

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
June 13, 2014
Action Items



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Action

I. LEGAL

A. In Re: Karen Servant – FHFC Case No. 2014-066VW

1. Background

- a) On or about September 25, 2013, Karen Servant (“Petitioner”) applied for financial assistance through the Hardest Hit Fund Principal Reduction (“HHF-PR”) program. Petitioner is the sole occupant of her house, located in Citrus County, Florida. The HHF-PR program is designed to provide financial assistance to those eligible borrowers with up to \$50,000 to reduce the principal balance of the first mortgage thereby reducing the loan to value of the first mortgage to no less than 100%. The HHF-PR program is operated on a first come, first served basis.
- b) On April 2, 2014, Florida Housing received a “Petition for Waiver of Rule Chapter 67-59.210” (“Petition”) from Petitioner. A copy of the Petition is attached as [Exhibit A](#).
- c) On April 2, 2014, Florida Housing requested that Petitioner provide a copy of her 2013 W-2 Form and to provide a citation to the statute that the rule in question implements, per the requirement of Rule 28-104.002(2)(e), Fla. Admin. Code. To date, Petitioner has not responded to this request.

2. Present Situation

- a) Rule 67-59.210 (1)(d), Fla. Admin. Code provides, in pertinent part:
 - (1) The Applicant must document that he or she is a borrower or co-borrower on the mortgage loan and also document that he or she:
 - (d) Has a total household income, adjusted for household size, that is below 140% of the county area median income.
- b) For 2013, 140% of the area median income for Citrus County for a sole occupant is \$47,040.
- c) Petitioner requested a variance or waiver of the Rule that limits the eligibility to those persons who make less than 140% of the county median income. Petitioner provided four pay stubs as part of her application, which demonstrated that Petitioner’s anticipated annual income is \$97,028.23, or 288.8% AMI for Citrus County, Florida.
- d) As justification, Petitioner states that she resides alone and has no equity in her house. She explains that she owes “\$208K on my home and it is worth only around \$140K.” She further alleges that the house may need major repairs and that she does not have the means to pay for such repairs.
- e) On May 2, 2014, the Notice of Petition was published in the Florida Administrative Register in Volume 40, Number 86. To date, Florida Housing has received no comments concerning the Petition.

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- f) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For the purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship. For the purposes of this section, “principles of fairness” are violated when the literal application of a rule affects a person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

- g) Petitioner failed to demonstrate that strict application of the above Rule under these circumstances would cause undue hardship or violate the principles of fairness. Petitioner has not demonstrated a substantial hardship, as Petitioner’s income is almost three times what is permissible under Rule 67-59.210(1)(d), Fla. Admin. Code. The HHF income limits are consistent with all other Florida Housing programs. The intent of the rule is to provide assistance to those qualified Floridians who may be facing possible foreclosure. Further, it would violate the principles of fairness to those Floridians who qualify for the HHF-PR program, but would be denied assistance, if the HHF-PR funds were provided to Petitioner, and no funds remain to assist an eligible borrower.

3. **Recommendation**

Staff recommends the Board deny Petitioner’s request for a waiver of Rule 67-59.210(1)(d), Fla. Admin. Code, and any other relief requested in its Petition.

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B. Rosedale Holdings, LLC, et al, v. Florida Housing Finance Corporation, FHFC Case No. 2014-038BP (Intervenors Paradise Point Senior Housing, LLC, Arbours at Tumblin Creek, LLC, and Arbours at central Parkway, LLC);

OCDC Palm Village LP, et al, v. Florida Housing Finance Corporation, FHFC Case No.2014-042BP (Intervenor Katie Manor, Ltd.);

Frenchtown Square, LLC, v. Florida Housing Finance Corporation, FHFC Case No.2014-043BP;

JPM Westbrook I Limited Partnership v. Florida Housing Finance Corporation, FHFC Case No. 2014-044BP (Intervenor Katie Manor); and

Summerset Apartments Limited Partnership v. Florida Housing Finance Corporation, FHFC Case No. 2014-047BP

