

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date:	07/21/09	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Public Hearing	
Department			
Submitted By:	COUNTY ATTORNEY		
Submitted For:	Housing Finance Authority of Palm Beach County, Florida		

I. EXECUTIVE BRIEF

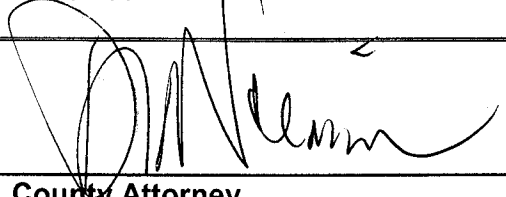
Motion and Title: Staff recommends motion to approve the Policies, Procedures and Process for Loan Applications Using Surplus Funds (the "Surplus Funds Policy"), as revised, of the Housing Finance Authority of Palm Beach County, Florida (the "Authority") as required by Ordinance No. 2002-022 (the "Ordinance").

Summary: Pursuant to its authority under the Ordinance and the Florida Housing Finance Authority Law, Part IV, Chapter 159, Florida Statutes (the "Act"), the Authority has promulgated the Surplus Funds Policy to carry into effect the powers and purposes of the Authority with respect to the use of its surplus monies. That Surplus Funds Policy was approved by the Board of County Commissioners on December 16, 2008. Since that time, the Authority has learned that it has the statutory authority to use its surplus funds to assist for-profit developers who are developing affordable housing, and has revised its Surplus Funds Policy accordingly. Under the Ordinance, the revised Surplus funds Policy must be approved by the Board.
Countywide (PFK)

Background and Policy Issues: Pursuant to the Ordinance, "all rules or regulations to be promulgated by the Authority . . . as the same are initially established or are changed or amended from time to time, shall be submitted to and approved, in each instance, by the Board of County Commissioners." Approval of this motion by the Board would constitute the approval required under the Ordinance.

Attachments:

1. Policies, Procedures and Process for Loan Applications Using Surplus Funds of the Housing Finance Authority of Palm Beach County, Florida, as revised, in blackline form to show changes from version previously approved.

Recommended by:		6/23/09
	County Attorney	Date
Approved by:	N/A	
		Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>0</u>	<u>0</u>	___	___	___
Operating Costs	<u>0</u>	<u>0</u>	___	___	___
External Revenues	<u>0</u>	<u>0</u>	___	___	___
Program Income (County)	<u>0</u>	<u>0</u>	___	___	___
In-Kind Match (County)	<u>0</u>	<u>0</u>	___	___	___
NET FISCAL IMPACT	<u>*</u>	<u>0</u>	___	___	___
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	___	___	___

Is Item Included in Current Budget? Yes ___ No X

Budget Account No.: Fund ___ Department ___ Unit ___ Object ___

Reporting Category ___

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: All costs to be borne by Housing Finance Authority.
No fiscal impact to Palm Beach County.

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature] 7/1/09 [Signature] 7/18/09
 OFMB Contract Development and Control

B. Legal Sufficiency:

[Signature] 6/23/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

**HOUSING FINANCE AUTHORITY OF
PALM BEACH COUNTY, FLORIDA
POLICIES, PROCEDURES AND PROCESS
FOR LOAN APPLICATIONS USING SURPLUS FUNDS**

I. INTRODUCTION

The Housing Finance Authority of Palm Beach County (the "Authority") is authorized under the Housing Finance Authority Law encoded in Part IV, Chapter 159, Florida Statutes (the "Act") to use its surplus funds, if any, for certain purposes in furtherance of the intent of the Act. The Authority will consider providing financing for those projects that meet the goals of the Authority and comply with applicable state and local law.

The Authority has adopted the following guidelines to set forth the general requirements and procedures which apply to the financing of eligible projects (the "Guidelines"). The Authority may elect to provide financing for any project only if the party requesting such financing (the "Applicant") has satisfied the general requirements set forth in these Guidelines, provided, however, that the Authority may, in its sole discretion, waive specific provisions of these Guidelines where good cause is shown. The Authority may amend these policies to be consistent with any changes in the Act or other applicable law, without further approval from the Board of County Commissioners of Palm Beach County. In addition, these Guidelines may be amended, revised, repealed or otherwise altered by the Authority, at any time, with or without notice, at any regular or special meeting of the Authority. The Authority reserves the right to impose additional requirements with respect to any particular project. **Compliance with these Guidelines by an Applicant does not create any right by an Applicant to a commitment or any assurance that the Authority can or will provide the requested financing.**

II. POLICY

In accordance with the Act, it is the policy of the Authority to make loans of surplus funds:

