

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
January 14, 2005
Action Items



DEMONSTRATION LOANS

Action

I. DEMONSTRATION LOANS

A. Request Approval of Modification of Loan Repayment Terms for Betty Griffin House (RFP 2003/03-01)

DEVELOPMENT NAME (“Development”):	Betty Griffin House
DEVELOPER/PRINCIPAL (“Developer”):	Betty Griffin House – <i>A Florida not-for-profit corporation</i>
NUMBER OF UNITS:	6
LOCATION (County):	St. Johns County
TYPE:	Rental, Homeless
SET ASIDE:	Victims of Domestic Violence
DEMONSTRATION LOAN AMOUNT:	\$207,539
ADDITIONAL COMMENTS: The Credit Underwriter has recommended approval.	

1. Background

- a) On September 19, 2003, Florida Housing issued a Request for Proposals (RFP) for the development of transitional housing for victims of domestic violence.
- b) On December 18, 2003, the Board approved funding of \$207,539 for Betty Griffin House subject to a positive recommendation from the Credit Underwriter.
- c) Staff received a credit underwriting report on July 7, 2004 for the Development with a positive recommendation for a loan of \$207,539, subject to the conditions outlined in the report.
- d) On July 30, 2004 the Board approved the Credit Underwriter’s final recommendation, directed staff to issue a firm loan commitment and proceed with loan closing activities.

2. Present Situation

Upon further review, the Credit Underwriter has determined that the repayment terms recommended in the credit underwriting report must be modified as there will not be sufficient cash flow to support repayment on an annual basis. In concurrence with the recommendation of staff, the Credit Underwriter recommends that the repayment of interest and principal be deferred until the loan matures at the end of the 20-year term. ([Exhibit A](#)).

3. Recommendation

Approve the Credit Underwriter’s recommendation to modify the repayment terms of Betty Griffin House’s Demonstration Loan from annual payments based on available cash flow to repayment of interest and principal being deferred until the loan matures at the end of the 20-year term.

HOMEOWNERSHIP LOAN PROGRAM

Action

II. HOMEOWNERSHIP LOAN PROGRAM

A. Request Approval of the Credit Underwriting Report for Homes for Hillsborough, Inc. (Non-Profit) for Bayou Pass Subdivision/HH03-049

Applicant Name (“Applicant”):	Homes for Hillsborough, Inc. (Non-Profit)
Development Name (“Development”):	Bayou Pass Subdivision
Developer/Principal (“Developer”):	Homes for Hillsborough, Inc./Earl Pfeiffer
Number of Units: 77	Location: Hillsborough County
Type: HOME Construction Loan	Allocated Amount: \$1,783,800

1. Background

- a) At its July 30, 2004 meeting, the Board approved the final rankings for the 2003-2004 Homeownership Loan Program Supplemental Cycle.
- b) On August 2, 2004, Florida Housing issued an invitation into credit underwriting to the Applicant for a HOME Purchase Assistance Loan in the amount of \$1,783,800 to assist with the financing of 77 newly constructed homes in Hillsborough County.
- c) At the October 14, 2004 meeting, the Board approved a change in use of funds from Purchase Assistance to Construction to accommodate the alternative financing structure of USDA’s Section 502 Self-Help Program.

2. Present Situation

- a) This underwriting analysis is a little different from the traditional underwriting. The analysis contemplates providing individual construction loans to homebuyers and not the Developer. However, the Developer will be responsible for policing the construction and qualifying processes for this Development.
- b) Florida Housing’s dollars will be coupled with USDA’s funds to provide affordable financing to low to moderate income households. USDA will be the primary first mortgage construction and permanent financing lender through its Section 502 Self-Help Program. Florida Housing will provide additional construction financing to each individual homebuyer during construction and will allow the financing to convert to a permanent second mortgage loan once a Certificate of Occupancy is received from Hillsborough County.
- c) Each homebuyer will function as their own General Contractor and will execute all agreements and contracts with subcontractors for work performed on their homes. Under this program, individual homebuyer accounts are set up and all funds are funneled through the individual accounts for payment, requiring signatures of the facilitating construction manager and the homebuyer. No funds are disbursed without authorizing signatures of all appropriate parties. Each homebuyer is required to provide at least 30 hours of sweat equity each week for approximately 6-8 months.

HOMEOWNERSHIP LOAN PROGRAM

Action

- d) Florida Housing's servicers will not perform construction inspections because Hillsborough County will be the responsible entity for this activity. Florida Housing's servicers will rely on the representations and warranties of Hillsborough County. This agreement will be consummated via a Memorandum of Understanding or other similar agreement ("Agreement") between Florida Housing, the Developer and Hillsborough County. The Agreement will outline the general parameters of this program and also provide indemnification provisions mitigating Florida Housing's liability, if any, associated with this transaction.
- e) Hillsborough County has a lengthy history with this Developer and has stated to Florida Housing that it is willing to proceed with this type of arrangement.
- f) The credit underwriter provided staff with a Credit Underwriting Report outlining the parameters of the proposed Development. The Credit Underwriting Report is attached as [Exhibit A](#).
- g) Staff has reviewed the report and concurs with the credit underwriter's recommendation to reserve HOME funds in the amount of \$1,783,800 for a HOME Construction Loan.

