

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
August 8, 2008  
Action Items



## **ELDERLY HOUSING COMMUNITY LOAN PROGRAM (EHCL)**

### ***Action***

#### **I. ELDERLY HOUSING COMMUNITY LOAN PROGRAM (EHCL)**

##### **A. Request Approval to De-obligate EHCL Funds for Episcopal Catholic Apartments, Cycle XIII, 2001-003E**

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

- a) On June 8, 2004, an EHCL loan in the amount of \$119,603 for this 199-unit elderly Development in Polk County closed. To date the Borrower has drawn all EHCL funds with the exception of \$3,303.
- b) On June 2, 2008, staff received a letter from the Borrower requesting the remaining EHCL funds be reallocated to the program, reducing the obligation of Episcopal Catholic Apartments, Inc. ([Exhibit A](#)).

###### **2. Recommendation**

De-obligate the \$3,303 and make these funds available for future use in other Multifamily Programs and authorize modification to the existing EHCL loan documents.

## GUARANTEE

### *Action*

## II. GUARANTEE

### A. Request for Approval for Staff to Pursue Actions for Restructuring the Debt of the Guarantee Fund to Ensure its Continued Soundness and Financial Performance in Light of Current Adverse Market Conditions

<b>Florida Housing Finance Agency Affordable Housing Guarantee Revenue Bonds (Taxable), 1993 Series A, \$75,000,000 (original par) Remarketer: UBS Insured by: MBIA</b>
<b>Florida Housing Finance Corporation Affordable Housing Guarantee Revenue Bonds (Taxable), 1999 Series A, \$50,000,000 (original par) Remarketer: UBS Insured by: MBIA</b>
<b>Florida Housing Finance Corporation Affordable Housing Guarantee Revenue Bonds (Taxable), 2000 Series A, \$75,000,000 (original par) Remarketer: UBS Insured by: Ambac</b>
<b>Florida Housing Finance Corporation Affordable Housing Guarantee Revenue Bonds (Taxable), 2002 Series A, \$100,000,000 (original par) Remarketer: Citigroup Insured by: Ambac</b>

#### 1. Background

- a) Since its inception 15 years ago, the Guarantee Program (“Guarantee Program” or “Program”) has built a track record of successful risk management and financial performance. To date, the Program has credit-enhanced 120 transactions and helped facilitate the construction of over 28,000 housing units in Florida. As of June 30, 2008, the portfolio contained 108 guarantees totaling \$809 million of risk-in-force; 99% in credit-enhanced multifamily transactions and 1% in well-seasoned, insured single-family mortgage pools. The Guarantee Program has no direct exposure to subprime originations.
- b) Despite the Program’s apparent distance from subprime issues and related credit crises, it is not immune to the resulting contagion impacting the market. The Program’s portfolio of credit-enhanced developments continues to perform well and, despite market turmoil, is anticipated to continue doing so. However, the Program’s underlying Fund (or “corpus”), representing the backstop to guarantees issued to date, has been impacted by the credit crisis on Wall Street.
- c) To date, four series of FHFC (taxable) revenue bonds (the “Bonds”) have been issued for the purpose of capitalizing the Fund and are outstanding in the following principal amounts:

<u>Series</u>	<u>Par outstanding (as of 7/1/08)</u>
1993 - A	\$51,000,000
1999 - A	\$46,750,000
2000 - A	\$62,850,000
2002 - A	\$91,000,000

## **GUARANTEE**

### ***Action***

- d) The Bonds are variable rate demand obligations (VRDO) and are traded in the same market as auction-rate securities. When the auction-rate market collapsed last February, it effectively took the VRDO market with it. Consequently, weekly remarketing efforts for the Bonds failed, resulting in most of them being “put” to one of four liquidity facilities (or lines of credit) provided by Depfa Bank, where they currently accrue interest at prime rate (prime) (5% as of June 30, 2008). This represents a significant increase in debt service for the Program, as the Bonds historically traded at 4-5 basis points (bps) over LIBOR; well below prime.
- e) In comparison, the Fund’s capital of approximately \$380,000,000 is invested in guaranteed investment contracts (GICs) with yields indexed to LIBOR. Since December 2007, LIBOR has dropped from 5.24% to 2.46% as of July 2008, resulting in a commensurate drop in the Fund’s investment earnings.