A. To:

- (i) Lending institutions (as defined in Section 159.603(5), Florida Statutes).
(Section 159.608(5), Florida Statutes)
- (ii) Low income persons or families (income does not exceed 80% of the median income for Palm Beach County, adjusted for family size).
(Sections 159.608(2) & (8), Florida Statutes)
- (iii) Not-for-profit corporations under 501(c)(3) of the Internal Revenue Code of 1986, as amended.
(Section 159.608(10)(a), Florida Statutes)

(iv) For-profit corporations
(Sections 159.608(3) & (10)(b), Florida Statutes)

B. To be used by borrowers who are eligible for loans pursuant to Section II(A) for:

- (i) *With respect to lending institutions:* making new mortgage loans (to for-profit or not-for-profit developers) for the acquisition, construction, reconstruction or rehabilitation of “qualifying housing developments” (which include improvements, buildings and other real and personal property designed or intended for the primary purpose of providing safe, decent and sanitary residential rental housing for four or more families, at least 60% of which occupants are (a) elderly (65 or older) and/or (b) have incomes that do not exceed 150% of the median income for Palm Beach County).
(Sections 159.603(6) & 159.608(5), Florida Statutes)
- (ii) *With respect to low income persons or families:* to finance the purchase, construction or rehabilitation of, or to refinance, single-family residences; provided that (a) the purchase price of such residence does not exceed 90% of the median sales price for single-family residences in Palm Beach County and (b) the loan be secured by a first or subordinate mortgage made to the Authority.
(Section 159.608(8), Florida Statutes)
- (iii) *With respect to not-for-profit and for-profit corporations:* for the development of affordable housing.
(~~Section~~Sections 159.608(~~103~~) & (~~a10~~), Florida Statutes)

The ~~not-for-profit~~ borrower cannot subsequently loan the proceeds to another party (~~i.e. a for-profit developer~~) for the development of affordable housing. A joint venture comprised of a combination of not-for-profit entities and for-profit entities is ~~not~~ eligible for a loan of surplus funds for the development of affordable housing.

As used herein, “affordable housing” shall mean:

- Ownership or rental residential units
- For households with incomes from 60% to 150% of area median income (“AMI”)
- Maximum purchase or rental price of residential unit as follows:

<u>Income level</u>	<u>Rent*</u>	<u>Sales Price*</u>
60-80% AMI	\$1,287	\$164,000
81-100% AMI	\$1,450	\$189,000

*Subject to modification on an annual basis

<u>Income level</u>	<u>Rent*</u>	<u>Sales Price*</u>
101-120% AMI	\$1,771	\$240,000
121-150% AMI	\$2,173	\$304,000

*Subject to modification on an annual basis

- C. Only for use in connection with projects located within Palm Beach County, Florida, in an area where the Applicant has demonstrated, to the Authority's satisfaction, a need exists for the project as proposed.

III. PROCEDURES

Prospective Applicants are encouraged to contact the Authority's Executive Director, General Counsel and/or Financial Advisor, prior to submission of an application to discuss the Applicant's proposed project and related financing, and to obtain current policy and procedure directives.

A. NOT-FOR-PROFIT/FOR-PROFIT DEVELOPER APPLICANTS:

- (i) Application Submission: Not-for-Profit and for-profit developers applying for a loan shall complete the Not-for-ProfitDeveloper Application form attached hereto as **Exhibit A** (the "Not-for-ProfitDeveloper Application") and submit 10 copies to: Housing Finance Authority of Palm Beach County, Florida, 810 Datura Street, West Palm Beach, FL 33401, Attn: Executive Director. In addition, copies of such applications shall be sent via fax or e-mail to the Authority's Financial Advisor and the Authority's General Counsel (contact information can be obtained from the Executive Director). Not-for-ProfitDeveloper Applications must be submitted by the first day of the month to be considered at the Authority's meeting for that particular month.
- (ii) Application Review & Screening by Professional Staff: The Authority's professional staff will review the Not-for-ProfitDeveloper Application to ascertain whether (i) the Applicant has supplied a complete Not-for-ProfitDeveloper Application and (ii) the Not-for-ProfitDeveloper Application is in compliance with applicable state and local (if applicable) laws and regulations and Authority requirements as set forth in these Guidelines.

Applications that are complete, meet the Authority's requirements as set forth in these Guidelines and are in compliance with state and local laws and regulations will be forwarded to the Authority for consideration. A report on the Not-for-ProfitDeveloper Application may be prepared by the Authority's professionals for inclusion in the agenda package for any meeting during which the Not-for-ProfitDeveloper Application will be considered by the Authority. A favorable recommendation by the

Authority's professional staff does not ensure Authority approval of such ~~Not-for-Profit~~Developer Application.