1. Background

- a) These five cases regarding “RFA 2013-001 - For Affordable Housing Developments Located in Medium and Small Counties,” (the “RFA”) were consolidated for hearing. No material facts were in dispute, so the cases were heard by Florida Housing’s Hearing Officer. All parties applied for funding through the RFA seeking allocations of Low Income Housing Tax Credits. Petitioners were notified of the Board’s intended decision on or about December 13, 2013. Petitioners timely filed notice of intent to protest and formal written protests as required by section 120.57(3), Florida Statutes, challenging the Corporation’s scoring and ranking of Applicants for funding under RFA 2013-001. Intervenors properly and timely filed for intervention to participate in these cases.
- b) The central issue common to all the consolidated cases is whether Respondent Florida Housing Finance Corporation’s (“Florida Housing”) decisions to award or deny funding under Request for Applications (“RFA”) 2013-001, as proposed on December 13, 2013, are contrary to the agency’s governing statutes, the agency’s rules or policies, or the solicitation specifications. More specifically, whether Florida Housing’s scoring and ranking decisions as to the following were within the bounds described above as to: (1) Acceptance of equity commitment letters for Arbours at Tumblin Creek, LLC, Arbours at Central Parkway, LLC, and Paradise Point Senior Housing, LLC; (2) Acceptance of documents establishing site control for Arbours at Tumblin Creek and Summerset Apartments Limited Partnership; (3) Acceptance of verification of local contribution for Katie Manor, LTD.; (4) Rejection of Frenchtown Square, LLC, for failure to provide principals of a co-developer; (5) Rejection of OCDC Palm Village, LP, for capital contribution not paid in prior to construction completion; and (6) Florida Housing’s decision to include Pinnacle at Hammock Crossings, LLC, in its award, even though the Applicant had sent a letter requesting withdrawal of its application.

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- c) Florida Housing's position on each issue was as follows:
- (1) The equity commitment letters for Arbours at Tumblin Creek and Arbours at Central Parkway each omitted the requested housing credit amount. Florida Housing's scorer was able to calculate and verify the request amount from data contained within the Application, and accepted the equity commitment letters. Florida Housing considered these waivable computation errors. The equity commitment letter for Paradise Point contained a housing credit amount greater than the amount requested. Florida Housing's scorer was able to calculate and verify that the request amount in the equity commitment letter was the result of a waivable typographical error.
 - (2) The contract offered by Arbours at Tumblin Creek to demonstrate site control contained a defective assignment—not signed by the seller. The contract specifically allowed assignment to a related company without the Seller's consent. The Summerset contract contained a closing date in 2013 that was prior to the contract execution date. Florida Housing determined this should have read "2014," thus was a typographical error.
 - (3) Florida Housing reviewed allegations of errors regarding Katie Manor's Local Government Verification Form and determined that the person signing the form was within the class of authorized signors, and that marginal notes on the form did not affect its viability.
 - (4) Florida Housing reviewed and confirmed that Frenchtown Square did not list all the principals required for a co-developer, RUDG, LLC.
 - (5) Florida Housing determined that OCDC Palm Village's construction financing proposal contained conflicting information regarding pay-in prior to construction completion, which could not be resolved within the application.
 - (6) The Board approved the review committee's funding recommendations with Hammock Crossings' Application included, as the first notification of its withdrawal was via email on December 11, 2013, while staff and Board members were in transit to the December 13, 2013, Board meeting where the recommendations were approved. Nothing in Florida Housing's statutes, rules of specifications of the RFA prohibited this action.

2. Present Situation

- a) A hearing was conducted on March 5, 2014, before Florida Housing's appointed Hearing Officer, Christopher D. McGuire. The parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Hearing Officer issued a Recommended Order on May 12, 2014. The Recommended Order affirmed Florida Housing's scoring and ranking decisions as to each issue noted above. A copy of the Recommended Order is attached as [Exhibit B](#).

