

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
March 16, 2007
Action Items



ELDERLY HOUSING COMMUNITY LOAN PROGRAM (EHCL)

Action

I. ELDERLY HOUSING COMMUNITY LOAN PROGRAM (EHCL)

A. Request Approval of EHCL Lottery Seed Number

1. Background/Present Situation

Chapter 420, Florida Statute, and Rule Chapter 67-32, F.A.C., provides that each Application assigned an application number receive a random lottery number at or prior to the issuance of final scores and that the lottery numbers must 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 for the random number generator program so that Internal Audit will be able to assign the lottery numbers at the appropriate time.

3. Recommendation

From the listing of numbers provided by Internal Audit, the Chair should select a seed number to be used for the 2007 EHCL Application Cycle.

HOMEOWNERSHIP POOL ("HOP") PROGRAM

Action

II. HOMEOWNERSHIP POOL ("HOP") PROGRAM

A. Request Authorization to Commence Rule Amendment Process

1. Background

The Homeownership Pool ("HOP") Program, governed by Rule 67-57, Florida Administrative Code, establishes the procedures by which the Corporation administers the HOP Program which provides purchase assistance to Eligible Homebuyers.

2. Present Situation

Recognizing the need to make some changes to the Program, Staff plans to conduct workshops throughout the state to solicit input from the public. Staff plans to begin these workshops in March 2007. A tentative timeline is attached as [Exhibit A](#).

3. Recommendation

Authorize staff to commence the rule amendment process for the HOP Program.

LEGAL

Action

III. LEGAL

A. In Re: Kathleen Pointe Partners, LLLP v. Florida Housing Finance Corporation

DOAH Case No. 06-4758; FHFC Case No. 2006-077 RRLP

Development Name: (“Development”):	Kathleen Pointe
Developer/Principal: (“Developer”):	Atlantic Housing Partners, LLLP
Number of Units: 80	Location: Polk County
Type: Garden	Set Aside: 15% @ 40% AMI 55% @ 60% AMI
Demographics: Family	RRLP Request: \$8,000,000

1. Background

- a) During the 2006 Rental Recovery Loan Program (RRLP) funding cycle, Kathleen Pointe Partners, LLLP (“Petitioner”) submitted an application for funding, #2006-336HR. Petitioner’s Application received a maximum score of 47, as well as 7.5 “tie-breaker” points, but was not selected for funding. Petitioner timely filed its “Petition for Formal Administrative Proceedings,” (“Petition”) on November 13, 2006. Originally, the Petition named two Petitioners, the Petitioner above as well as Blue Angel Cove Partners, LLLP (“Blue Angel Cove”), but during the proceedings, Blue Angel withdrew its RRLP application ((#2006-337HR) and voluntarily dismissed itself from the case. A copy of the Petition is attached as [Exhibit A](#). Petitioner alleged therein that Florida Housing erred in the scoring of a competing application, that of Silurian Pond, Ltd. (#2006-358HR) (“Silurian Pond”), alleging that the grocery store selected by Silurian Pond for tie-breaker measurement points was invalid, in that it did not meet Florida Housing’s definition of “grocery store” as set forth in the 2006 RRLP instructions.
- b) After reviewing the Petition, Florida Housing determined that material disputes of fact existed and on November 21, 2006, forwarded the Petition to the Division of Administrative Hearings (DOAH) for proceedings under Section 120.57(1), Florida Statutes. The Administrative Law Judge (ALJ) subsequently scheduled a formal hearing to be held February 5 and 6, 2007. On December 15, 2006, the ALJ granted Silurian Pond’s petition to intervene in the case, and Silurian Pond joined the proceedings as an Intervenor. On January 24, 2007 Intervenor Silurian Pond and Respondent Florida Housing filed a “Joint Motion to Dismiss for Lack of Standing” seeking to dismiss the remaining litigant in the case (Petitioner). Concurrently, Petitioner filed a “Motion for Determination of the Party Bearing the Burden of Proof and the Proper Order of Presentation of the Witnesses”, seeking a determination of whether Petitioner or Silurian Pond bore the burden of proving the validity of the grocery store. In light of these Motions and ongoing discovery concerns, the ALJ rescheduled the hearing for March 5 and 6, 2007, pending resolution of the Motions. On February 20, 2007, the ALJ granted the Joint Motion to Dismiss filed by Silurian Pond and Florida Housing, and issued a Recommended Order of Dismissal on the grounds that the only remaining litigant, Kathleen Pointe, did not have standing to file a Petition at the time the Petition was filed. A copy of the Recommended Order is attached hereto as [Exhibit B](#).

