

**FLORIDA HOUSING FINANCE CORPORATION**

**Board Meeting**

March 7, 2003

**Information Items**



**FISCAL**  
*Informational*

**I. FISCAL**

**A. Operating Budget Analysis for December 2002**

**1. Background/Present Situation**

- a) The Financial Analysis for December 31, 2002, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending December 31, 2002, is attached as [Exhibit B](#).

**B. Operating Budget Analysis for January 2003**

**1. Background/Present Situation**

- a) The Financial Analysis for January 31, 2003, is attached at [Exhibit C](#).
- b) The Operating Budget for the period ending January 31, 2003, is attached as [Exhibit D](#).

# GUARANTEE PROGRAM

## *Informational*

### II. GUARANTEE PROGRAM

#### A. Review of Application for Guarantee Program Credit Enhancement for Harbour Cove

##### 1. Background

- a) Qualified Lending Institutions interested in applying for credit enhancement through the Guarantee Program are encouraged to complete the Application for Credit Enhancement (“Application”).
- b) The Housing Finance Authority of Broward County (a Qualified Lending Institution) recently submitted an Application for Harbour Cove.

##### 2. Present Situation

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

<b>Project</b>	<b>Developer</b>	<b>Lender</b>	<b>Project Type</b>	<b>Corp. Programs</b>	<b>Set-Aside</b>	<b>Units</b>	<b>Estimated Mortgage Amt.</b>
Harbour Cove	Cornerstone Group	HFA of Broward County	New Construction	Housing Credits	40% @ 60%	212	\$14,325,000

Guarantee Program Capacity ([Exhibit A](#))

## LEGAL

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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 was held on February 19, 2003.

#### 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 complaint on Florida Housing in the Circuit Court in Duval County seeking to foreclose the mortgage and security interest on the development known as Tower Place Apartments. 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. An Order Closing File was issued by the Court on February 4, 2003.

##### 2. Present Situation

As a result of the Order granting the Motion for Summary Judgment, Tower Place maintains possession of the property and the Bank of America loan has an outstanding balance of \$3,136,684.66, with accrued costs and interest.

## LEGAL

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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 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 March 31, 2003. Fifth Avenue has filed a Petition for Rule Waiver based on the same issue. The Petition has been noticed in the Florida Administrative Weekly, and will come before the Board at its May meeting.
  - (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 Appellant filed a Notice of Dismissal of Administrative Appeal on January 17, 2003. An Order Dismissing the case was issued by the First District Court of Appeal on January 28, 2003. This case is now closed.
  - (2) Tidewater Revitalization, Ltd. – The Initial Brief of the Appellant was due January 2, 2003. The Appellant filed a motion for extension of time to file the Initial Brief on January 17, 2003. The motion for extension of time was granted and the Initial Brief is now due on April 18, 2003.

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#### F. 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.
- d) No trial date is set.

##### 2. Present Situation

Florida Housing is monitoring the litigation.

#### G. 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. (See [Exhibit "A"](#) from the January 24, 2003 Information Package) 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 (See [Exhibit "B"](#) from the January 24, 2003 Information Package), 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 completes compliance with the requirements of Chapter 420, Part VII, Florida Statutes, and Chapter 67-37, Florida Administrative Code, (See [Exhibit "C"](#) from the January 24, 2003 Information Package).
- i) The City of Cocoa adopted a new LHAP by ordinance attached with Cocoa's letter as [Exhibit "D."](#)

## 2. **Present Situation**

Funding was reinstated by letter dated February 17, 2003, see attached [Exhibit "E."](#)



## LEGAL

### *Informational*

#### H. 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." (See [Exhibit "F"](#) from the January 24, 2003 Information Package). 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 constituted 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. (See [Exhibit "G"](#) from the January 24, 2003 Information Package).
- c) Florida Housing released the December 2002, January and February 2003 payments to Monroe County on February 11, 2003.

##### 2. Present Situation

- a) Monroe County has reorganized the administration of its SHIP Program and agreed to additional monitoring during 2003. Florida Housing released the retained December and January SHIP payments, and delivered the February funds on February 11, 2003. Funding was reinstated by letter dated February 17, 2003, see attached Exhibit "H."

# PREDEVELOPMENT LOAN PROGRAM

## *Informational*

### IV. PREDEVELOPMENT LOAN PROGRAM

#### A. Withdrawal of PLP Applications from the 1998 PLP Program

##### 1. Background

The 1998 PLP program has several applicants that have remained as funded participants or on the waiting list. These applicants submitted applications in two competitive cycles. The developments that received an invitation into the program were required to have a market and feasibility analysis performed and have drawn funds. The developments on the waiting list have not drawn funds.

