rule will be made available to interested parties through our web site at www.floridahousing.org.
- c) Following the Rule hearing, a Notice of Change or Notice of No Change will be provided to the Board for consideration prior to filing the Rule for adoption.

D. Financial Status

1. Background

Created in 1992 by the William E. Sadowski Affordable Housing Act, SHIP is funded with proceeds of the documentary stamp tax on recorded deeds deposited into the Local Government Housing Trust Fund.

2. Present Situation

- a) Total SHIP disbursements to the local governments to date are \$107,819,584.70.
- b) Total SHIP allocation due to the local governments is \$50,623,960.30.
- c) Total SHIP disaster relief funding expected to be available to the local governments is \$5,000,000.00.