LEGAL

Action

2. **Present Situation**

In the Recommended Order, Administrative Law Judge Barbara J. Staros recommends that Florida Housing enter a Final Order dismissing the Petition. As of the date of this memorandum, Petitioner has not filed exceptions to the Recommended Order.

3. **Recommendation**

Staff recommends that the Board adopt the findings of fact and conclusions of the Recommended Order as its findings of fact and conclusions of law in this case, and that the Board enter a Final Order dismissing the Petition and denying the relief therein.

LEGAL

Action Supplement

I. LEGAL

A. In Re: Eclipse West Associates, Ltd.

FHFC Case No. 2006042UC

Development Name: (“Development”):	Eclipse West Apartments
Developer/Principal: (“Developer”):	Reliance Housing Services, LLC
Number of Units: 66	Location: Broward County
Type: High-Rise	Set Aside: 53% @ or below 60% AMI 24% @ or below 30% AMI
Demographics: Family	Allocated Amount: N/A
MMRB: N/A	Housing Credits: N/A

1. Background

Petitioner applied for funding during the 2006 Rental Recovery Loan Program (“RRLP”), seeking a rental recovery loan and an allocation of Low Income Housing Tax Credits (“Housing Credits”). Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final scores on or about October 17, 2006. On November 13, 2006, Petitioner timely filed a Petition for an Informal Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, disputing the Florida Housing’s final scoring of its 2006 Rental Recovery Loan Program Application for the proposed Eclipse West Apartments. After review of the Petition, Florida Housing granted Petitioner an informal hearing in this matter. Notice of the informal hearing was served on all RRLP applicants. During preparation for hearing, evidence established that local governments used “Flagler Drive,” “Flagler Avenue,” and “Flagler” interchangeably for the street which fronted the development site. The Parties agreed that the Eclipse West Application’s address of its proposed development site as being located “at the SE corner of NW Flagler Drive and NW 4th Street, Ft. Lauderdale Florida 33301,” satisfied the requirement of Part III., Section A., Subsection 2.a., of the 2006 Rental Recovery Loan Program Application.

2. Present Situation

The parties filed a Joint Proposed Recommended Order. On March 2, 2007, Hearing Officer Diane D. Tremor filed a Recommended Order, adopting the Joint Proposed Recommended Order. A copy of the Recommended Order is attached as [Supplemental Exhibit A](#).

3. Recommendation

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law, and Recommended disposition of the Recommended Order as its own, and issue a Final Order consistent with its adoption of the Recommended Order.

MINUTES

Action

IV. MINUTES

- A. Consider Approval of the [December 15, 2006, Board of Directors' Meeting Minutes](#).
- B. Consider Approval of the [January 26, 2007, Board of Directors' Meeting Minutes](#).

PREDEVELOPMENT LOAN PROGRAM (PLP)

Action

V. PREDEVELOPMENT LOAN PROGRAM (PLP)

A. Request to Begin the Rule Development Process for Chapter 67-38, Florida Administrative Code governing the Predevelopment Loan Program

1. Background/Present Situation

- a) In order to address changes and updates to the Predevelopment Loan Program Rule (Chapter 67-38, Florida Administrative Code), it is requisite to begin the rulemaking process. The timeline for this process is attached ([Exhibit A](#)).
- b) Should the Board approve this request for rulemaking, Rule Development Workshop will be held on April 16, 2007 to solicit comments and rule hearing will be held May 21, 2007.
- c) Staff will advertise the rule making process as required.