## **2. Present Situation**

- a) The two previously described factors; increased bond rates and decreased investment earnings, have resulted in negative arbitrage for the Fund since January. Negative arbitrage occurs when bond proceeds are invested at a yield that is less than the yield on the issuer's bond. While not ideal, this inversion of historical performance has not proven debilitating to the Program, as strong premium/fee income generated from the Program’s book-of-business has offset the Fund’s negative arbitrage. Nevertheless, it has driven progressively diminishing monthly net earnings. Net Program Revenues were \$1,200,000 for the month of December 2007, but have since dropped, with the Program incurring an operational shortfall last month of approximately \$140,000.
- b) On June 5, 2008, UBS announced that it was closing its institutional municipal securities business, effectively removing itself as remarketing agent on the 1993, 1999 and 2000 bonds. While UBS has committed to accommodating us as much as possible, its decision has forced the Program to contemplate a replacement agent. Unfortunately, other remarketing firms have expressed no interest in replacing UBS, in light of current market conditions, unless some form of restructuring is performed, particularly as it relates to credit-enhancement and/or liquidity-backing, to make the 1993, 1999 and 2000 bonds more marketable in the current environment. Citigroup remains the remarketing agent on the 2002 series, but likewise is unable to successfully trade such bonds due to lack of investor appetite in the current environment.
- c) Commitment fees paid to Depfa Bank (“Depfa”) in connection with the liquidity facilities increase in connection with a downgrade of the respective bond insurer on the Bonds. The 1993 and 1999 Bonds are insured by MBIA, while the 2000 and 2002 Bonds are insured by Ambac. On June 19, 2008, Moody’s downgraded MBIA from Aaa to A2 and Ambac from Aaa to Aa3. This has resulted in the market looking with disfavor on insured weekly VRDOs. As a result, and pursuant to purchase agreements Florida Housing has previously entered into with Depfa, the Guarantee Program has seen its commitment fees increase from 8.5 bps to 13.5 (Ambac-insured) and 28.5 bps (MBIA-insured).

## **GUARANTEE**

### ***Action***

- d) Under the circumstances, Florida Housing staff, along with its Financial Advisor, continues to monitor developing trends and explore options that will help preserve the Fund's financial stability and performance. Such options include, but are not limited to, the following:
  - (1) Redeeming some of the Bonds with Program assets, pursuant to pre-existing authorization contained in the Bond documents.
  - (2) Substitute one or both bond insurers (pursuant to the Bond documents, this would require further downgrade to their ratings prior to being an option)
  - (3) Refinance the Bonds with long-term variable rate notes.
  - (4) Substitute the liquidity facilities with direct-pay letters of credit.
  - (5) Private placement of the Bonds with a fixed spread over LIBOR.
- e) Continued turmoil on Wall Street and frequently changing market conditions may necessitate action in the interim between Board meetings. Accordingly, staff seeks as much flexibility as possible, while staying within the parameters and provisions of the governing Bond documents, to restructure the Bonds to ensure the Fund's integrity and continued financial soundness, and will provide updates to the Board at each meeting until any such action is finalized.

### **3. Recommendation**

- a) Staff recommends that the Board approve the immediate redemption of up to \$125,000,000 in Bonds, specifically the 2002 series and, in part, the 2000 series with funds currently on hand in the Fund. Such action will significantly reduce negative arbitrage currently experienced by the Fund due to adverse market conditions, while preserving approximately \$245,000,000 in Fund capacity for future business.
- b) Furthermore, staff recommends that the Board authorize staff, along with its Financial Advisor, TIBOR Partners, to actively pursue options as described in item 2(d) above, or any combination thereof, to ensure the Fund's integrity and continued financial soundness, and delegate authority to the Board Chair to approve the final plan of action. Staff will update the Board as to the action taken.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

