

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
August 25, 2005
Information Items



FISCAL

Informational

I. FISCAL

A. Operating Budget Analysis for June 2005

1. Background/Present Situation

- a) The Financial Analysis for June 30, 2005, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending June 30, 2005, is attached as [Exhibit B](#).

GUARANTEE PROGRAM

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II. GUARANTEE PROGRAM

A. General Information

1. Background

- a) The state legislature enacted legislation establishing the Guarantee Fund in 1992 to assist in the financing of affordable housing in Florida. The fund is authorized to issue up to a total of \$400 million in capital bonds.
- b) By separate resolutions, Florida Housing's Board authorized the issuance of \$300,000,000 in taxable bonds and empowered Staff to take such other and further actions necessary or desirable in compliance with the legislation and bond indenture. The Guarantee Fund was capitalized by selling the issued variable rate bonds to bondholders who are further secured by other components including standby bond purchase agreements ("SBPA") and bond insurance. The SBPA provider assures the marketability of the Guarantee Fund bonds. The SBPA provides liquidity, if necessary, until the bonds can be remarketed enabling bondholders to redeem their bonds and settle within 7 days in the event a subsequent purchaser for the bonds is not available.
- c) Florida Housing currently has outstanding (i) the 2002 Series A Bonds in the principal amount of \$97,500,000; (ii) the 2000 Series A Bonds in the principal amount of \$68,550,000; (iii) the 1999 Series A Bonds in the principal amount of \$48,250,000; and (iv) the 1993 Series A Bonds in the principal amount of \$57,000,000 (collectively known as the "Bonds").
- d) Security for the bondholders of the 1993 Series A Bonds, 1999 Series A Bonds and 2000 Series A Bonds has been provided by separate SBPAs issued by WestLB AG ("WestLB", formerly known as Westdeutsche Landesbank Girozentrale) expiring October 12, 2005.
- e) Security for the bondholders of the 2002 Series A Bonds has been provided by a SBPA issued by Dexia Credit Local ("Dexia") expiring April 17, 2009.
- f) As a German landesbank, WestLB benefited from host-state guarantees for institutional liability. Due to an accord between the European Commission and the German government, state guarantees were abolished effective July 18, 2005, with the exception of certain agreements grandfathered until the end of 2015. The abolition of the state guarantees prompted ratings agencies to forecast rating downgrades.
- g) On May 6, 2005, in anticipation of the ratings downgrades, expiring WestLB agreements, and pursuant to a competitive process, Florida Housing, with the assistance of its Financial Advisor, TIBOR Partners, selected DEPPFA BANK plc ("DEPPFA") as the new SBPA provider at 8.5 bps per annum replacing WestLB on the 1993, 1999 and 2000 Series bonds and replacing Dexia on the 2002 Series A bonds. In 2004, the Guarantee Program paid WestLB the following annual fees in conjunction with each SBPA: 18.5 bps per annum on the 1993 and 1999 SBPAs (approximately \$206,187), 12.5 bps per annum on the 2000 SBPA (approximately \$91,412), and paid Dexia 17.0 bps per annum (approximately \$171,705) for the SBPA on the 2002 bonds.

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GUARANTEE PROGRAM

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Present Situation

- a) The substitution of DEPFA as the SBPA provider for the Bonds was disclosed to the market in the Third Supplement to Official Statements, dated July 25, 2005.
- b) Effective August 1, 2005, security for bondholders of the Bonds is being provided by separate SBPAs issued by DEPFA, acting through its New York Branch, each expiring on August 12, 2014.
- c) The SBPAs previously provided by WestLB and Dexia were terminated on August 8, 2005.
- d) The cost associated with the substitution of DEPFA as the new SBPA provider on the Bonds totals approximately \$114,977, comprised primarily of fees associated with various counsel and rating agency confirmations.
- e) The Guarantee Program estimates an average annual savings of approximately \$209,000 per year over the nine-year term of the DEPFA agreements (assuming the SBPAs with WestLB and Dexia were extended with their respective fees) or approximately \$1.88 million. The anticipated first year savings from the substitution is estimated at \$232,475. Through these savings, the cost of the transaction should pay for itself within six (6) months.

