

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

October 9-10, 2003

Information Items



FISCAL

Informational

I. FISCAL

A. Operating Budget Analysis for August 2003

1. Background/Present Situation

- a) The Financial Analysis for August 31, 2003, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending August 31, 2003, is attached as [Exhibit B](#).

GUARANTEE

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II. GUARANTEE

A. 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

- a) On November 29, 2001, Petitioner, Ybor III, Ltd. (“Ybor”) filed a Notice of Administrative Appeal with the First District Court of Appeal. Ybor appealed Florida Housing’s dismissal of its petition challenging the scoring of a competitor’s application in the 2001 Combined Cycle. Ybor requested oral argument, which was held on February 19, 2003. The Court issued its opinion on April 23, 2003.
- b) The Court found that Ybor had standing to seek an administrative hearing and that Fla. Admin. Code R. 67-48.005 (2001) did not provide a point of entry into the administrative hearing process. The Court remanded the case with directions for Florida Housing to forward Ybor’s petition to the Division of Administrative Hearings for a formal hearing. Rule 67-48.005 Fla. Admin. Code R., as amended in 2002, provides a point of entry for applicant’s to challenge the scoring of another application.
- c) The case was forwarded to the Division of Administrative Hearings for a formal hearing on May 27, 2003. Petitioner’s attorney filed a Motion for Leave to Withdraw as Counsel on June 20, 2003, which was granted on July 1, 2003. Petitioner filed a Motion for Continuance which was granted.

2. Present Situation

On August 12, 2003, the hearing was set for October 21, 2003.

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B. Florida Housing Finance Corporation v. Aloma Bend, Ltd., a Florida limited partnership; Christopher T. Spano, Robert Thollander and Betsy Spano, as Individuals

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. The bond documents provide that the proceeds from any condemnation are to be paid to First Union National Bank, the Trustee.
- 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 March 28, 2002, the Circuit Court entered a Stipulated Final Judgment Including Attorneys Fees and Costs awarding Aloma the total amount of \$235,000 and requiring that Aloma additionally deposit \$51,100 into the registry of the Clerk of Court (“Condemnation Proceeds”).
- d) In April of 2002, Florida Housing requested from Aloma an accounting of the Condemnation Proceeds. The statement provided by Aloma demonstrates that the Condemnation Proceeds were used to repair and pay for expenses at other unrelated properties.
- e) On June 12, 2002, Florida Housing demanded the return of the Condemnation Proceeds to Florida Housing or the Trustee. Aloma has refused to pay Florida Housing or the Trustee and has otherwise failed to perform their obligations under the Loan Agreement and Guaranty.
- f) On April 24, 2003, Florida Housing filed a Complaint in the Circuit Court of Leon County, Florida, requesting that the court enter an Order enforcing the Guaranty and entering a judgment against Aloma and related parties. A copy of the Complaint was attached to the June 20, 2003 informational package as Exhibit A.

2. Present Situation

- a) On June 23, 2003, Aloma filed a Motion to Dismiss Florida Housing’s Complaint as to Thollander, which was denied entirely on August 14, 2003. Aloma and Thollander must now file an answer to the Complaint by September 3, 2003. Defendant Betsy Spano filed a response to the Complaint, moving to dismiss for failure to join an indispensable party, the motion was denied on August 14, 2003. Defendant, Christopher T. Spano, has not yet been served with the Complaint. Florida Housing will continue to monitor the litigation.

LEGAL

Informational

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

Developer - The Wilson Companies; 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) A hearing has been set for May 15, 2003, on the Motion to Allow Withdrawal of Funds filed by TWC on March 28, 2003. Florida Housing filed a Response to the Motion to Allow Withdrawal of Funds by TWC on April 15, 2003.

2. **Present Situation**

Florida Housing is monitoring the litigation.