### III. PROFESSIONAL SERVICES SELECTION (PSS)

#### A. Investment Banking Services

##### 1. Background

- a) At its August 25, 2005 meeting, the Board of Directors of Florida Housing directed staff to accept all of the Offerors who submitted Responses by the deadline to provide multifamily investment banking services. Thirteen (13) Responses were received from the following:
  - (1) Advest/Lebanthal a division of Advest, Inc. now known as Merrill Lynch & Co., Inc.
  - (2) A.G. Edwards & Sons, Inc.
  - (3) Bear, Stearns & Co., Inc.
  - (4) Citigroup
  - (5) KeyBanc Capital Markets
  - (6) Merchant Capital, L.L.C.
  - (7) M.R. Beal & Company
  - (8) Newman & Associates, a division of GMAC Commercial Holding Capital Markets
  - (9) Raymond James & Associates, Inc.
  - (10) RBC Dain Rauscher Inc.
  - (11) Stern Brothers & Co.
  - (12) UBS Financial Services, Inc.
  - (13) Wachovia Bank, National Association
- b) The Board further directed staff to accept the top (4) four Offerors, UBS Financial Services, Inc., RBC Dain Rauscher Inc., Citigroup, and Bear, Stearns & Co., Inc., to provide single family investment banking services; and accept Citigroup to provide investment banking services for Florida Housing's Guarantee Program.
- c) The initial terms of the Investment Banking contracts were for three (3) years and began on various dates in October November, and December 2005. The contracts expire on various dates in October November, and December, 2008 and may be renewed twice for an additional one-year period.

## **PROFESSIONAL SERVICES SELECTION (PSS)**

### ***Action***

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

- a) Significant changes to investment banking firms have occurred since signing the original contracts in 2005 with the senior banking firms for the single family program. The firm of Bear, Stearns & Co., Inc. was purchased by JPMorgan Chase and UBS Financial Services, Inc. discontinued municipal investment banking services. JPMorgan Chase had no investment banking affiliation with Florida Housing prior to this purchase.
- b) Another firm change occurred when A.G. Edwards & Sons, Inc. was acquired by Wachovia Corporation.
- c) Investment banking firms continue to undergo significant business model changes, layoffs and uncertainty. Based on the changes to our list of investment bankers and the continued turmoil in the investment banking industry, it is in the best interests of Florida Housing to reexamine the field of potential investment banking firms best able to provide services for its programs.

#### **3. Recommendation**

Authorize Florida Housing staff to begin the solicitation process to select one or more investment banking firms to provide investment banking services for the single family, multifamily and guarantee programs. Authorize the Executive Director to establish a Review Committee for this solicitation.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **B. Development and Substantial Rehabilitation of Special Needs Housing (RFP 2008-01)**

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

- a) Florida Housing staff determined that there was a need for housing for special needs populations (homeless persons, frail elderly, survivors of domestic violence, youths aging out of foster care, and persons with disabilities) that are not easily met through its mainstream rental programs and that SAIL funds were an appropriate source for funding these developments.
- b) At its March 14, 2008 meeting the Board approved staff's recommendation to finalize and issue an RFP to solicit proposals for the development and substantial rehabilitation of special needs housing.