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

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III. LEGAL

A. In Re: Florida Coalition for the Homeless v. Florida Housing Finance Corporation

1. Background

- a) On January 19, 2005, Florida Coalition for the Homeless, Inc., a Florida corporation, Alice Laguerre, Josephine Gonzales, and The Center For Affordable Housing, Inc., a Florida corporation, (“Petitioners”) filed a Petition to Determine Invalidity of Florida Housing Finance Corporation Proposed Rule Chapters 67-21 and 67-48 (“Petition”).
- b) Florida Housing filed a Motion to Dismiss (“Motion”) the Petition. The Petitioners filed a Response to the Motion and the Administrative Law Judge (“ALJ”) denied the Motion. The Petitioners filed a Motion to Stay Further Proceedings (“Motion to Stay”), Florida Housing filed a Response to the Motion to Stay and the ALJ issued an Order Denying the Motion to Stay.
- c) Florida Housing filed a Motion to Dismiss for Lack of Particularity, for Lack of Standing and Lack of Jurisdiction (“Second Motion”). Petitioners filed a Response to the Second Motion. Florida Housing filed a Petition for Review of Non-final Administrative Order and Petition for Writ of Prohibition with the 1st District Court of Appeal; the Appeal was denied. The ALJ issued an Order Granting Motion to Dismiss with Leave to Amend and Canceling Hearing. The Petitioners filed a Petition to Determine Invalidity of Florida Housing Finance Corporation Proposed Rule Sections 67-48.002, 67-48.004, and 67-21.003. Florida Housing filed a Motion to Dismiss the Amended Petition. The Administrative Law Judge entered a Summary Final Order dismissing the Amended Petition on April 22, 2005. On May 20, 2005, Petitioners filed a Notice of Appeal with the First District Court of Appeals. On July 27, 2005 the Petitioners filed their Initial Brief.

2. Present Situation

Florida Housing Answer Brief is due to be filed on August 19, 2005.

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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. On December 1, 2004, the judge verbally granted Florida Housing’s motion for summary judgment was granted, in part, finding that Aloma Bend failed to assign the proceeds from the condemnation of the subject property to Florida Housing and failed to deposit those proceeds into an Insurance and Condemnation Proceeds Fund, as required by the Mortgage and Security Agreement and by the Loan Agreement. The litigation will continue as to the other issues in the case. On February 16, 2005, the judge issued an

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Order Granting, In Part, Plaintiff's Motion For Summary Judgment; Denying Defendants' Motion to Strike Late Filed Document. Aloma Bend has filed a Motion for Referral to Mediation on the issue of the amount Aloma Bend owes. That motion will most likely be granted.

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C. Collier County, Florida v. April Circle, Ltd., et al.

1. Background

- a) On July 26, 2004, Plaintiff, Collier County, filed a Petition in eminent domain to condemn a portion of April Circle's property in the Circuit Court of Collier County, Florida seeking to take a portion of the property for the widening of Immokalee Road.
- b) On October 14, 2004, Florida Housing filed its answer to the Petition in eminent domain.

2. Present Situation

Florida Housing will continue to monitor the litigation.

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

1. Background

- a) 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 seeking 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, but the Court had entered an Order Confirming Chapter 11 Plan on May 15, 2003 – effectively delaying the foreclosure action for the period of bankruptcy. On October 18, 2004, Bank of America moved to re-open the foreclosure case and to amend their complaint on the grounds that Tower Place has defaulted under the Bankruptcy Plan in addition to the original Bank of America loan documents. The Court ruled on these Motions and has allowed the foreclosure to begin.

2. Present Situation

Florida Housing continues to monitor this ongoing litigation.

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E. Seminole County, Florida v. Seminole County S.R. 46, Ltd. (Seminole Pointe Apartments), et al.

1. Background

- a) On June 14, 2005, Plaintiff, Seminole County, filed a Petition in eminent domain to condemn a portion of Seminole Pointe Apartments' property in the Circuit Court of Seminole County, Florida seeking to take a portion of the property for the regional stormwater facility/road improvement project construction.
- b) Florida Housing is preparing its answer to the Petition in eminent domain.