##### 2. Present Situation

All applicants invited into the 1998 PLP program or that remain on a waiting list have been contacted to determine the status of their developments. The following applicants have decided for various reasons not to proceed with their development and have submitted a notice of withdrawal from the program:

PLP #	Development Name	Developer	Date of Withdrawal
98-038	Fountainhead Apartments	Housing Corporation of America	1/21/2003
98-039	Marion Manor	Catholic Charities	1/21/2003
98-003	Homes for New Beginnings	Grand Avenue CDC	12/10/2002
98-044	Senior Plaza II	Key West HA	1/6/2003
98-045	Bahama	Key West HA	1/6/2003
98-006	Country Place	Affordable Housing Ventures	12/23/2002
98-015	La Barron	Monroe County HA	1/6/2003
98-040	Crosstown Apartments	Affordable Housing Foundation	9/24/2002
98-042	Monroe County	Monroe County HA	1/6/2003
98-046	Poinciana	Key West HA	1/6/2003

#### B. Withdrawal of Meadow Glen (PLP 00-009) PLP Development from the 2000 PLP Program

##### 1. Background

On April 23, 2001, Florida Housing invited Meadow Glen, Inc. to participate in the 2000 PLP program for Meadow Glen (PLP 00-009). On April 26, 2002, the Board approved a loan of \$47,436 for Meadow Glen.

##### 2. Present Situation

Meadow Glen, Inc. encountered problems in the acquisition phase of the development and submitted a notice of withdrawal on December 9, 2002.

**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.
- b) Lendable proceeds totaling \$50,689,250 are currently originally offered at an interest rate of 5.92%.
- c) Special targeting is as follows:
  - (1) \$1,520,677 was set aside for purchases in HOPE VI and Front Porch Communities. The interest rate is 4.99%
  - (2) \$3,041,355 was set aside for purchases in Urban Infill and Targeted Areas. The interest rate is 4.99%.
  - (3) \$506,411 was set aside for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program.
  - (4) The interest rate is 4.99%.
- d) As of February 11, 2003, the following activity was reported:

Allocation Pool	Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	32,120,806	12,183,650	140	19,937,176	37.9%
Builder	13,500,000	533,360	6	12,966,640	3.9%
Urban Infill	3,041,355	2,978,280	45	63,075	97.9%
HOPE VI /Front Porch	1,520,677	538,408	8	982,269	35.4%
RD Self Help	506,411	491,233	7	15,178	97.0%
HAP D/P	Pooled	1,365,050	141	4,634,950	N/A
Home Loans	Pooled	1,433,700	96	889,124	N/A
Fannie Mae	Pooled	5,000	1	295,000	N/A

## SHIP PROGRAM

### *Informational*

#### 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) Eight (8) local governments have expenditure extensions for fiscal year 1999-2000 funds: City of North Miami, City of Pompano Beach, Flagler County, Hillsborough County, Jefferson County, Leon County, Marion County and Osceola County.

# SHIP PROGRAM

## *Informational*

### C. Chapter 6737, F.A.C., Rulemaking

#### 1. Background

- a) Due to legislative changes, SHIP staff has initiated Rulemaking to revise the Florida Administrative Code. Notice of Proposed Rule Development was published in the 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) In anticipation of proposed legislative changes during the 2003 legislative session, Rulemaking is currently on hold. After the legislative session is complete, Rulemaking will commence.
- c) 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](http://www.floridahousing.org)
- d) 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

- a) 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 in the Local Government Housing Trust Fund.
- b) The state fiscal year 2002-2003 total appropriation available for the SHIP Program is \$163,443,545, with an anticipated set-aside of \$5,000,000 for disaster relief. The current available funding is \$158,443,545.

#### 2. Present Situation

- a) Total SHIP disbursements to the local governments to date are \$141,883,961.57.
- b) Total SHIP allocation due to the local governments is \$16,559,583.43. Total SHIP disaster relief funding expected to be available to the local governments is \$5,000,000.00.

## UNIVERSAL CYCLE

### *Informational*

#### VII. UNIVERSAL CYCLE

##### A. 2003 Universal Cycle

###### 1. Background/Present Situation

- a) Florida Housing staff held Application workshops on February 13 and 14, 2003, in Tallahassee to provide information about the Universal Application and the 2003 Universal Cycle, and to address questions concerning the Application and the electronic application process.
- b) Persons planning to apply for the first time or who are unfamiliar with the Universal Application process were encouraged to attend the February 13<sup>th</sup> workshop, where Florida Housing staff presented basic information about using the Universal Application. The February 14<sup>th</sup> workshop was oriented toward persons who are familiar with the Universal Application process. At this workshop, Florida Housing staff focused on the changes between the 2002 and 2003 Universal Applications and addressed more advanced topics.
- c) Rule Chapters 67-21 and 67-48, F.A.C., were filed for adoption on February 24, 2003. The 2003 Universal Application cycle opens on February 25, 2003, and is scheduled to close on March 26, 2003.