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

- a) An RFP process was initiated and RFP 2008-01 was issued on Friday, April 11, 2008 ([Exhibit A](#)) making up to \$13 million available as loans. The deadline for receipt of responses was 2:00 p.m., Tuesday, May 27, 2008.
- b) Twelve (12) Proposals were received by the deadline. The list of Proposals is provided as [Exhibit B](#).
- c) The Review Committee members, designated by the Executive Director, were Derek Helms (Chairman), Multifamily Loans Administrator, Robert Dearduff, Special Programs Administrator and Local Government Liaison, Elaine Roberts, Senior Policy Analyst, Jean Salmonsens, Housing Development Manager and Amanda Franklin, Special Programs Manager.
- d) Each member of the Review Committee individually reviewed the Proposals prior to convening for the series of Review Committee meetings. The Review Committee meetings were held at 2:00 p.m., Tuesday, June 10, 2008; 2:30 p.m., Tuesday, June 17, 2008; and 10:00 a.m. Wednesday, July 23, 2008.
- e) At its June 10<sup>th</sup> meeting the Review Committee rejected the Proposal submitted by The Believer's School of Learning, Inc. for failure to submit the RFP fee of \$250 by the deadline which was a non-curable threshold item.
- f) At its June 17<sup>th</sup> meeting the Review Committee determined and voted on threshold failures and provided preliminary scores. The preliminary scores were posted on Florida Housing's website on Wednesday, June 18, 2008 and are provided as [Exhibit C](#).
- g) Within 14 days of issuance of preliminary scores, each Applicant was allowed to cure its Proposal by submitted additional documentation, revised pages and such other information as the Applicant deemed appropriate to address the issues raised during preliminary scoring that could result in failure to meet threshold or a score less than the maximum available.
- h) At its July 23, 2008 meeting the Review Committee voted on cures submitted and provided final scores. The Final Ranking is provided as [Exhibit D](#).



## **PROFESSIONAL SERVICES SELECTION (PSS)**

### ***Action***

#### **3. Recommendation**

The Review Committee recommends that the Board accept the Ranking as presented.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### C. Request for Qualifications (RFQ) 2008-02 for Trustee, Registrar, Paying Agent and Dissemination Bond Agent Services

##### 1. Background

At its May 2, 2008 meeting the Board authorized Florida Housing staff to begin the solicitation process to select a pool of entities to provide Trustee services and authorized the Executive Director to establish a Review Committee.

##### 2. Present Situation

- a) An RFQ process was initiated and RFQ 2008-02 was issued on Friday, May 30, 2008. The deadline for receipt of proposals was 2:00 p.m., Friday, June 27, 2008. The RFQ is provided as [Exhibit E](#).
- b) Seven (7) proposals were received in response to the RFQ from the following entities:
  - (1) Deutsche Bank
  - (2) Hancock Bank
  - (3) Regions Bank
  - (4) The Bank of New York
  - (5) U.S. Bank
  - (6) Wells Fargo
  - (7) Zions First National Bank
- c) The Review Committee members, designated by the Executive Director, Todd Fowler (Chairman), Special Assets Director, Beverly Cliett, Guarantee Program Asset Manager, Kenny Derrickson, Bond Fund Administrator, Kevin Pichard, Assistant Director of Guarantee Program and David Woodward, Multifamily Bonds Manager.
- d) Each member of the Review Committee individually reviewed the proposals submitted prior to convening for the Review Committee meetings which were held 10:00 a.m., Wednesday, July 9, 2008 and 10:00 a.m., Wednesday, July 16, 2008. Results of the Review Committee's scores and ranking are provided as [Exhibit F](#).

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### 3. **Recommendation**

The Review Committee recommends that the Board authorize staff to enter into contract negotiations with the top three (3) ranked entities which are in order of ranking as follows:

- (1) Wells Fargo
- (2) The Bank of New York
- (3) U.S. Bank

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **D. Request for Qualifications (RFQ) 2008-03 for Structuring Agent Services**

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

At its May 2, 2008 meeting the Board authorized Florida Housing staff to begin the solicitation process to select a pool of entities to provide Structuring Agent services and authorized the Executive Director to establish a Review Committee.

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

- a) An RFQ process was initiated and RFQ 2008-03 was issued on Friday, June 20, 2008. The deadline for receipt of proposals was 2:00 p.m., Friday, July 18, 2008. The RFQ is provided as [Exhibit G](#).
- b) Four (4) proposals were received by the deadline from the following:
  - (1) Morgan Keegan
  - (2) Raymond James
  - (3) RBC Capital Markets
  - (4) Stern Brothers & Co.
- c) The Review Committee members, designated by the Executive Director, Wayne Conner (Chairman), Deputy Development Officer, Shannon Rivera, Multifamily Bonds Manager, Len Stirat, Multifamily Bonds Administrator, Allison Richardson, Special Assets Manager and Tim Kennedy, Special Assets Manager.
- d) Each member of the Review Committee individually reviewed the proposals submitted prior to convening for the Review Committee meetings which were held 2:30 p.m., Tuesday, July 22, 2008 and 2:00 p.m., Thursday, July 24, 2008. Results of the Review Committee's scores and ranking are provided as [Exhibit H](#).