2. Present Situation

Florida Housing will continue to monitor the litigation.

SINGLE FAMILY BONDS

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IV. SINGLE FAMILY BONDS

A. 2004 Series 5-6 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On September 11, 2004, the Board authorized issuance of the 2004 Series 5-6 Bonds. The origination period began on December 17, 2004. The last date for Lenders to reserve loans in the program is August 31, 2005.
- b) Lendable proceeds totaling \$46,005,555 were made available and offered at an interest rate of 5.55%. There is currently \$113,595 available as of August 5, 2005.
- c) Lendable proceeds totaling \$1,715,758 were made available and offered at an interest rate of 6.25%. There is currently \$0 available as of August 5, 2005.
- d) Additionally, Lendable proceeds totaling \$4,162,356 was set-aside for special targeting for purchases in Urban Infill, Targeted Areas, HOPE VI and Front Porch Communities; the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program; and for individuals with Disabilities at an interest rate of 4.99%. There is currently \$0 available as of August 5, 2005.
- e) As of August 5, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Low Rate Spot Pool	\$46,005,555	\$45,891,960	453	\$113,595	99.8
Assisted Spot Pool	\$1,384,564	\$1,384,564	11	\$0	100
Subsidized Rate Pool	\$4,162,356	\$4,162,475	48	\$0	100

B.

SINGLE FAMILY BONDS

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C. 2005 Series 1 Single Family Mortgage Revenue Bond Program

1. Background/Present Situation

- a) On March 4, 2005 the Board authorized issuance of the 2005 Series 1 Bonds. The origination period began on June 1, 2005. The last date for Lenders to reserve loans in the program is May 1, 2006.
- b) Lendable proceeds totaling \$35,071,220 for the Low Rate Spot pool were made available and offered at an interest rate of 5.49%. There is currently \$11,575,673 available as of August 5, 2005.
- c) Lendable proceeds totaling \$2,500,000 for the Assisted Spot pool were made available and offered at an interest rate of 5.99%. There is currently -\$151,404 available as of August 5, 2005.
- d) Lendable proceeds totaling \$5,000,000 for the Community Spot pool were made available and offered at an interest rate of 4.99%. There is currently \$3,252,279 available as of August 5, 2005.
- e) Additionally, \$10,000,000 funding was set-aside for special targeting for purchases in Urban Infill, Targeted Areas, HOPE VI and Front Porch Communities; the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program; and for individuals with Disabilities at an interest rate of 4.99%. There is currently \$8,006,265 available as of August 5, 2005.
- f) As of August 5, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
Low Rate Spot Pool	\$35,071,220	\$23,495,547	220	\$11,575,673	67.0
Assisted Spot Pool	\$2,500,000	\$2,651,404	21	\$0	100
Community Rate	\$5,000,000	\$1,747,721	16	\$3,252,279	35
Subsidized Rate Pool	\$10,000,000	\$1,993,735	21	\$8,006,265	19.9

- g) As of August 5, 2005, the following activity was reported for the Downpayment and Closing Costs Assistance Programs:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved		\$ Amount Available	% Used
		\$ Amount	Number		
HAMI Loans	Pooled	\$94,342	19	Pooled	N/A
HAP D/P	Pooled	\$2,589,407	262	Pooled	N/A
HOME Loans	Pooled	\$6,727,563	361	Pooled	N/A

SINGLE FAMILY BONDS

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D. Marketing and Outreach

1. HUD Workshop

- a) The U.S. Department of Housing and Urban Development hosted an Affordable Homeownership Capacity Building Workshop in Tallahassee in July. Orlando Cabrera, Esrone McDaniels, and Wallisa Cobb spoke at the workshop.
- b) The workshop brought together more than 100 federal, state, local and non profit housing providers. It also served as an avenue for housing providers to promote their programs, offer strategies and suggestions, and form new partnerships.
- c) Orlando Cabrera had an interview on WCTV Channel 6's *Live at Five* evening news to promote HUD's workshop and Florida Housing's First Time Homebuyer Program. The *Daytona Beach News Journal* attended the workshop and interviewed Orlando Cabrera regarding the issue of rising housing costs and Florida Housing's efforts to address the issue.