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- b) On May 28, 2014, Rosedale Holdings, LLC, filed "Rosedale's Exceptions to Recommended Order," attached as [Exhibit C](#), taking exception with certain of the Hearing Officer's Recommended Conclusions of Law, challenging such decisions as to each and every development (see (1)-(6) above) except for the disqualification of Paradise Point (as noted in (1) above). JPM Westbrook I Limited Partnership filed a "Notice of Joinder in Exceptions," attached as [Exhibit D](#), adopting all exceptions filed by Rosedale. Summerset Apartments Limited Partnership filed its "Objections/Exceptions to the Recommended Order," attached as [Exhibit E](#), challenging only the Hearing Officer's determination regarding the Hammock Crossings withdrawal (as noted in (6) above).

3. **Recommendation**

- a) Staff recommends that the Board: Reject the exceptions filed by Rosedale and Summerset's, and JPM Westbrook's Joinder, for the reasons expressed in Florida Housing's Response, as filed on June 5, 2014. Adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with such decisions.

MULTIFAMILY PROGRAMS

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II. MULTIFAMILY PROGRAMS

A. Request for Applications (RFA) 2014-106 for PHA Revitalization Of Affordable Housing Developments

1. Background

In 2013, Florida Housing Finance Corporation (Florida Housing) was authorized by section 420.507(48), F.S., to use up to 10 percent of its annual allocation of low-income housing tax credits to allocate by competitive solicitation for high-priority affordable housing developments. On April 11, 2013, Florida Housing issued a Request for Proposals (RFP) for the development of affordable, multifamily housing involving Public Housing Authority (PHA) revitalization (consisting of Rehabilitation or Reconstruction) in medium and small counties. Through that RFP, Florida Housing awarded preliminary financing to two (2) PHA Revitalization Developments for a total allocation of \$1,685,000. Through this Request for Applications (RFA), \$1,750,000 was made available for the same purpose of development of affordable, multifamily housing involving PHA revitalization (consisting of Rehabilitation or Reconstruction) in medium and small counties.

2. Present Situation

- a) Florida Housing received 4 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Amy Garmon, Multifamily Programs Manager (Chair), Elizabeth O'Neill, Senior Policy Analyst, Elizabeth Thorp, Multifamily Programs Manager, Jean Salmonsens, Housing Development Manager, Elaine Roberts, Senior Supportive Housing Analyst, Nancy Muller, Policy Director, and Jade Grubbs, Multifamily Programs Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) The Review Committee will meet on June 9, 2014 to give their scores and submit a recommendation to the Board.
- c) At that Review Committee meeting, the individual committee members will present their scores and the Committee will carry out the funding selection process in accordance with Section Five of the RFA. The following information will be provided as a supplemental item: (i) the Review Committee's recommendation(s), and (ii) the RFA 2014-106 Sorting Order Chart, with the eligible Applications listed in order from highest total score to lowest total score, with all funding selection criteria applied, and the ineligible Applications (if any) listed in assigned Application number order.

MULTIFAMILY PROGRAMS

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B. Request for Applications (RFA) 2014-107 for the Financing of Permanent Supportive Housing with a Priority to Assist Veterans with a Disabling Condition that Lack Permanent and Stable Housing

1. Background

On April 4, 2014, Florida Housing staff issued RFA 2014-107 offering an estimated \$2.2 million of Housing Credits, as well as an estimated \$5 million of gap loan funding, to qualified Non-Profit Applicants who commit to provide Permanent Supportive Housing for Veterans with a Disabling Conditions who are Chronically Homeless or in institutions because of a lack of permanent housing that facilitates the intended residents' access to community-based healthcare and supportive services and stability in their community. The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Tuesday, May 6, 2014.

2. Present Situation

- a) Florida Housing received one (1) Application in response to this RFA. The Review Committee members, designated by the Executive Director, were Kevin Tatreau, Director of Development Finance (Chair), Elizabeth O'Neill, Senior Policy Analyst, Bill Aldinger, Assistant Policy Director, Elaine Roberts, Senior Supportive Housing Analyst, Susan Parks, Chief Information Officer, Elizabeth Thorp, Multifamily Programs Manager, and Jean Salmonsens, Housing Development Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Application, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its June 9, 2014 Review Committee meeting, the individual committee members will present their scores and the Committee will carry out the funding selection process in accordance with Section Four B of the RFA. The Review Committee's recommendation(s) will be provided as a supplemental item.