##### **3. Recommendation**

The Review Committee recommends that the Board authorize staff to enter into contract negotiations with all four (4) entities.

## **RENTAL RECOVERY LOAN PROGRAM (RRLP)**

### *Action*

#### **IV. RENTAL RECOVERY LOAN PROGRAM (RRLP)**

##### **A. Request Approval to Use Unallocated RRLP Funds**

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

- a) On October 20, 2006 the Board approved the final rankings for the 2006 Rental Recovery Cycle. \$94,170,000 in RRLP funds were awarded as a result. Pursuant to Rule Chapter 67ER06-25 Florida Administrative Code (“F.A.C.”) as funds become available eighteen months or more after the 2006 RRLP Application Deadline, which was August 3, 2006, those funds would be used to assist in the buy-down of 60% units to ELI levels in Developments funded by other Corporation programs through a Request for Proposal process.
- b) Through a Request for Proposal “RFP” process, staff would like to allocate the available RRLP funds to accomplish what was directed in the 2006 RRLP Rule and Application Instructions.

###### **2. Recommendation**

Staff recommends that the Board approve the use of any unallocated RRLP funds to be awarded to assist in the buy-down of 60% units to ELI levels for Developments funded with other Corporation programs through a competitive Request for Proposal process.

## **SINGLE FAMILY HOMEOWNER PROGRAM**

### ***Action***

#### **V. SINGLE FAMILY HOMEOWNER PROGRAM**

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

- a) Florida Housing sold \$66,000,000 of bonds identified as 2008 Series 2 Bonds on July 16, 2008.
- b) Staff is requesting approval to issue up to \$250 million of single family bonds to fund mortgages from what will be designated as 2008 Phase Two Bonds (multiple series to be determined) and if savings can be achieved to refund a portion or all of the following outstanding bonds: 1996 Series 1-2, 1996 Series 3, 1997 Series 1-3, 1998 Series 1-3 and 1999 Series 1-3 bonds.
- c) The 2008 Phase Two Bonds are expected to be rated “AA+” by Standard & Poor’s Ratings Services, “Aa1” by Moody’s Investor Service and “AA+” by Fitch Ratings. It is anticipated that the 2008 Phase Two Bonds and any additional new money bonds issued under Florida Housing’s Homeowner Mortgage Revenue Bonds Indenture, as amended and supplemented (collectively, the “1995 Indenture”) will, for the foreseeable future, be secured by mortgage backed securities.
- d) Citigroup Global Markets Inc. will serve as senior managing investment banker for the negotiated sale of the first series of the 2008 Phase Two Bonds. The selection of investment bankers for subsequent series under this resolution will be based on the pool of investment bankers resulting from the next RFP. Approval for issuing an RFP for investment banking services is on the agenda for this board meeting.
- e) Adorno & Yoss LLP will serve as special counsel. Bryant Miller Olive P.A. jointly with the Law Offices of Steve E. Bullock P.A. will serve as bond counsel. Tibor Partners will serve as financial advisor.

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

- a) Authorization necessary to issue the 2008 Phase Two Bonds requires (1) adoption of an authorizing resolution by Florida Housing’s Board and (2) fiscal determination 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 2008 Phase Two Bonds is being presented for consideration at the Florida Housing’s August 8, 2008 meeting.
- b) Current market conditions render it difficult to predict the precise rate of reservation for proceeds of the 2008 Series 2 Bonds; however, to insure sufficient time for obtaining required approvals for the 2008 Phase Two Bonds, authorization is hereby requested to commit up to \$50,000,000 of the 1995 Indenture assets and/or other funds available to Florida Housing to provide interim funding for single family mortgage backed securities.