2. Recommendation

Approve Staff's request to begin the rule development process for Rule Chapter 67-38, Florida Administrative Code.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

VI. PROFESSIONAL SERVICES SELECTION (PSS)

A. Affordable Housing Catalyst Program Services (RFP 2007-01)

1. Background

- a) Chapter 2004-243, Laws of Florida, amended Section 420.531, Fla. Stat., authorized the transfer of the Affordable Housing Catalyst Program from the Department of Community Affairs (DCA) to Florida Housing effective July 1, 2004.
- b) The current contract for these services expires June 30, 2007.
- c) At its October 20, 2006 meeting the Board authorized staff to begin the solicitation process in order to obtain responses from qualified entities to deliver affordable housing training and technical assistance to staff of state and local governments, and community-based organizations, and authorized the Executive Director to establish a Review Committee to make a recommendation for a qualified entity to the Board.

2. Present Situation

- a) An RFP process was initiated and RFP 2007-01 was issued on Friday, January 12, 2007. The deadline for receipt of Responses was 2:00 p.m., Friday, February 9, 2007.
- b) One (1) Response from the Florida Housing Coalition was received by the deadline.
- c) The Review Committee members, designated by the Executive Director, were Robert Dearduff (Chairman), Special Programs Administrator and Local Government Liaison, Darlene Raker, SHIP Program Manager, Matthew Jugenheimer, Asset Management Manager, Bill Aldinger, Supportive Housing Coordinator, and Odetta McLeish-White, Affordable Housing Study Commission Director.
- d) Each member of the Review Committee individually reviewed the Response prior to convening for the Review Committee meet held at 11:00 a.m., on Wednesday, February 28, 2007.
- e) Results of the Review Committee's evaluation of the scored items are as follows:

PROFESSIONAL SERVICES SELECTION (PSS)

Action

OFFEROR		Florida Housing Coalition						
SECTIONS	Max Score	Rob	Darlene	Matt	Bill	Odetta	Section Total	Average Total
Section Four A.1 Cover Letter	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four A.2 Cover Letter	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four B.1. General Information	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four B.2. General Information	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four C.1 Experience, Resources and Qualifications - Threshold Item	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four C.2 Experience, Resources and Qualifications - History	5	5.00	5.00	5.00	5.00	5.00	25.00	5.00
Section Four C.3 Experience, Resources and Qualifications - Experience	10	9.00	10.00	10.00	8.00	9.00	46.00	9.20
Section Four C.4 Experience, Resources and Qualifications - Training	10	10.00	10.00	10.00	10.00	10.00	50.00	10.00
Section Four C.5. a-c Experience, Resources and Qualifications - Technical Assistance	10	9.00	10.00	10.00	10.00	10.00	49.00	9.80
Section Four C.6 Experience, Resources and Qualifications - Marketing	5	5.00	5.00	5.00	5.00	5.00	25.00	5.00
Section Four D. Costs/Fees	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four E. Drug-Free Workplace	Yes/No	Yes	Yes	Yes	Yes	Yes		
Section Four F. Minority Business Enterprise	Yes/No	No	No	No	No	No		
Section Four G. Certification - Threshold Item	Yes/No	Yes	Yes	Yes	Yes	Yes		
Maximum Points	40	38.00	40.00	40.00	38.00	39.00	195.00	39.00

3. Recommendation

The Review Committee recommends that the Board authorize staff to enter into contract negotiations with the Florida Housing Coalition to provide Affordable Housing Catalyst Program Services.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Request for Proposals (RFP) for Hearing Officer Services

1. Background

- a) Florida Housing entered contracts for hearing officer services with Chris H. Bentley, Senior Partner and Diane D. Tremor, Partner, Rose, Sundstrom & Bentley, LLP and David E. Ramba, Shareholder, Lewis, Longman & Walker, P.A. in August, 2004.
- b) The initial term provided in the Contracts was for one (1) year. The Contracts could be renewed twice for an additional one (1) year period.
- c) Both Contracts were renewed for an additional one (1) year period in August 2005 and August 2006.

2. Present Situation

- a) Both Contracts expire in August 2007.
- b) Florida Housing requires the services of a Hearing Officer to preside over administrative hearings, pursuant to Sections 120.569 and 120.57(2), Fla. Stat. and Fla. Admin. Code R. 28-106, at Florida Housing for litigation resulting from a Florida Housing agency action.

3. Recommendation

Florida Housing staff recommends the issuance of an RFP for hearing officer services and authorization for the Executive Director to establish a Review Committee to make a recommendation to the Board.