3. **Recommendation**

Staff recommends that the Board approve the final Credit Underwriting Report and authorize staff to enter into an Agreement with the Applicant and Hillsborough County, outlining certain guarantee and indemnification provisions along with general construction and disbursement parameters, subject to further review by the credit underwriter, counsel, and the appropriate corporation staff.

HOMEOWNERSHIP LOAN PROGRAM

Action Supplement

I. HOMEOWNERSHIP LOAN PROGRAM

- A. Request to Share a Second Lien Mortgage Position with Palm Beach County for Two We Help Community Development Corporation (Non-Profit) Developments: Abidjan Estates / HH03-017 and We Help Scattered Sites Development/HAP03-308

Applicant Name ("Applicant"):	We Help Community Development Corporation (Non-Profit)
Developer/Principal ("Developer"):	Dr. D.M. Walker
Location:	Palm Beach County
Development Name:	
ABIDJAN ESTATES	WE HELP SCATTERED SITES
Number of Units: 76	Number of Units: 34
Allocated Amount: \$2,000,000	Allocated Amount: \$974,496
Type: HOME Purchase Assistance Loans	Type: HAP Purchase Assistance Loans

1. Background

- a) We Help CDC submitted applications for the Abidjan Estates and We Help Scattered Sites Developments during the 2003 Homeownership Loan Program Cycle.
- b) The Board approved a final credit underwriting report for the We Help Scattered Sites Development in February 2004 and for the Abidjan Estates Development in September 2004. Staff was also authorized to issue firm commitment letters to the Developer for the amounts indicated above.

2. Present Situation

- a) Due to the rising costs associated with land and construction materials, it has become increasingly difficult to build the homes for the prices initially indicated in the Developer's applications.
- b) Incomes of individuals who are eligible for the program won't support the increasing purchase prices without additional subsidies.
- c) A letter from the Developer was submitted to Florida Housing on January 4, 2005, requesting that Florida Housing agree to share a second lien mortgage position with Palm Beach County for the afore-referenced Developments. The letter is attached as [Exhibit A](#).
- d) The Developer substantiated the request by citing increasing land and construction costs, the very low median incomes of potential homebuyers in the cities of Belle Glade, South Bay and Pahokee, the need for additional subsidies to support home purchases for low income individuals, and furthermore, the overall housing need in the areas of Belle Glade, South Bay and Pahokee.

HOMEOWNERSHIP LOAN PROGRAM

Action Supplement

- e) A letter was received from Palm Beach County on December 28, 2004 advocating the need for these Developments and their willingness to share a second lien position. Palm Beach County has offered to provide additional subsidies of approximately \$25,000 per home to assist in bridging the gap between the purchase price and the income of the homebuyers. The letter is attached as [Exhibit B](#).
- f) Pursuant to Rule 67-50.040(4), Florida Administrative Code, the HLP Construction Loan or Purchase Assistance Loan must be in not lower than a second lien position and shall not share priority with any other liens unless approved by the Board.
- g) To affect this shared second lien position, Florida Housing would need to enter into an Intercreditor Agreement with Palm Beach County. The Intercreditor Agreement would outline Florida Housing's security position, mortgage lien priorities, pro rata repayment of loans, recourse provisions and other legalities associated with defaults and foreclosures. This document will be recorded in the Public Records of the Palm Beach County.
- h) Although Florida Housing does not traditionally share lien positions, it would greatly benefit the citizens of Palm Beach County in the Belle Glade, South Bay and Pahokee areas if this change were to occur.

3. **Recommendation**

Approve the request to share a second lien mortgage position with Palm Beach County and authorize staff to negotiate and execute an Intercreditor Agreement and any other documents necessary to make this transaction feasible, subject to approval of the credit underwriter, counsel and appropriate Florida Housing staff.

MINUTES

Action

III. MINUTES

- A. Consider Approval of the December 3, 2004, [Board of Directors' Meeting Minutes](#).

PREDEVELOPMENT LOAN PROGRAM (PLP)

Action

IV. PREDEVELOPMENT LOAN PROGRAM (PLP)

A. Request Approval of Amended Rule Chapter 67-38, Florida Administration Code (F.A.C.)

1. Background

- a) On September 10, 2004, the Board approved Staff's request to proceed with the rule amendment process for Rule Chapter 67-38, F.A.C., which governs the Predevelopment Loan Program (PLP).
- b) On September 24, 2004, a Notice was published in the *Florida Administrative Weekly* announcing the Rule Development Workshop to be held on October 11, 2004. Florida Housing did not receive any response for attendance to the Workshop.
- c) On October 22, 2004, the Notice of Proposed Rule Amendments and strikethrough version published in the *Florida Administrative Weekly*. A Rule Hearing was scheduled and held November 15, 2004. Florida Housing did not receive any response for attendance to the Hearing, therefore it was not held.
- d) Staff submitted the strikethrough version of Rule Chapter 67-38 to the Joint Administrative Procedures Committee (JAPC) and substantive comments were received on November 17, 2004.