## **SINGLE FAMILY HOMEOWNER PROGRAM**

### ***Action***

- c) Final size, structure, timing and other decisions relating to the 2008 Phase Two Bonds will be made based on production, program changes and market conditions with the advice of Citigroup Global Markets Inc. and Florida Housing's financial advisor closer to the time of the anticipated transaction. Issuance costs and capitalized interest for the 2008 Phase Two Bonds will be funded with assets available under the 1995 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 to invest the 2008 Phase Two Bond proceeds. Based on current market conditions, we do expect there to be negative arbitrage on invested bond proceeds to be used to acquire mortgage backed securities.
- d) Summary of Proposed 2008 Phase Two Bonds
  - (1) Principal Amount: Not to exceed \$250,000,000 in long term taxable and tax-exempt bonds in one or more series to finance new mortgage loans and, if savings can be achieved, to refund all or a portion of Florida Housing's 1996 Series 1-2, 1996 Series 3, 1997 Series 1-3, 1998 Series 1-3 and 1999 Series 1-3 bonds (of which \$51,543,649 are still outstanding). Florida Housing may issue the 2008 Phase Two Bonds in multiple series, at various times, if doing so is deemed advantageous based upon prevailing market conditions.
  - (2) Florida Housing Funds: 1) interim funding, not to exceed \$50,000,000 from 1995 Indenture resources and/or other funds available to Florida Housing with the expectation that any funds committed will be reimbursed with proceeds of the 2008 Phase Two Bonds and 2) issuance costs and any capitalized interest, not to exceed \$15,000,000 from 1995 Indenture resources and/or other funds available to Florida Housing.
  - (3) Mortgage Rates: Not to exceed a weighted average mortgage loan rate of 8.25% for the 2008 Phase Two portfolio.
  - (4) Origination & Delivery Period: Expect a twelve month with up to an eighteen month delivery period for each issuance.
  - (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 a 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: Florida Assist and Homeowner Assistance for Moderate Income (HAMI)
  - (8) Guaranteed Mortgage Securities: Ginnie Mae, Fannie Mae and Freddie Mac

## SINGLE FAMILY HOMEOWNER PROGRAM

### *Action*

- (9) Private Activity Tax-Exempt Bond Resources Available:
  - (a) \$711,778,407.12 of 2007 carry forward private activity bond allocation
  - (b) Recycled bond proceeds for bond calls after August 1, 2008
- e) [Exhibit A](#) - Authorizing Resolution
- f) [Exhibit B](#) - Method of Sale Letter
- g) [Exhibit C](#) – Program Summary
- h) [Exhibit D](#) – Terms Memorandum

### 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 2008 Phase Two Homeowner Mortgage Revenue Bonds.



## UNIVERSAL CYCLE

### *Action*

#### VI. UNIVERSAL CYCLE

##### A. 2009 Universal Cycle

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

- a) A public meeting will be held following the August 8, 2008, Board meeting to solicit comments concerning Rule Chapters 67-21 and 67-48, F.A.C., and the 2009 Universal cycle.
- b) Staff would like to begin the rule development process by scheduling a rule development workshop following the September 26, 2008, Board meeting.

###### 2. Recommendation

Authorize staff to proceed with the 2009 rule development process.

## LEGAL

### *Action*

#### I. LEGAL

A. **In Re: Savannah Springs Apartments Apartments II, Ltd., and Emerson Oaks Apartments, Ltd., et al. v. Florida Housing Finance Corporation, FHFC Case Nos. 2007-048UC & 2007-049UC**