SINGLE FAMILY BONDS

Action

VII. SINGLE FAMILY BONDS - FISCAL

A. Single Family Homeowner Program

1. Background

- a) Florida Housing sold its \$110 million 2007 Series 1 Bonds (2007 Phase One) on February 22, 2007. This sale produced proceeds for the origination of full spread fixed rate single family mortgage loans bearing rates of:
 - (1) 6.35% for Florida Plus Loans,
 - (2) 5.79% for Florida First Loans,
 - (3) 5.29% for Florida Advantage Loans,
 - (4) 5.54% for Florida Heroes Loans,
 - (5) 5.89% for Florida 40 Loans, and
 - (6) 6.45% for Florida 40 Plus Loans.
- b) Staff is requesting approval to issue up to \$250 million of single family bonds to fund mortgages from what will be designated as 2007 Phase Two Bonds (multiple series to be determined) and if savings can be achieved to refund the outstanding 1996 Series 1-2 and 1996 Series 3 bonds.
- c) The 2007 Phase Two Bonds are expected to be rated "AA" by Standard & Poor's Ratings Services, "Aa1" by Moody's Investors Service, and "AA+" by Fitch Ratings. It is anticipated that the 2007 Phase Two Bonds and any additional new money bonds issued under the 1995 Indenture will, for the foreseeable future, be secured by mortgage backed securities.
- d) Consistent with normal rotation of bond professionals, Citigroup Global Markets Inc. will serve as senior managing investment banker for the negotiated sale of the 2007 Phase Two Bonds. Hawkins, Delafield & Wood will serve as bond counsel and Shuffield, Lowman, P.A. will serve as special counsel.

2. Present Situation

- a) Authorization necessary to issue the 2007 Phase Two Bonds requires (1) adoption of an authorizing resolution by Florida Housing's Board and (2) approval of the plan of finance by the State Board of Administration. To work within the constraints of regularly scheduled public meetings and maintain Florida Housing's goal of providing continuously available single family mortgage funding, the authorizing resolution for the 2007 Phase Two Bonds is being presented for consideration at Florida Housing's March 16, 2007 meeting.

SINGLE FAMILY BONDS

Action

- b) Program changes implemented with the 2007 Series 1 bonds render it difficult to predict the precise rate of reservation for the bonds; however to insure sufficient time for obtaining required approvals for the 2007 Phase Two bonds, authorization is hereby requested to commit up to \$25,000,000 of Indenture assets and/or other funds available to Florida Housing to provide interim funding for single family reservations.
- c) Final size, structure, timing and other decisions relating to the 2007 Phase Two Bonds will be made based on production, program changes and market conditions with the advice of CSG Advisors and Citigroup Global Markets Inc. closer to the time of the anticipated transaction. Issuance costs and capitalized interest (if any) for the 2007 Phase Two Bonds will be funded with assets available under the single family bond indenture and/or by a contribution from Florida Housing's general funds. While in the past actual negative reinvestment costs have been reduced or eliminated by shortening origination schedules and by investing bond proceeds with the State Treasurer's fund, under current market conditions it may be financially advantageous to Florida Housing to use a Guaranteed Investment Contract (GIC) to invest the 2007 Phase Two bond proceeds. Based on current market conditions, we do not expect there to be any negative arbitrage on reinvested bond proceeds to be used to acquire mortgage backed securities.
- d) Summary of Proposed 2007 Phase Two Bonds:
 - (1) Principal amount: Not to exceed \$250,000,000 in long term bonds in one or more series to finance new mortgage loans and, if savings can be achieved, to refund Florida Housing's 1996 Series 1&2 and 1996 Series 3 bonds (of which \$12,075,000 are still outstanding).
 - (2) Florida Housing Funds: 1) interim funding, not to exceed \$25,000,000 from Indenture resources and/or other funds available to Florida Housing with the expectation that any funds committed will be reimbursed with proceeds of the 2007 Phase Two Bonds and 2) issuance costs and any capitalized interest contributed from Indenture resources and/or other funds available to Florida Housing.
 - (3) Mortgage Rates: Not to exceed a mortgage loan yield of 7.75% for the 2007 Phase Two portfolio.
 - (4) Origination & Delivery Period: Twelve months production with up to eighteen months delivery period.
 - (5) Maximum Combined Loan-To-Value: 105% of the lesser of the appraised value or the purchase price of the property except in the case of the person with a disability as defined by the Americans with Disabilities Act in which case the combined loan-to-value may be up to 120% with certain restrictions.
 - (6) Loan Types: Conventional, VA, Rural Development and FHA.
 - (7) Second Mortgages: HAP Down Payment and HAMI.