2. Present Situation

On December 17, 2004 the Notice of Change was published in the *Florida Administrative Weekly*.

3. Recommendation

Approve the final Rule Chapter 67-38, F.A.C. ([Exhibit A](#)), and direct staff to continue with the rule amendment process in accordance with the Rule 67-38 Amendment Timeline ([Exhibit B](#)).

PROFESSIONAL SERVICES SELECTION (PSS)

Action

V. PROFESSIONAL SERVICES SELECTION

A. Request for Proposals (RFP) for Auditing Services

1. Background

- a) Pursuant to Chapter 420, Fla. Stat., Florida Housing is required to submit with its annual report an annual financial audit of its accounts and records performed in accordance with generally accepted auditing and governmental auditing standards by an independent certified public accountant.
- b) Florida Housing is also required, before June 1 of each year, to have performed a financial audit to determine whether at the end of each state fiscal year, there are adequate reserves and deposits in the Guarantee Fund's Debt Service Reserve account. Additionally, Florida Housing shall certify to the state's Chief Financial Officer the amount of any projected deficiency in the annual debt service reserve and the amount necessary to maintain such annual debt service reserve.

2. Present Situation

- a) Deloitte & Touche performed the financial audit services for the fiscal years ending June 30, 1994 to December 31, 1999.
- b) In 2000, Deloitte & Touche was awarded the audit contract for the years ending December 31, 2000, 2001 and 2002. Two one-year renewals were included in the contract, and these were executed for the years ending December 31, 2003 and 2004.
- c) Deloitte & Touche's contract expires at the end of the December 31, 2004 audit.

3. Recommendation

- a) Authorize staff to issue an RFP for Auditing Services.
- b) Authorize the Executive Director to establish a Review Committee to make a recommendation for an independent certified public accounting firm to the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Request for Qualifications (RFQ) for Special Counsel Services

1. Background

- a) In May 2002 Florida Housing entered into contracts for Special Counsel Services with the following firms:
 - (1) Adorno & Zeder, P.A. effective May 14, 2002
 - (2) Allen, Lang, Curotto & Peed, P.A. effective May 16, 2002
 - (3) Clyne & Self, P.A. effective May 21, 2002
 - (4) Nabors, Giblin & Nickerson, P.A. effective May 14, 2002
- b) The term of the contracts ended one year from the effective dates with an option to renew, on a yearly basis, for a period of up to two (2) years after the expiration of the initial term. Renewals were contingent upon Special Counsel satisfactorily performing its obligations under the contract.
- c) At its May 2, 2003, and April 2, 2004, meetings the Board authorized staff to proceed with the contract renewal process for each provider for one (1) year, and the contracts to not permit any further extensions.

2. Present Situation

- a) The terms of the current Special Counsel contracts expire as follows:
 - (1) Adorno & Yoss (formerly known as Adorno & Zeder, P.A.) expires May 14, 2005
 - (2) Allen, Lang, Curotto & Peed, P.A. (files were transferred to Shuffield, Lowman & Wilson, P.A.) expires May 16, 2005
 - (3) Clyne & Self, P.A. expires May 21, 2005
 - (4) Nabors, Giblin & Nickerson, P.A. expires May 14, 2005
- b) Florida Housing has a need for qualified attorneys to serve as Special Counsel to provide services including, but not limited to, the following: act as disclosure counsel in all bond-related transactions; represent Florida Housing at real estate closings; notify Florida Housing of any and all changes or proposed changes in applicable state or federal laws; obtain documentation for county bond allocations, if required; and, upon Florida Housing's request, represent Florida Housing in hearings related to the Tax Equity and Fiscal Responsibility Act for bond transactions.

3. Recommendation

- a) Authorize staff to issue an RFQ in order to select more than one qualified attorney for Special Counsel Services, and one qualified attorney to act as Special Counsel for the Guarantee Fund.

UNIVERSAL CYCLE

Action Supplement

I. UNIVERSAL CYCLE

A. 2005 Universal Cycle Application Lottery Seed Number Selection

1. Background

The Universal Application Instructions provide that each Application that is assigned an Application number will receive a random lottery number at or prior to the issuance of final scores and that the lottery numbers will be assigned by having Florida Housing's internal auditors run the total number of assigned Application numbers through a random number generator program.

2. Present Situation

The seed number must be selected so that the internal auditors will be able to randomly generate the lottery numbers at the appropriate time.

3. Recommendation

The Chair should select a seed number from the listing of numbers provided by internal audit.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- b) Authorize the Executive Director to establish a Review Committee to make a recommendation for qualified attorneys to the Board.