

# CREATING INCLUSIVE COMMUNITIES IN FLORIDA

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A GUIDEBOOK FOR LOCAL ELECTED OFFICIALS  
AND STAFF ON AVOIDING AND OVERCOMING THE  
NOT IN MY BACKYARD SYNDROME



*Local government elected officials are the linchpin in the NIMBY battle; it is essential that you get the information you need to avoid and overcome the negative impacts of NIMBYism.*



**T**he Not In My Backyard Syndrome (**NIMBYism**) presents a particularly pernicious obstacle to producing affordable housing. Local elected officials are regularly barraged by the outcry of constituents' concerns over siting and permitting affordable housing. Consequences of NIMBYism include lengthy, hostile and unpleasant public proceedings, frustration of local comprehensive plan implementation, increased costs of development, property rights disputes, and inability to meet local housing needs. Local government elected officials are the linchpin in the NIMBY battle; it is essential that you get the information you need to avoid and overcome the negative impacts of NIMBYism.

## **ABOUT THIS BOOK:** *A Message to Local Elected Officials and Their Staff*

**I**n the context of this book, the Not In My Backyard Syndrome refers to the objections of community residents to siting affordable housing. The term NIMBYism, as used in this context, connotes objections made for reasons such as fear and prejudice. This is in contrast, for example, to objections over the real threat of an incompatible neighboring use, such as a hazardous waste facility near a residential area. Affordable housing NIMBYism is premised on ideas about the loss of property value and quality of life due to perceptions about the people who will be living in the affordable housing and the affordable housing itself.

This book was created and developed by Jaimie Ross, the Affordable Housing Director at 1000 Friends of Florida, a statewide non-profit growth management membership organization. Questions may be directed to the author, Jaimie A. Ross, Affordable Housing Director, 1000 Friends of Florida, 926 E. Park Avenue, Tallahassee, Florida 32301; 850-222-6277 or email [jaimieross@aol.com](mailto:jaimieross@aol.com).



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Special thanks to Robert Koch of Fugleberg Koch Architects for his article on design in Chapter 6, to B.J. Owens of the Florida Fair Housing Continuum and Community Legal Services of Mid-Florida for her contributions to Chapter 7, to the staff of the Florida Housing Finance Corporation and Wight Greger of the Florida Housing Coalition for their contributions to Appendix 2, to Terrell Arline of Terrell Arline, P.A. and Janet Bowman of 1000 Friends of Florida for Appendix 4, to the National Low Income Housing Coalition and Tim Iglesias for their contributions to Appendix 5.





**A**ffordable housing is safe and decent housing. It differs from market rate housing in two ways:

1. The income of the family living in the housing
2. The financing of the housing

## WHAT IS AFFORDABLE HOUSING?

*In general, the income eligible household is said to be living in affordable housing when it spends no more than 30% of its income on either rent or mortgage payments.*

### INCOME RESTRICTED

Affordable housing is defined in terms of the income of the people living in the home. The family must be income eligible. Income eligibility is defined in terms of area median income, adjusted for family size.

- Extremely low income describes a family at or below 30% of area median income
- Very low income describes a family at or below 50% of area median income
- Low income describes a family at or below 80% of area median income
- Moderate income describes a family at or below 120% of area median income (at or below 100% of median income for federal programs)

The median income is determined by the Department of Housing and Urban Development

(HUD) by county or Metropolitan Statistical Areas (MSAs). See Appendix I for a list of median incomes for all counties or MSAs in Florida as of 2002. Median incomes are updated annually by HUD; the Florida Housing Coalition posts an updated median income chart on its Website [www.flhousing.org](http://www.flhousing.org). Go to SHIP FAQ, Income Limits.

Affordable housing is safe and decent housing. If the housing stock in a community is substandard it should not be counted as a unit of affordable housing. In general, the income eligible household is said to be living in affordable housing when it spends no more than 30% of its income on either rent or mortgage payments. There is an assumption that if a very low to moderate income family is spending more than 30% of its income on housing costs, it will be cost burdened and not have enough money left over to pay for items such as utilities, transportation, food, clothing, and healthcare.



*The Charleston Club is a 258-unit community developed by The CRD Companies with financing from multifamily bonds and a SAIL loan from the FHFC. It provides mixed income housing serving families at 50% and 60% of area median income, as well as market rate units, in Sanford.*

It follows that the concept of affordable housing is not applicable to wealthy households. If a household earning \$200,000 per year chooses to spend as much as 50% of its income on housing cost, it could do so without being cost burdened. The issue of whether housing meets the technical definition of "affordable" ceases to be a societal concern when the income of the occupant exceeds 120%, or in some jurisdictions, 80% of the area median income.