2.

SINGLE FAMILY BONDS

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Advertising

- a) Florida Housing began its statewide advertising campaign on the First Time Homebuyer Program in July 2005. Through a partnership with the Florida Cable Association, a 30 second television commercial will run on all nine cable outlets in the state over a 90-day period. This will result in well over 3,000 placements of the commercial. In addition, a 60 second radio commercial will run in 13 markets over 30 days and a newspaper ad will run in both mainstream and minority newspapers over 30 days.

3. Marketing

- a) Realtor CE Course training will begin this month. The first class begins Wednesday, August 24, 2005 at the Orlando Regional Realtor Association. Thus far, Florida Housing is teaching realtor classes in Brooksville, Fernandina Beach, Ft. Myers, and Orlando.
- b) The Tallahassee Lender's Consortium (TLC) is having their 2005 Homebuyer Showcase September 24, 2005 at Jack McClean Park from 10 a.m.-2p.m.
- c) Florida Housing is partnering with TLC to hold this event which will connect Big Bend Area affordable housing providers, such as lenders, builders, home inspectors and others with prospective first time homebuyers. This annual event averages approximately 750 consumers and 50-60 exhibitors.
- d) Florida Housing's Community Spot Loan Program a component of the First Time Homebuyer Program, has utilized more than half of the \$5 million set aside. The Bonds were issued in June 2005. This program is targeted to teachers, police officers, fire fighters, and healthcare workers who are looking to purchase a home for the first time. The interest rate for this program is 4.99% and can be coupled with other downpayment and closing costs assistance.
- e) Flyers, promotional information and bi-weekly updates were created and sent to various state agencies, local governments, associations and organizations that target teachers, police officers, fire fighters, and healthcare workers.
- f) Florida Housing's Mortgage Credit Certificate Program (MCC) allows first time homebuyers to receive a \$2,000 tax credit annually against the mortgage interest paid. This credit gives first time homebuyers more disposable income each month and it can also help the homebuyer qualify for a larger loan.
- g) A press release was distributed statewide, resulting in coverage in various newspapers, including the *Daytona News Journal* and the *Tallahassee Democrat*. We are also currently discussing promotional information to help market this program such as: drafting a write up for housing providers and advocates to send out, printing mounted posters w/ the MCC brochure inside to be mailed to all participating lenders, an MCC opinion-editorial piece to be written and provided to the seven large newspapers, and possibly negotiating a partnership with H&R Block's mortgage services.

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SINGLE FAMILY BONDS

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Public Affairs Programming

- a) WCOT Channel 13, City of Tallahassee's public access channel continues to air Florida Housing First Time Homebuyer Program commercial on their station free of charge.

5. Publications

- a) Single Family's quarterly newsletter, *The Communicator* is scheduled to be distributed on August 31, 2005. This newsletter updates Lenders and Realtors on First Time Homebuyer Program monies available, bond financial issues, Realtor CE Courses, and much more. The remaining distribution dates of the newsletter for 2005 are: August 31, and November 30.

UNIVERSAL CYCLE

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V. UNIVERSAL CYCLE

A. Rental Recovery Loan Program – Update

1. Background/Present Situation

- a) The application cycle for the Rental Recovery Loan Program opened on July 13, 2005 and closed on August 11, 2005.
- b) A report of the Applications submitted, describing such information as number of applications received, demographic commitment, tier location, etc., is provided as [Exhibit A](#).
- c) Staff anticipates issuing the preliminary scores on August 22, 2005.

B. 2006 Universal Cycle

1. Background/Present Situation

- a) A public meeting will be held following the August 25, 2005 Board meeting to solicit comments concerning Rule Chapters 67-21 and 67-48, F.A.C., and the 2006 Universal funding cycle.
- b) Staff anticipates beginning the rulemaking process by soliciting additional public comments at a rule development workshop scheduled for September 22, 2005, in Tampa.