

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
April 2, 2004
Information Items



FISCAL

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I. FISCAL

A. Operating Budget Analysis for February 2004

1. Background/Present Situation

- a) The Financial Analysis for February 29, 2004, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending February 29, 2004, is attached as [Exhibit B](#).

GUARANTEE

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II. GUARANTEE

A. General Information

1. Background/Present Situation

- a) Notice of Approval of Issuance of Conditional Commitments to Guarantee for Guarantee Program Credit Enhancement of three (3) multifamily bond transactions to be financed by the Florida Housing Finance Corporation.
- b) Pursuant to the expedited processing procedure approved by the Board on March 7, 2002 in connection with the issuance of a Conditional Commitment to Guarantee, the Guarantee Program, on March 19, 2004, issued Conditional Commitment letters to the applicants identified in [Exhibit A](#) for the proposed developments also identified therein. Exhibit A also identifies the anticipated mortgage amount for each proposed development. The issuance of the Conditional Commitments to Guarantee was subject to the electronic distribution to the Board of the Guarantee Program's and TIBOR PARTNERS, Inc.'s recommendation, the expiration of the 72-hour Board review period, and review and approval by Florida Housing's Chief Financial Officer, the Director of Asset Management and Guarantee Program, TIBOR PARTNERS, Inc., and Guarantee Program counsel. No objections were received from Board Members and the review period has expired.

B. Notice of Issuance of Commitment to Guarantee

1. Background

Pursuant to the expedited review processing procedure authorized by the Board on March 7, 2002 in connection with the issuance of a Commitment to Guarantee, Florida Housing's Chief Financial Officer, Director of Asset Management and Guarantee Program, TIBOR PARTNERS, Inc., and the Guarantee Program's legal counsel have reviewed and approved the Final Credit Underwriting Report for Alhambra Cove Apartments, a proposed 240-unit multifamily rental development to be located in Miami-Dade County, Florida, and financed by bonds issued by the Housing Finance Authority of Miami-Dade County. The proposed Alhambra Cove transaction will be credit enhanced by the Guarantee Program and the HUD Risk-Sharing Program. The total proposed loan amount to be guaranteed is \$13,650,000.

2. Present Situation

On March 16, 2004, the final credit underwriting report, TIBOR PARTNERS, Inc.'s Project Suitability Assessment and Risk Evaluation Report, and staff's recommendation for this proposed transaction was submitted to each Board member electronically and the Board was provided the required 72-hour review period. No objections were received and the review period has expired.

C. Guarantee Program Capacity ([Exhibit B](#))

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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. The Court, in its opinion issued on April 23, 2003, 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. (Rule 67-48.005 Fla. Admin. Code, as amended in 2002, provides a point of entry for applicant’s to challenge the scoring of another application.) 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.
- b) 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 two Motions for Continuance which were both granted. Petitioner filed an Unopposed Emergency Motion for Continuance on November 14, 2003. The Motion was granted and the hearing was held on January 30, 2004. The parties filed their Recommended Orders on March 15, 2004.

2. Present Situation

The Hearing Officer is reviewing the Proposed Recommended Orders submitted by the parties and will prepare a Recommended Order for review by Florida Housing.

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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

On June 23, 2003, Aloma filed a Motion to Dismiss Florida Housing’s Complaint as to Thollander, which was denied on August 14, 2003. Aloma and Thollander did not file an answer to the Complaint by September 3, 2003. Defendant Betsy Spano’s motion to dismiss for failure to join an indispensable party was denied on August 14, 2003. Defendant, Christopher T. Spano was served via alternative service through the Secretary of State, and did not file a proper answer within the allotted time. A motion for default on other defendants will also be heard in the near future, but the date has not yet been set. Florida Housing will continue to monitor the litigation.

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C. 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. Fifth Avenue’s Amended Initial Brief was filed on September 17, 2003. Florida Housing’s Reply Brief was filed on October 13, 2003. Fifth Avenue’s Reply Brief was filed on November 5, 2003. Florida Housing’s Amended Reply Brief (correcting an omission in its Table of Contents) was filed on November 19, 2003.

2. Present Situation

Petitioner’s request for oral argument has not been addressed by the Court.