THE AUTHORITY IS UNDER NO OBLIGATION TO ACCEPT ANY APPLICATION OR TO MAKE LOANS TO ANY APPLICANT.

(iii) Authority Consideration:

(a) At one or more regularly scheduled meetings, the Authority will review and consider applications and make a determination based on any and all factors it deems relevant, with an emphasis on the following factors:

1. Readiness to proceed, including site control, governmental approvals and financial commitments.
2. Amount requested.
3. Term of loan requested.
4. Interest rate requested for loan.
5. Repayment structure.
6. Lien Priority
7. Leveraging of Authority funds, including other private lending sources (such as LISC, CFC, commercial banks) and other soft funding (such as FHFC PLP, SAIL, SHIP, HOME, CWHIP, RRLP, CDBG, county/city/CRA commitments applied for or received).
8. Geographic targeting -- such as priority to unincorporated County, County designated target areas, Glades area.
9. Neighborhood impact of proposed development, including other redevelopment/infrastructure improvements by others.

(b) The Applicant may also be asked to submit additional information or materials that the Authority or its professionals think will be helpful to the Authority in making its determination on the ~~Not-for-Profit~~Developer Application.

(c) The Authority reserves the right to implement a formal scoring process at any time to review and rank ~~Not-for-Profit~~Developer Applications using whatever factors the Authority deems appropriate.

(d) Credit Underwriting Process: If the Authority determines that an Application warrants further consideration, the Authority may require that the Applicant undergo a credit underwriting process. Any and all expenses incurred by the Authority in connection with

such credit underwriting process shall be borne by the Applicant, regardless of whether the Applicant's Application is approved.

- (iv) Authority Decision on Application: Upon making its decision, the Authority will notify the Applicant of its determination on the ~~Not-for-ProfitDeveloper~~ Application. If the Authority determines to submit the Developer Application to credit underwriting or to make a loan to the Applicant, the Applicant may be required to enter into a Memorandum of Agreement with the Authority pursuant to which the parties will agree to move forward with the loan process or, if applicable, credit underwriting process, in accordance with the terms and provisions set forth therein.
- (v) Good Faith Deposit: Pursuant to the terms of the Memorandum of Agreement, if required by the Authority, the Applicant must, within five (5) days of execution thereof, submit a "Good Faith Deposit" of \$10,000 to the Authority to cover expenses of the Authority related to credit underwriting and the preparation and finalization of a loan agreement, mortgage and promissory note in connection with the loan. The "Good Faith Deposit" will be held by the Authority until either (1) loan closing at which time it will, at the Applicant's option, be returned to the Applicant or applied to the Authority's costs as more particularly described in paragraph (vi) below, (2) there has been an abandonment/withdrawal by the Applicant, of its ~~Not-for-ProfitDeveloper~~ Application or (3) the Applicant and the Authority have determined that they cannot agree on mutually acceptable terms governing the loan. If any of the events in (2) or (3) shall have occurred, the Authority shall be entitled to the "Good Faith Deposit" to pay actual expenses incurred by the Authority. Any amount remaining after the payment of these costs will then be returned to the Applicant, however, if the actual expenses incurred by the Authority exceed the amount of the "Good Faith Deposit," the Applicant will be responsible for payment of the excess.
- (vi) Loan Documents: ~~Applicant's~~Applicants whose ~~Not-for-ProfitDeveloper~~ Applications have been accepted shall enter into a loan agreement and other related documents with the Authority with terms mutually acceptable to the Applicant and Authority.
- (vii) Fees and Expenses: On or prior to the disbursement of funds for any loan granted, Applicants shall pay all expenses of the Authority relating thereto, including, but not limited to, fees of its Credit Underwriter, Financial Advisor and General Counsel.

B. LENDING INSTITUTIONS

- (i) Proposal Submission: Lending institutions interested in obtaining loans from the Authority for the making of loans to for-profit and not-for-profit

developers for development of qualified housing developments should submit 10 copies of a written proposal to: Housing Finance Authority of Palm Beach County, Florida, 810 Datura Street, West Palm Beach, FL 33401, Attn: Executive Director. In addition, copies of such proposals shall be sent via fax or e-mail to the Authority's Financial Advisor and the Authority's General Counsel (contact information can be obtained from the Executive Director). Such proposals must be submitted by the first day of the month to be considered at the Authority's meeting for that particular month.

