

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
March 4, 2005  
Information Items



## **FISCAL**

### ***Informational***

#### **I. FISCAL**

##### **A. Operating Budget Analysis for January 2005**

###### **1. Background/Present Situation**

- a) The Financial Analysis for January 31, 2005, is attached as [Exhibit A.](#)
- b) The Operating Budget for the period ending January 31, 2005, is attached as [Exhibit B.](#)

##### **B. Operating Budget Analysis for December 2004**

###### **1. Background/Present Situation**

- a) The Financial Analysis for December 31, 2004, is attached as [Exhibit C.](#)
- b) The Operating Budget for the period ending December 31, 2004, is attached as [Exhibit D.](#)

## **GUARANTEE PROGRAM**

### ***Information***

## **II. GUARANTEE PROGRAM**

### **A. General Information**

#### **Notice of Issuance of Commitment to Guarantee**

##### **1. Background**

Pursuant to the expedited review processing procedure authorized by the Board on March 7, 2002 in connection with the issuance of a Commitment to Guarantee, Florida Housing's Chief Financial Officer, Director of Asset Management and Guarantee Program, Financial Advisor, TIBOR PARTNERS, Inc., and the Guarantee Program's legal counsel, Nabors, Giblin & Nickerson, P.A., have reviewed and approved the Final Credit Underwriting Report for Andrews Place II Apartments, a proposed 120-unit multifamily rental development to be located in Bay County, Florida, and financed by bonds issued by the Housing Finance Authority of Bay County. The proposed Andrews Place II transaction will be credit enhanced by the Guarantee Program and the HUD Risk-Sharing Program. The total proposed loan amount to be guaranteed is \$5,455,000.

##### **2. Present Situation**

On January 4, 2005, the final credit underwriting report, TIBOR PARTNERS, Inc.'s Project Suitability Assessment and Risk Evaluation Report, and staff's recommendation for this proposed transaction was submitted to each Board member electronically and the Board was provided the required 72-hour review period. No objections were received and the review period has expired.

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

## LEGAL

### *Information*

### III. LEGAL

#### A. **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.

## **LEGAL**

### ***Information***

#### **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 Order Granting, In Part, Plaintiff's Motion For Summary Judgment; Denying Defendants' Motion to Strike Late Filed Document.

## **LEGAL**

### ***Information***

#### **B. 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.

## **LEGAL**

### ***Information***

#### **C. In Re: 2004 Universal Cycle Appeals - Ranking Disputes**

##### **1. Background**

- a) On March 31, 2004, Applicants submitted applications to Florida Housing for the award of SAIL, MMRB or HOME funds and/or an allocation of Housing Credits in the 2004 Universal Cycle program.
- b) On April 29, 2004, Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes, and an Election of Rights form.
- c) Hearings were held during August and September, 2004, and on October 14, 2004, final ranking was issued for the 2004 Universal Cycle.
- d) On November 8, 2004, two Applicants filed Petitions for Informal Hearings. Goodbread Hills, Ltd. and Tiger Bay of Gainesville, Ltd.

##### **2. Present Situation**

Florida Housing is preparing for informal hearings to be held on February 16, 2005.

## LEGAL

### *Information*

#### **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.

##### **2. Present Situation**

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. As of the date of this report, the Court has not ruled on these Motions. Florida Housing continues to monitor this ongoing litigation.



## **POLICY**

### ***Information***

#### **IV. POLICY**

##### **A. Military Housing Needs Assessment**

###### **1. Background**

- a) As a result of Senate Bill 1604 being passed during the regular 2004 legislative session, Florida Housing has been directed to perform an assessment of the affordable housing needs of active duty military personnel, to be delivered with recommendations to the Governor, President of the Senate, the Speaker of the House of Representatives.
- b) With Board authorization, Florida Housing staff issued an Invitation to Negotiate (ITN) for consulting services to perform this assessment and first hired Gulf Engineers & Consultants, Inc. to perform the assessment as a result of the ITN. After review of two drafts of the assessment, Florida Housing staff found many instances of inaccurate information and inadequate treatment of items required by the scope of work in the contract. As a result, Florida Housing canceled the contract, and in December, the Board authorized the staff to begin contract negotiations with two other firms to perform the assessment.