MULTIFAMILY PROGRAMS

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C. Proposed State Apartment Incentive Loan Program Allocation for 2014-2016

1. Background/Present Situation

- a) The 2014 Legislature appropriated \$57,660,000 to the State Apartment Incentive Loan (SAIL) Program. While the appropriation directs Florida Housing to target a small portion of SAIL units in Family, Elderly and Homeless properties for persons with a disabling condition, the legislative proviso did not further specify how the funding should be allocated. Section 420.5087, Florida Statutes, governs the SAIL program and specifies how the SAIL funds will be allocated both geographically and demographically.
- b) Proposed Geographic Allocation
 - (1) Section 420.5087(1), Florida Statutes, calls for State Apartment Incentive Loan (SAIL) funds to be distributed over successive three year periods to meet the need for very low income housing throughout the state, as determined by using the most recent statewide low income rental housing market study.¹ In this case, this is the 2013 Rental Market Study prepared by the Shimberg Center for Housing Studies at the University of Florida.²
 - (2) The statute calls for at least 10 percent of the program funds distributed over three years to be allocated to each of three categories: large counties (825,000 people or more), medium counties (more than 100,000 but less than 825,000 people) and small counties (100,000 or less). Counties are assigned to these categories using the population statistics published in the most recent edition of the Florida Statistical Abstract.
 - (3) [Exhibit A](#) provides a list of counties categorized as large, medium and small. [Exhibit B](#) describes how the percentages below were derived using cost burden information. Based on the 2013 Rental Market Study, the proposed allocation of resources for the SAIL program between large, medium and small counties is provided in the recommendation below.

¹ “Very low income” is defined as less than or equal to 50 percent of area median income (AMI).

² The 2013 Rental Market Study may be found at:

http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0399. While the Rental Market Study evaluates renter households at or below 60 percent of area median income because Florida Housing’s rental programs mainly serve households up to this income level, additional runs of data for very low income (0-50 percent of area median income) are also completed to assist Florida Housing in completing the SAIL allocation process. This information is provided separately at the website link above.

MULTIFAMILY PROGRAMS

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- c) Proposed Demographic Allocation
- (1) Section 420.5087(3), Florida Statutes, calls for SAIL funds to be reserved for certain population groups as follows:
- Commercial fishing workers and farmworkers: Not less than 10 percent;
 - Homeless persons: Not less than 5 percent;
 - Persons with special needs: Not more than 10 percent;
 - Elderly persons: Not less than 10 percent; and
 - Families (this is the most general group, representing all types of households, including single person households and those with and without children of all ages): Not less than 10 percent.
- d) The reservation of funds to each group is determined using the most recent statewide low income rental market study available at the time of publication of each notice of fund availability. The 2013 Rental Market Study serves this purpose.
- e) [Exhibit A](#) describes how the percentages below were derived. Based on the 2007 Rental Market Study, the proposed allocation of funds for the demographic groups is provided in the recommendation below.

2. **Recommendation**

- a) The staff recommends that the Board approve the percentages for the geographic and demographic allocation of SAIL funds for 2014 through 2016 as follows:
- (1) Geographic Allocation
- Large counties: 53 percent;
 - Medium counties: 37 percent; and
 - Small counties: 10 percent.
- (2) Demographic Allocation
- Commercial fishing workers and farmworkers: 10 percent;
 - Homeless persons: 10 percent;
 - Persons with special needs: 10 percent;
 - Elderly persons: 20 percent; and
 - Families: 50 percent.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