- (ii) **Proposal Content:** Proposals should contain information, to the extent available, regarding:
 - a. The lending institution (including, but not limited to, type of institution, institution's capitalization/size, experience, services offered)
 - b. Requested loan terms (including, but not limited to, amount, interest rate, maturity, repayment structure, security, restrictions on use of loan proceeds)
 - c. Potential projects to be financed with loan proceeds and/or proposed criteria therefor (including, but not limited to location, type, size, development status)
 - d. Potential borrowers of such loan proceeds and/or proposed criteria therefor (including, but not limited to, type of entity, prior experience, creditworthiness)
- (iii) **Proposal Review:** The Authority and its professional staff will review such proposals on a case-by-case basis and make determinations as to whether to grant such loans based on various factors, including, but not limited to availability of funds, feasibility of proposed loan program and timeliness of program. **The Authority is under no obligation to accept any proposal or to make loans to any lending institution regardless of the nature of the proposal.**

C. INDIVIDUAL PERSONS OR FAMILIES

The Authority reserves the right to further develop its policy on the application process for individual persons or families seeking loans for the financing of the purchase, construction or rehabilitation of or refinancing of single family residences. In the interim, persons interested in such loans may contact Authority to obtain information regarding the Authority's then-current policy.

IV. LOBBYING

Applicants are hereby advised that lobbying of any Authority Members by a "lobbyist" concerning any project under consideration is prohibited. Violation of this prohibition shall result in rejection/disqualification of an Application. Lobbying shall mean seeking to

influence the decision of an Authority Member by seeking to encourage the approval, denial or modification of an Application. "Lobbyist" shall mean any person who is employed and receives payment, or who contracts for economic consideration for the purpose of lobbying; or any person who represents an organization, association or other group for the purpose of lobbying, but shall not include an employee of the Applicant whose primary duties are not to lobby.

V. ADDITIONAL GUIDELINES

The Authority reserves the right to amend, revise, repeal or otherwise alter the aforesaid Guidelines with or without notice.

VI. EFFECTIVE DATE

These Guidelines and the policies set forth herein shall be effective retroactive to January 1, 2008.

EXHIBIT A

HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY
NOT-FOR-PROFIT-DEVELOPER APPLICATION
FOR LOAN FROM SURPLUS FUNDS

Date: _____

A. DEVELOPER INFORMATION

Name of Developer Entity: _____

Contact Person & Title: _____

Address: _____

Telephone: _____

E-mail address: _____

Type of Entity: _____

*****NOTE: Borrower entity MUST be a not-for-profit. Applications from for-profit entities will not be accepted.*****

B. LOAN REQUESTED

Amount Requested: _____

Term of Loan: _____

Proposed Interest Rate: _____

Repayment Structure: _____

Lien Priority: _____

Summary of How Funds Will Be Used: _____

C. PROJECT INFORMATION

Location: _____

(NOTE: must be in Palm Beach County)

Type of Project (circle all that apply): ACQUISITION
 CONSTRUCTION
 RECONSTRUCTION
 REHABILITATION

Project Description (circle one for Category I and one for Category II):

Category I: MULTI-FAMILY
 SINGLE FAMILY

Category II: FOR-SALE
 RENTAL

Development Mix:

# of BR per unit	# BA per unit	# units per type	Square Footage Range	Estimated Sales/Rental Price

Population Served (i.e. elderly, work force, etc. and % of low income): _____

Project Specifics:
Number of units: _____ Number of buildings: _____
Number of floors: _____ Units per building: _____

D. PROJECT STATUS

Status of Project (circle current stage):
 ACQUISITION/PLANNING
 ENTITLEMENTS RECEIVED
 SITE WORK
 INFRASTRUCTURE DEVELOPMENT
 VERTICAL CONSTRUCTION/REHABILITATION
 CERTIFICATE OF OCCUPANCY

Estimated Completion/Occupancy Date: _____

% of Pre-sales on For-Sale Units: _____

% of Occupancy for Rental Units: _____

Estimated Total Project Cost: _____

Sources of Funding for Remainder of Project Cost & Summary of Terms Thereof: _____

E. FEASIBILITY

Please attach a project budget including all costs of development and all sources of funding and demonstrate how borrowed funds (from all sources) will be repaid.

F. DEVELOPER EXPERIENCE

Please attach a description of the developer's experience, including, but not limited to, length of existence, geographic locations where work has been conducted by the developer, the number and types of projects the developer has completed, the number and types of projects currently under construction/development, and any other information the developer believes will be useful to the Authority in rendering a decision on the application.

Document comparison by Workshare Professional on Monday, June 22, 2009 3:02:44 PM

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Moved cell	
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