1. **Background**

- a) On or before April 10, 2007, Petitioners and other Applicants submitted applications to Florida Housing for loans through the State Apartment Incentive Loan ("SAIL") program in the 2007 Universal Application Cycle. On May 9, 2008, Florida Housing notified Petitioner of the results of the preliminary scoring of Petitioner's application and provided Petitioner with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. Petitioners filed "Petition[s] Challenging Final Action of the Florida Housing Finance Corporation Pursuant to Florida Administrative Code §§ 28-106.201, et seq. and §§ 28-106.301, et seq.," (the "Petitions") in each case on August 28, 2007, seeking relief on two grounds; that Florida Housing had erred in accepting Atlantic Housing Partners, LLLP, as the developer in twenty-two applications (the "Challenged Applications"), alleging that the identity of the general partner of the developer was misidentified; also, that the developments proposed in each of the twenty-two Challenged Applications did not meet the application requirements for financial feasibility.
- b) The Petitions were forwarded to the Division of Administrative Hearings on October 17, 2007. Petitioners filed a Motion for Partial Summary Final Order. Florida Housing filed a Response and Motion to Relinquish Jurisdiction. Each motion addressed the "First Basis for Relief," in each Petition. Following a hearing on both motions, Administrative Law Judge Stuart Lerner relinquished jurisdiction to Florida Housing to conduct proceedings under sec. 120.57(2), by order on December 3, 2007.
- c) Petitioners filed their "First Amended Petition[s] Challenging Final Action of the Florida Housing Finance Corporation Pursuant to Florida Administrative Code §§ 28-106.201, et seq. and §§ 28-106.301, et seq.," (the "Amended Petitions") in each case. The Amended Petitions added a new "Second Basis for Relief," alleging that Florida Housing had improperly considered documents filed on behalf the Atlantic Housing Challenged Applications outside the process circumscribed by R. 67-48.004. Florida Housing again referred the cases to DOAH, and a second time the Administrative Law Judge relinquished jurisdiction to Florida Housing.
- d) An Informal hearing as to the "First Basis for Relief," of each of the Amended Petitions was conducted pursuant to Sections 120.569 and 120.57(2), Florida Statute on July 12, 2008. There are no disputed issues of material fact as to the First Basis for Relief in each Amended Petition. No objections to the Recommended Order have been filed.

## LEGAL

### *Action*

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

A Recommended Order was entered on July 28, 2008. A copy is attached as [Exhibit A](#). The Hearing Officer has recommended that “Petitioners be deemed eligible and awarded SAIL funding on the basis that Atlantic Housing applications at issue should have been rejected because each failed to correctly identify the general partner of the developer, an incurable threshold violation.” If adopted by the Board, the Recommended Order on the “First Basis for Relief,” will result in Petitioners being funded from the next available funding, per R. 67-48.005(7). The remedy sought in the Second Basis for Relief and Third Basis for Relief of each Amended Petition is for funding to be awarded. Thus, the Second Basis for Relief and Third Basis for Relief of each Amended Petition will be rendered moot if the Board adopts the Recommended Order.

#### 3. **Recommendation**

Staff recommends that the Board adopt the findings of fact and conclusions of law contained in the recommended Order as its own, and that the Board adopt the Recommended disposition in these cases as its own, and issue a Final Order accordingly. Further, that as this decision on the First Basis for Relief is dispositive of the case, that the Board in its Final Order dismiss the Second Basis for Relief and the Third Basis for Relief of each Amended Petition.

## **SPECIAL PROGRAMS**

### ***Action***

#### **I. SPECIAL PROGRAMS**

##### **A. Request Approval to Begin a Process to Solicit for the Administration of a Preservation Rehabilitation Pilot Program**

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

In the 2008 legislative session, ten million dollars was appropriated by the legislature from the Local Government Housing Trust Fund for the purpose of funding a preservation rehabilitation pilot program. The appropriation calls for program funding to be targeted to rental housing in Pasco, Orange and Palm Beach counties that receives or has received funding from any federal or state housing funding program. To the maximum extent feasible, the funds are to be leveraged by intermediaries with a ratio of at least 4 to 1.

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

- a) Staff has discussed believes it will be advantageous to solicit public comments from interested stakeholders prior to developing the parameters of the program and a process for administering the funds.
- b) Once one or more public meetings are held, staff will develop a solicitation in a format such as a request for proposals or an invitation to negotiate. The form of the solicitation will ultimately depend on the decisions related to the specific use of the funds (for example, acquisition, predevelopment or permanent financing) and how they will be administered.

###### **3. Recommendation**

Approve staff's request to conduct one or more public meetings to discuss the implementation of a preservation pilot program and to subsequently develop and issue a solicitation to administer funding for preservation of rental housing in Pasco, Orange and Palm Beach counties that receives or has received funding from any federal or state housing funding program.