SINGLE FAMILY BONDS

Action

- (8) Guaranteed Mortgage Securities: Ginnie Mae, Fannie Mae and Freddie Mac.
- e) Private Activity Tax-Exempt Bond Resources Available:
 - (1) \$ 83,053,542 of 2005 carry-forward, and
 - (2) \$250,497,280 of 2006 carry-forward.
- f) [Exhibit A](#) – CSG Advisors Method of Sale Letter
- g) [Exhibit B](#)– Authorizing Resolution

3. **Recommendation**

Staff recommends the Board approve the necessary funding (including reimbursable amounts to provide program funding between bond issues), staff actions and the resolution to permit the issuance of the proposed 2007 Phase Two Homeowner Mortgage Revenue Bonds.

SINGLE FAMILY BONDS

Action

VIII. SINGLE FAMILY BONDS

A. Request Authorization to Commence Rule Amendment Process for the Homeownership Assistance For Moderate Income (“HAMI”) Loan Program, the Florida Home Ownership Assistance Program / Down Payment Assistance (“HAP”) Loan Program, and the Single-Family Mortgage Revenue Bonds (“SFMRB”) Program

1. Background

- a) The Homeownership Assistance For Moderate Income Loan Program (HAMI), governed by Rule 67-51, Florida Administrative Code (FAC), establishes the procedures by which the Corporation administers the HAMI Program which provides down payment assistance to borrowers in conjunction with SFMRB first mortgages.
- b) The Florida Home Ownership Assistance Program / Down Payment Assistance (“HAP”) Loan Program, governed by Rule 67-45, FAC, establishes procedures by which the Corporation administers the HAP Program which provides down payment assistance to borrowers in conjunction with SFMRB first mortgages.
- c) The Single-Family Mortgage Revenue Bonds Program, governed by Rule 67-25, FAC, establishes the procedures by which the Corporation administers the Single-Family Mortgage Revenue Bonds (“SFMRB”) Program which provides first mortgages to borrowers.

2. Present Situation

In 2006, the SFMRB Program produced an unprecedented 2,731 loans. This level of production is expected to continue for 2007. Staff needs to update the rules to address the way these programs work with one another to ensure they remain effective in light of the increased use.’

3. Recommendation

Authorize staff to commence the rule amendment process for the HAMI, HAP and the SFMRB Programs.

UNIVERSAL CYCLE

Action

IX. UNIVERSAL CYCLE

A. 2007 Universal Application Cycle 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. The Instructions also provide that each End-of-the-Line SAIL request that is assigned an identification number will receive a random lottery number separate from the lottery numbers assigned to the Universal Cycle Applications.

2. Present Situation

The seed numbers for the 2007 Universal Cycle Applications and the End-of-the-Line SAIL requests must be selected so that the internal auditors will be able to randomly generate the lottery numbers at the appropriate time.

3. Recommendation

From the listing of numbers provided by internal audit, the Chair should select a seed number to be used for the 2007 Universal Application Cycle and a separate seed number to be used for the End-of-the-Line SAIL requests.

UNIVERSAL CYCLE

Action

B. 2007 Universal Application Cycle – Review Committee

1. Background/Present Situation

Chapter 420, Florida Statutes, and Rule Chapter 67-48, F.A.C., provide for a review committee to be comprised of FHFC staff persons and at least one DCA staff person. The review committee will make recommendations to the Board regarding program participation.

2. Recommendation

Staff recommends and requests Board approval for a review committee for the 2007 Universal Application cycle to be comprised of the following FHFC staff: Vicki Robinson, Wayne Conner, Barb Goltz, and Laura Cox, with Jack Gaskins as the DCA representative.

X.