III. PROFESSIONAL SERVICES SELECTION (PSS)

A. Independent Municipal Advisor Services

1. Background

- a) Effective October 1, 2010, Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended Section 15B of the Securities Exchange Act of 1934 to add a new requirement that “municipal advisors,” who will be known as independent registered municipal advisors (IRMA), register with the Securities and Exchange Commission (“SEC”). On September 20, 2013, the SEC Release No. 34-70462 set forth the final rules for the definition, registration and regulation of municipal advisors to be effective January 1, 2014. One goal of the Dodd-Frank Act was to bring previously unregulated non-dealer financial advisors under the supervision of regulators. To achieve this, the SEC created a new regulatory process for underwriters and established the municipal advisor as the fiduciary role in the issuance of municipal securities.
- b) On January 13, 2014, the SEC delayed the effective date of the new rules until July 1, 2014. During this delay of implementation, the SEC will continue to provide direction on registration provisions, provide examples of what is and what is not considered “advice,” the required supervisory structure, and testing provisions for registered municipal advisors.
- c) The SEC's definition of "advice" according to the rule includes, without limitation, a recommendation that is particular to the specific needs, objectives, or circumstances of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including the structure, timing, terms, and other similar matters concerning such financial products or issues. Under this definition, many services provided by public finance bankers and underwriters, as well as communications between bankers and their issuer clients, would be treated as "advice" for the purpose of the rule.
- d) Currently, Florida Housing’s underwriting team, selected via a Request for Qualifications (RFQ) process, provides recommendations on bond structures to Florida Housing on a free flowing basis. Effective July 1, 2014, the new regulatory process provides for information flow from underwriters to issuers only under certain exemptions. One of the exemptions is when the issuer hires an IRMA (who will be regulated under the new underwriter). There are two other possible exemptions: (a) the issuer may have a recurring RFQ in place at 3-6 month intervals which gives issuers access to the underwriters (has to be at least three underwriters) for new ideas for transactions or (b) to formally engage one underwriter for a specific transaction which allows a free flow of information between that underwriter and the issuer on that specific transaction and continues until the end of the underwriting period. No other underwriters can provide input except the one engaged for the transaction.

PROFESSIONAL SERVICES SELECTION (PSS)

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- e) The SEC's municipal advisor rule restricts potential underwriters from giving bond advice to issuers of tax exempt bonds except as identified above. The rule does not require issuers to have an IRMA; this one exemption allows multiple investment bankers to continue to provide issuers with information on an ongoing basis.
- f) Florida Housing entered into a contract (2012-01-02-001) dated August 24, 2012, with TIBOR Partners, Inc., to provide Financial Advisory Services for Florida Housing's Guarantee Program, Single Family and Multifamily Bond Programs.
- g) The initial contract is for a three year period that is set to expire on August 23, 2015. The contract also provides for two one-year renewals.

2. Present Situation

- a) Florida Housing's current financial advisor, TIBOR Partners Inc., has decided not to register with the SEC to become an IRMA. TIBOR will continue to provide financial advisory services for the Guarantee Program, general operations, and any program transactions that do not involve tax exempt bonds.
- b) Florida Housing has determined that it is in its best interests to retain an IRMA in order to receive the best information and recommendations from the underwriting team prior to issuing tax exempt bonds. The services will include, but not be limited to, the following:
 - (1) Assisting staff with strategies for Single Family Program bond transactions; and
 - (2) Assisting staff with strategies for Multifamily Program bond transactions.

3. Recommendation

Authorize staff to begin the solicitation process in order to select a qualified Offeror as an Independent Registered Municipal Advisor (IRMA). Authorize the Executive Director to establish a Review Committee to make a recommendation to the Board.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

IV. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval of Farmworker Demographic Waiver Extension and Credit Underwriting Update Letter for Sanders Pines (1989-038S/1999-510C)

Development Name: Sanders Pines (“Development”)	Location: Collier County
Developer/Principal: Immokalee Non Profit Housing, Inc. (“Developer”)	Set-Aside: 80% (32 units) @ 50% AMI
Number of Units: 40	Allocated Amount: \$400,000
Type: Garden Style	Housing Credit Allocation: \$146,441
Demographics: Farmworker	MMRB: N/A