###### **2. Present Situation**

- a) On December 14, 2004, Florida Housing entered into a contract with Strategic Planning Group, Inc. to perform the assessment. The consultant has finished compiling information on all of the installations and is preparing the final report for the staff's review. They anticipate no problems in meeting the final due date of February 21, 2005. The staff's initial review of parts of the report have been very favorable.
- b) Once the report has been delivered to Florida Housing, the staff has one week to review the assessment and develop recommendations for the Legislature. The staff will update the Board on the military housing findings and recommendations at the board meeting.

## SINGLE FAMILY BONDS

### *Information*

#### V. 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.
- b) Lendable proceeds totaling \$36,152,475 were made available and offered at an interest rate of 5.55%. There is currently \$18,277,182 available as of February 13, 2005.
- c) Lendable proceeds totaling \$10,400,000 were made available and offered at an interest rate of 6.25%. There is currently \$9,635,309 available as of February 13, 2005.
- d) Additionally, \$5,000,000 funding was set-aside for special targeting for purchases in Urban Infill, Federally Designated 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 \$2,022,778 available as of February 13, 2005.
- e) As of February 13, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved \$ Amount	Number	\$ Amount Available	% Used
Low Spot Pool	\$36,152,425	\$17,875,293	174	\$18,277,182	49.4
Assisted Spot Pool	\$10,400,000	\$764,691	5	\$9,635,309	7.3
Subsidized rate pool	\$5,000,000	\$2,977,222	34	\$2,022,778	59.5
HAMI Loans	Pooled	\$34,345	7	Pooled	N/A
HAP D/P	Pooled	\$697,470	70	Pooled	N/A
HOME Loans	Pooled	\$1,636,433	95	Pooled	N/A

## SINGLE FAMILY BONDS

### *Information*

#### **B. 2004 Series 1-2 Single Family Mortgage Revenue Bond Program**

##### **1. Background/Present Situation**

- a) On January 23, 2004, the Board authorized issuance of the 2004 Series 1-2 Bonds. The origination period began on March 25, 2004.
- b) Lendable proceeds totaling \$70,428,640 were made available and offered at an interest rate of 5.46%. There is currently \$2,907,307 available as of February 13, 2005.
- c) Additionally, funding was set-aside for special targeting at an interest rate of 4.99% as follows:
  - (1) \$5,000,000 for purchases in Urban Infill, Targeted Areas, HOPE VI and Front Porch Communities;
  - (2) \$1,500,000 for the USDA Rural Development (RD) Section 523 Mutual Self-Help Housing Program; and
  - (3) \$1,000,000 for individuals with Disabilities.
- d) As of February 13, 2005, the following activity was reported:

Allocated Pool	Current \$ Amount Allocated	Purchased/Reserved \$ Amount    Number	\$ Amount Available	% Used
Spot Pool	\$70,428,640	\$67,521,333    697	\$2,907,307	95.9
Urban Infill, Front Porch and HOPE VI	\$5,846,034	\$5,680,653    70	\$165,381	98.3
USDA Self Help	\$112,682	\$112,682    2	Pooled	N/A
Disabled Homebuyers	\$1,541,293	\$1,407,467    17	\$133,826	91.3
HAMI Loans	Pooled	\$155,728    32	Pooled	N/A
HAP D/P	Pooled	\$4,396,259    449	Pooled	N/A
HOME Loans	Pooled	\$3,827,701    251	Pooled	N/A

## UNIVERSAL CYCLE

### *Information*

#### VI. UNIVERSAL CYCLE

##### A. 2005 Universal Cycle – Applications Received

###### 1. Background/Present Situation

- a) The 2005 Universal Cycle opened on January 18, 2005 and closed on February 16, 2005.
- b) A report of the Applications submitted, describing such information as number of applications received, demographic commitments, designation selections, etc., is provided as [Exhibit A](#).
- c) Staff anticipates issuing the preliminary scores on March 18, 2005.