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D. In Re: 2003 Universal Cycle Ranking Disputes

1. Background/Present Situation

Pinnacle Oaks filed a Petition for Formal administrative Hearing, challenging Florida Housing's interpretation of its Universal Cycle Rules and Qualified Allocation Plan. Pinnacle Oaks contends that Florida Housing erroneously deducted the funding and allocation for the Florida Keys Special Set-Aside from the total pool, rather than deducting the Keys funding and allocation from the small county pool. After review of the petition, Florida Housing determined that no material issue of fact exists, and referred the case for an informal hearing pursuant to sec. 120.569 and 120.57(2), Florida Statutes.

MULTIFAMILY BONDS

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IV. MULTIFAMILY BONDS

- A. Update of the Financial Capacity of the Purchaser of Sandstone/Harbour Walk Apartments, a 1996 Series Q-1, \$11,800,000 Tax-Exempt Bonds, 400 Units, located in Tampa, Hillsborough County, Florida and Windwood Oaks Apartments, 1996 Series R-1 in the amount of \$4,300,000 Tax-Exempt Bonds, 144 units, located in Tampa, Hillsborough County, Florida and Windwood Oaks II Apartments (together the “Developments”), 1996 Series S-1 in the amount of \$6,000,000 Tax-Exempt Bonds, 208 units, located in Tampa, Hillsborough County, Florida

| | |
|---|---|
| DEVELOPMENT NAME (“Development”): | Sandstone/Harbour Walk Windwood Oaks I & II |
| DEVELOPER/PRINCIPAL (“Developer”): | Ventron Realty Corp./Ronald Eisenberg |
| NUMBER OF UNITS: | 400 (Sandstone/Harbour Walk) 352 (Windwood Oaks I & II) |
| LOCATION (County): | Hillsborough |
| TYPE (Rental, Homeownership): | Rental |
| SET ASIDE: | 20% @ 80%, 80% @ 150% (MMRB) Sandstone/Harbour Walk 20% @ 80%, 80% @ 150% (MMRB) Windwood Oaks 27.5% @ 80%, 72.5% @ 150% (MMRB) Windwood Oaks II |
| ALLOCATED AMOUNT: | \$11,800,000 of Tax-Exempt Bonds Sandstone/Harbour Walk \$ 4,300,000 of Tax-Exempt Bonds Windwood Oaks \$ 6,000,000 of Tax-Exempt Bonds Windwood Oaks II |
| ADDITIONAL COMMENTS: Update of Financial Capacity of Purchaser of Developments | |

1. Background

- a) In 1984, Florida Housing financed the construction of Sandstone (formerly Webb Road I) Apartments with \$5,900,000 in tax-exempt bonds, designated as 1984 Series B and Harbour Walk (formerly Webb Road II) Apartments with \$5,900,000 in tax-exempt bonds, designated as 1984 Series C.
- b) In 1985, Florida Housing financed the construction of Windwood Oaks Apartments with \$4,300,000 in tax-exempt bonds, designated as 1985 Series P and Windwood Oaks II Apartments with \$6,000,000 in tax-exempt bonds, designated as 1985 Series FFF.
- c) In 1996, Florida Housing approved the refunding of bonds for the Developments with \$11,800,000 in tax-exempt bonds and \$435,000 in taxable bonds, designated as 1996 Series Q-1 and Q-2, \$4,300,000 in tax-exempt bonds and \$25,000 in taxable bonds, designated as 1996 Series R-1 and R-2 and

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\$6,000,000 in tax-exempt bonds and \$200,000 in taxable bonds, designated as 1996 Series S-1 and S-2.

- d) At the December, 2003 Board Meeting, Florida Housing approved the Transfers of Ownership of the Developments to the Purchaser. These transactions occurred December 29, 2003.

2. Present Situation

The Credit underwriting reports (for each development, Sandstone/Harbour Walk and Windwood Oaks I & II) regarding the transfer of ownership, dated November 25, 2003, listed some financial information for the Purchaser in Canadian currency. On December 4, 2003 the credit underwriter submitted a memo (attached as [Exhibit A](#)) converting this financial information to U.S. currency. The currency conversion did not affect the credit underwriter's opinion regarding the financial capacity of the borrower.