1. Background

- a) On March 21, 1990, a SAIL loan in the amount of \$400,000 closed for this 40 unit Farmworker development in the town of Immokalee, located in Collier County. Immokalee has been a long standing hub of farm work in Florida, providing housing for many workers who travel out to the fields in Collier and surrounding counties for work.
- b) On July 10, 2011, staff received correspondence from the Developer requesting temporary relief from the Farmworker demographic set-aside requirement.
- c) On December 9, 2011, the Board approved the Borrower’s request to temporarily waive the Farmworker demographic set-aside for a minimum of two years. The amended LURA evidencing the temporary waiver was executed on March 28, 2012, with an automatic termination date of March 28, 2014.
- d) On March 15, 2013, staff provided the Board a status report on the 2012 occupancy levels and the financial status. By December of 2011 the physical occupancy at Sander Pines reached an annual average of 72% with a monthly low of 58%. In calendar year 2012, physical occupancy escalated to a high of 100% and as of November 2012 had an annual average of 92.7%. The December 2012 rent roll shows 39 occupied units with the remaining unit leased and ready for move-in. The 2012 year-end financial statements show a net operating income of \$1,780. Although not yet capable to support a positive debt service ratio, the cash flow has greatly improved.

2. Present Situation

- a) On January 8, 2014, staff received a letter from the Developer requesting an additional temporary waiver for a minimum of two years ([Exhibit A](#)). The Developer states that the property has somewhat higher vacancy rates than previously, and with the loss of the waiver, these vacancy rates will likely increase.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

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- b) Staff conversations with the third party property manager for this property and other knowledgeable farmworker experts suggest that several changes to the farm labor needs for that area have shifted. Citrus production is on the wane with citrus canker and greening on the rise, while other shorter production period crops such as blueberries are on the rise. Additional mechanization in packing houses also has lowered the need for Farmworkers. As a result, not only are fewer Farmworkers needed, but they often have farm work in the Collier County area for no more than three months in a year. The Farmworkers who migrate to other areas following the crops do not need an apartment with a year lease, and the workers who stay in the area supplement farm work with hotel and landscaping work.
- c) Section 420.503 (18)(a), Florida Statutes, defines Farmworkers as “. . . a laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derived at least 50 percent of her or his income in the immediately preceding 12 months from such employment.” The property manager at Sanders Pines indicates that the property must turn away prospective tenants because farm work is not a high enough percentage of their incomes to meet the statutory requirement.
- d) This suggests that the Farmworker need for housing in the Immokalee area still exists, but that the definition of “Farmworker” which is provided in Florida Statutes may not currently match what is actually occurring in that area.
- e) Staff also requested a credit underwriting update on this issue for the property. On May 29, 2014, staff received a credit underwriting update letter with a positive recommendation for a continuation of the temporary waiver for a minimum of two years ([Exhibit B](#)). Sanders Pines currently has 38 of the total 40 units occupied of which 27 units (67.5%) are occupied by Farmworkers. Florida Housing has received a few other similar Farmworker waivers over the last few years. Staff is concerned that the statutory approach targeting Farmworkers may not be adequate to allow us to match needed affordable housing with farmworkers working in Florida today. Moreover, while farmworker housing need data are updated every three years for Florida Housing using the most sophisticated approach available, we are concerned that the data may not be providing the level of detail needed to thoughtfully allocate SAIL resources going forward. Staff is working with the Shimberg Center and farmworker experts to analyze seasonal farm work trends in the state and how these are expected to impact the need for farm labor in the next 3-5 years and beyond.
- f) Staff has reviewed this recommendation and finds that the development meets all of the requirements of Rule Chapter 9I-35, F.A.C. However, Florida Housing has a fairly recent precedent with SAIL financing that requires a lower percentage of the units to be set aside for Farmworkers. In these situations, 40% of the units are set aside for Farmworkers, and the rest are for Families, i.e., general occupancy. If a new waiver is adopted for a period of time while Florida Housing does a broader evaluation of farm labor housing need, lowering the Farmworker set-aside to 40% maintains the focus on Farmworkers. An additional requirement to require the development to set a priority for Farmworkers on the property’s waiting list, if such exists at any time, will further promote availability of housing for this population.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