LEGAL

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D. Fifth Avenue Estates, Ltd. (“Fifth Avenue”) – Petition for Rule Waiver

1. Background

- a) On February 3, 2002, Fifth Avenue filed a Petition for Rule Waiver, seeking a waiver of Rule 67-48.004(14)(k), Fla. Admin. Code, which prohibits an applicant from making any change of the total set-aside commitment of Item III, Section E, Subsection 3, of the 2002 Universal Cycle Application.
- b) On June 20, 2003, the Board denied the Petition.
- c) On June 25, 2003, Fifth Avenue filed its Notice of Appeal, and filed its Initial brief on August 13, 2003; Florida Housing filed a Motion to Strike Appellant’s Initial Brief for relying on matters outside the Record of the case and for failure to cite citations from the Record. The Motion to Strike was granted on September 15, 2003.

2. Present Situation

Fifth Avenue’s Amended Initial Brief was filed on September 17, 2003. Florida Housing’s Reply Brief is due on October 13, 2003. Petitioner has requested oral argument.

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E. In Re: 2003 Universal Cycle

1. Present Situation

- a) Cases referred to the Division of Administrative Hearings:
- (1) Clarcona Hills, LLC – A hearing has been set for November 4, 2003. The parties are exchanging discovery.
 - (2) Riverside Village Partners, Ltd. – A hearing has been set for October 28, 2003. A Joint Motion to consolidate Riverside Village and Provincetown Village cases was filed on September 5, 2003. The parties are awaiting a decision on the consolidation. In the interim, the parties are exchanging discovery.
 - (3) Provincetown Village Partners, Ltd. - A hearing has been set for October 29, 2003. A Joint Motion to consolidate Riverside Village and Provincetown Village cases was filed on September 5, 2003. The parties are awaiting a decision on the consolidation. In the interim, the parties are exchanging discovery.
 - (4) Saxon Crossing Partners, Ltd. - A hearing has been set for October 30, 2003. A Joint Motion to consolidate Saxon Crossing and Saxon Trace cases was filed on September 5, 2003. The parties are awaiting a decision on the consolidation. In the interim, the parties are exchanging discovery.
 - (5) Saxon Trace Partners, Ltd. – A hearing has been set for October 27, 2003. A Joint Motion to consolidate Saxon Crossing and Saxon Trace cases was filed on September 5, 2003. The parties are awaiting a decision on the consolidation. In the interim, the parties are exchanging discovery.

SINGLE FAMILY BONDS

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IV. SINGLE FAMILY BONDS

A. 2003 1-4 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On May 2, 2003, the Board authorized issuance of the 2003 Series 1, 2, 3 and 4 Bonds. The origination period began on June 25, 2003.
- b) Lendable proceeds totaling \$41,032,500 are currently offered at an interest rate of 5.10%.
- c) Special targeting is as follows:
 - (1) \$1,000,000 was set aside for purchases in HOPE VI and Front Porch Communities. The interest rate is 4.50%.
 - (2) \$3,000,000 was set aside for purchases in Urban Infill and Targeted Areas. The interest rate is 4.50%.
 - (3) \$1,000,000 was set aside for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program. The interest rate is 4.50%.
 - (4) On September 15, 2003, Staff authorized Leader Mortgage to combine the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help and Urban Infill).
- d) As of September 18, 2003, the following activity was reported:

Allocation Pool	Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	41,032,500	29,311,820	330	11,720,680	71.4%
Builder	5,000,000	548,322	5	4,451,678	11%
Urban Infill, RD Self Help HOPE VI /Front Porch	5,000,000	2,207,384	29	2,792,616	44.1%
HAP D/P	Pooled	1,794,600	188	Pooled	N/A
HOME Loans	Pooled	1,863,295	125	Pooled	N/A

SINGLE FAMILY BONDS

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B. 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 offered at an interest rate of 5.92%.
- c) Special targeting is as follows:
 - (1) \$1,520,677 was initially set aside for purchases in HOPE VI and Front Porch Communities. The interest rate is 4.99%.
 - (2) \$3,041,355 was initially set aside for purchases in Urban Infill and Targeted Areas. The interest rate is 4.99%.
 - (3) \$506,411 was initially set aside for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program. The interest rate is 4.99%.
 - (4) Effective April 1, 2003, the Board authorized the combination of the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help and Urban Infill).
- d) Staff negotiated with three participants in the Builder program to relinquish unused allocation that could be better utilized in the Spot Pool. As a result, \$5,289,581 was reallocated from the Builder Pool to the Spot Pool.
- e) As of August 25, 2003, the following activity was reported:

Allocation Pool	Amount Allocated	Purchased/Reserved		Amount Available	% Used
		Amount	Number		
Spot Pool	37,410,387	36,468,860	439	941,527	97.5%
Builder	8,210,419	8,085,976	91	124,443	98.5%
Urban Infill, RD Self Help HOPE VI /Front Porch	5,068,443	4,996,917	75	142,336	98.6%
HAP D/P	Pooled	3,465,970	351	Pooled	N/A
HOME Loans	Pooled	3,295,545	221	Pooled	N/A

SINGLE FAMILY BONDS

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- C. **Loan Information/Summary Report** ([See Exhibit A](#))

SHIP PROGRAM

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V. 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 (1) state fiscal year and a maximum of three (3) state fiscal years. A local government may amend its plan to add or delete strategies consistent with SHIP Program requirements.

2. Present Situation

By May 2, 2004, fifty-seven (57) local governments are required to submit new Local Housing Assistance Plans to maintain eligibility to receive SHIP funds.

SHIP PROGRAM

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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 and its funding expenditure and leveraging using forms provided by the Corporation pursuant to Section 420.9075(9), Florida Statutes. The annual reports document the local government's compliance with the Florida Statutes and SHIP 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, 2003 to cover activities and expenditures for state fiscal years 2000-2001 (close out reports as of 6/30/03), fiscal year 2001-2002, and fiscal year 2002-2003 (interim reports as of 06/30/03).
- b) One (1) local government, Marion County, has an expenditure extension for fiscal year 1999-2000 funds.
- c) Seven (7) local governments, City of Cocoa, City of Pembroke Pines, City of Tampa, Putnam County, Alachua County, Marion County and Flagler County, have an expenditure extension for fiscal year 2000-2001 funds.

SHIP PROGRAM

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

1. Background

Due to legislative amendment to Chapter 420.907-9079, Florida Statutes, SHIP staff initiated rulemaking to revise Chapter 67-37 of the Florida Administrative Code. A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 27, 2002, which provided for Rule Development Workshop dates of October 15, 2002 and October 17, 2002.

2. Present Situation

- a) A Rule Hearing was held July 24, 2003.
- b) The proposed Rule was approved by the Board on August 1, 2003.
- c) A Notice of Change was published in the Florida Administrative Weekly with technical and clarifying changes suggested by the Joint Administrative Procedures Committee.
- d) Final adoption of the rule was filed with the Department of State on September 2, 2003, with an effective date of September 23, 2003. All participating jurisdictions will receive a final copy electronically. The final version will be available to interested parties through out web site at www.floridahousing.org.

SHIP PROGRAM

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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 into the Local Government Housing Trust Fund.
- b) The state fiscal year 2003-2004 total appropriation available for the SHIP Program is \$130,886,000.00 with an anticipated set-aside of \$5,000,000.00 for disaster relief and \$129,499.00 for the Housing Data Clearing House. The current available funding is \$125,756,501.00.

2. Present Situation

- a) Total SHIP disbursements to the local governments for fiscal year 2003-2004 to date are \$29,899,403.00.
- b) Total SHIP allocation due to the local governments for fiscal year 2003-2004 is \$95,857,098.00.
- c) Total SHIP disaster relief funding available to the local governments for fiscal year 2003-2004 is \$5,000,000.00.

UNIVERSAL CYCLE

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VI. UNIVERSAL CYCLE

A. 2004 Universal Cycle

1. Background/Present Situation

- a) Staff will begin the rulemaking process by soliciting public comment at a rule development workshop following the Board meeting. A tentative time line for the 2004 cycle will be distributed at the workshop.
- b) An additional rule development workshop is tentatively scheduled for November 18, 2003 in Tallahassee