SINGLE FAMILY BONDS

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V. SINGLE FAMILY BONDS

A. 2003 Series 5 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On September 12, 2003, the Board authorized issuance of the 2003 Series 5 Bonds. The origination period began on October 27, 2003.
- b) Lendable proceeds totaling \$45,745,051 are currently offered at an interest rate of 5.68%.
- c) Additionally, funding was set-aside for special targeting at an interest rate of 4.99% as follows:
 - (1) \$1,000,000 for purchases in HOPE VI and Front Porch Communities
 - (2) \$2,000,000 for purchases in Urban Infill and Targeted Areas
 - (3) \$1,000,000 for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program
 - (4) \$1,000,000 for Disabled Homebuyers
- d) On March 10, 2004 Staff authorized Leader Mortgage to combine the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help, Disabled Homebuyers and Urban Infill).
- e) As of March 12, 2004, the following activity was reported:

| Allocation Pool | Current \$ Amount Allocated | Purchased/Reserved | | \$ Amount Available | % Used |
|--|-----------------------------------|--------------------|--------|---------------------------|-----------|
| | | \$ Amount | Number | | |
| Spot Pool | 45,745,051 | 41,767,536 | 456 | 3,977,515 | 91.3 |
| Front Porch and HOPE VI, Urban Infill, USDA Self Help, and Disabled Homebuyers | 5,000,000 | 3,623,104 | 45 | 1,376,896 | 72.5 |
| HAP D/P | Pooled | 2,934,795 | 298 | Pooled | N/A |
| HOME Loans | Pooled | 2,118,109 | 145 | Pooled | N/A |
| HAMI Loans | Pooled | 30,000 | 6 | Pooled | N/A |

SINGLE FAMILY BONDS

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B. 2003 Series 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 1-4 Bonds. The origination period began on June 25, 2003.
- b) Lendable proceeds totaling \$46,032,499 are currently offered at an interest rate of 5.10%.
- c) Additionally, funding was set-aside for special targeting at an interest rate of 4.50% as follows:
 - (1) \$1,000,000 for purchases in HOPE VI and Front Porch Communities
 - (2) \$3,000,000 for purchases in Urban Infill and Targeted Areas
 - (3) \$1,000,000 for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program.
- d) On March 10, 2004, Staff authorized Leader Mortgage to combine the subsidized loan pools (HOPE VI and Front Porch, Section 523 Mutual Self-Help, and Urban Infill).
- e) Staff negotiated with the participant in the Builder program to relinquish unused allocation that could be better utilized in the Spot Pool. As a result, \$2,765,000 was reallocated from the Builder Pool to the Spot Pool.
- f) As of March 12, 2004, the following activity was reported:

| Allocation Pool | Current \$ Amount Allocated | Purchased/Reserved | | \$ Amount Available | % Used |
|---|-----------------------------|--------------------|--------|---------------------|--------|
| | | \$ Amount | Number | | |
| Spot Pool | 44,996,003 | 44,487,309 | 489 | 508,694 | 98.9 |
| Builder | 1,036,496 | 1,036,496 | 9 | 0 | 0 |
| Urban Infill, RD Self Help HOPE VI /Front Porch | 5,000,000 | 4,188,213 | 58 | 811,787 | 83.7 |
| HAP D/P | Pooled | 2,757,734 | 285 | Pooled | N/A |
| HOME Loans | Pooled | 2,851,959 | 191 | Pooled | N/A |

SHIP

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VI. SHIP

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-nine (59) local governments are required to submit new Local Housing Assistance Plans to maintain eligibility to receive SHIP funds.

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) Four (3) local governments, City of Pembroke Pines, Flagler County and Marion County, have an expenditure extension for fiscal year 2000-2001 funds.

C. 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.

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2. Present Situation

- a) Total SHIP disbursements to the local governments for fiscal year 2003-2004 to date is \$125,756,501.00.
- b) Total SHIP allocation due to the local governments for fiscal year 2003-2004 is fully funded.
- c) Total SHIP disaster relief funding available to the local governments for fiscal year 2003-2004 is \$5,000,000.00. These funds will be distributed to eligible jurisdictions prior to June 30, 2004.

UNIVERSAL CYCLE

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VII. UNIVERSAL CYCLE

A. 2004 Universal Cycle – Applications Received

1. Background/Present Situation

- a) The 2004 Universal Cycle opened on March 1, 2004 and closed on March 31, 2004.
- b) A report of the Applications submitted, describing such information as number of applications received, demographic commitments, designation selections, etc., will be provided as a supplement to the Board Package.
- c) Staff anticipates issuing the preliminary scores on April 29, 2004.