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3. **Recommendation**

Staff recommends that Sanders Pines be granted a revised waiver for a period of up to two years of meeting the Farmworker demographic requirement, but that the property be required to set aside 40% of the units for Farmworkers; maintain the income set-aside of 80% of the units for households with incomes at or below 50% of area median income; require the property to maintain a priority on its waiting list for Farmworkers during the entire period; collect additional tenant data as specified by and for Florida Housing; and direct Florida Housing staff to proceed with loan document modification activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

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B. Request Approval of Farmworker Demographic Waiver Extension and Credit Underwriting Update Letter for Timber Ridge (1994-003S/1994L-038)

Development Name: Timber Ridge (“Development”)	Location: Collier County
Developer/Principal: Immokalee Non Profit Housing, Inc. (“Developer”)	Set-Aside: 80% (28 units) @ 50% AMI
Number of Units: 34	Allocated Amount: \$500,000
Type: Garden Style	Housing Credit Allocation: \$247,116
Demographics: Farmworker	MMRB: N/A

1. Background

- a) On April 10, 1995, a SAIL loan in the amount of \$500,000 closed for this 34 unit Farmworker development in the town of Immokalee, located in Collier County.
- b) On July 10, 2011, staff received correspondence from the Developer requesting temporary relief from the Farmworker demographic set-aside requirement.
- c) On December 9, 2011, the Board approved the Borrower’s request to temporarily waive the Farmworker demographic set-aside for a minimum of two years. The amended LURA evidencing the temporary waiver was executed on March 28, 2012, with an automatic termination date of March 28, 2014.
- d) On March 15, 2013, staff provided the Board a status report on the 2012 occupancy levels and the financial status. By December of 2011 the physical occupancy at Timber Ridge reached an annual average of 89% with a monthly low of 76%. In calendar year 2012, physical occupancy escalated to a high of 100% and as of November 2012 had an annual average of 96%. The December 2012 rent roll shows 33 occupied units with the remaining unit leased and ready for move-in. The 2012 year-end financial statements show a net operating income of \$6,071. Although not yet capable to support an annual positive debt service ratio, the cash flow has greatly improved.

2. Present Situation

- a) On January 8, 2014, staff received a letter from the Developer requesting an additional temporary waiver for a minimum of two years ([Exhibit C](#)). In conjunction with the Sanders Pines waiver request, staff carried out an evaluation of possible changes in the need for Farmworker housing in the Immokalee area.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

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- b) Staff also requested a credit underwriting update on this issue for the property. On May 29, 2014, staff received a credit underwriting update letter with a positive recommendation for a continuation of the temporary waiver for a minimum of two years ([Exhibit D](#)). Timber Ridge is currently at 97% occupancy. Of the total 34 units, 21 units (61.8%) are occupied by Farmworkers.
- c) Staff has reviewed this recommendation and finds that the development meets all of the requirements of Rule Chapter 9I-35, F.A.C.
- d) However, Florida Housing has a fairly recent precedent with SAIL financing that requires a lower percentage of the units to be set aside for Farmworkers. In these situations, 40% of the units are set aside for Farmworkers, and the rest are for Families, i.e., general occupancy. If a new waiver is adopted for a period of time while Florida Housing does a broader evaluation of farm labor housing need, lowering the Farmworker set-aside to 40% maintains the focus on Farmworkers. An additional requirement to require the development to set a priority for Farmworkers on the property's waiting list, if such exists at any time, will further promote availability of housing for this population.

3. Recommendation

Staff recommends that Timber Ridge be granted a revised waiver for a period of up to two years of meeting the Farmworker demographic requirement, but that the property be required to set aside 40% of the units for Farmworkers; maintain the income set-aside of 80% of the units for households with incomes at or below 50% of area median income; require the property to maintain a priority on its waiting list for Farmworkers during the entire period; collect additional tenant data as specified by and for Florida Housing; and direct Florida Housing staff to proceed with loan document modification activities.