## FINANCING

What makes the housing affordable is a decrease in monthly rent or mortgage payments, so that the income eligible family is able to pay less for the housing than it would otherwise cost at "market rate." Lower monthly payments or down payment assistance is a result of affordable housing financing. The



*The issue of whether housing meets the technical definition of "affordable" ceases to be a societal concern when the income of the occupant exceeds 80% or 120% of the area median income.*





**AFFORDABLE HOUSING  
RESOURCES/SUBSIDIES**

*Found in Appendix 2 including,  
but not limited to:*

- CDBG
- FEDERAL HOME LOAN BANK - AHP
- FEDERAL HOME LOAN BANK - CIP
- GUARANTEE PROGRAM
- HOML
- HAP
- HOMELESS HOUSING ASSISTANCE  
GRANT - HHAG
- HOUSING CREDITS - HC
- HOPWA
- LHRP
- LHRAP
- MIB, RENTAL
- PLF
- SECTION 8 - SRO
- SECTION 202
- SECTION 811
- SFMRB
- SAIL
- SHIP
- SHP
- USDA/RHS
- WAF



financing of affordable housing is made possible through government programs such as the Low Income Housing Tax Credit Program (referred to as the Housing Credit program by the Florida Housing Finance Corporation) and the SHIP (State Housing Initiatives Partnership) program. The major financing



PHOTO COURTESY OF THE MICHAELS DEVELOPMENT COMPANY

*(Above) Belmont Heights Estates, an affordable housing development in Tampa built by the Michaels Development Company with a variety of funding sources.*

*(Left and Below), The Landings, developed by The CED Companies, is a 236 unit community financed with local bonds from the Orange County Housing Finance Authority and a SAIL loan from the FHFC. It serves families at 50 and 60% of area median income in Orlando. Features resident amenities including the "Monster Club" after school program, a computer center, and more toward homeownership program.*



programs for affordable housing are covered in Appendix 2. You will find a summary of each program along with contact information. You can also find information about Florida's Affordable Housing Finance Programs by going to the Florida Housing Finance Corporation Web site [www.floridahousing.org](http://www.floridahousing.org).



*The Crossings is a 320 unit community in Miami, financed with \$13.5 million in tax-exempt bonds issued by the FHFC. One hundred percent of the community is set aside for residents earning less than 60% of the area median income. The oversized 5,000+/- sq. ft. clubhouse depicted here, includes a community/social room for a variety of resident programs and amenities including a kitchen in which Otis Spunkmeyer cookies are baked throughout the day.*

There was a time, not too long ago, when affordable housing was synonymous with public housing. Public housing was housing built and operated by the government. Often times (especially in the Northeast part of the United States) the public housing of yesteryear was built in a large barrack type of style, easily distinguishable from market rate housing. Generally, the government is no longer in the business of building and operating affordable housing, unless it is doing so in partnership with the private sector.

Affordable housing is now built by the private sector, often by the very same companies who also build luxury housing. The affordable housing is physically indistinguishable from the market rate housing. In summary, affordable housing is market rate housing, built by the private sector with financial subsidy from government which allows the developer to pass on savings in the form of reduced sales prices or rents.



*Generally, the government  
is no longer in the business  
of building and operating  
affordable housing,  
unless it is doing so in  
partnership with the  
private sector.*







*Green Gables is a 129 unit, 3 and 4 bedroom community developed by John M. Curtis, located in Ocala. Financed with Housing Credits from the Florida Housing Finance Corporation, Green Gables provides housing for low income and extremely low incomes families (15% of the units are set-aside for families earning less than 35% of area median income). The development of Green Gables spurred economic investment in an area that was historically depressed and has served to turn the neighborhood around. As with virtually all rental developments financed by FHFC, Green Gables provides a 5% homeownership incentive.*

## MOVING RESIDENTS TOWARD HOMEOWNERSHIP

While homeownership may be the ultimate goal for low income families, homeownership requires a continuum of housing opportunities. Almost without exception, affordable housing built for low income families using the Florida Housing Finance Corporation's programs, including Housing Tax Credits and SAIL, provides programs for moving residents into homeownership. These programs include financial literacy, homebuyer counseling and a lease incentive which provides the family with 5% of its rental payments for down payment assistance should they purchase a home.



*Bridgewater Club Apartments, developed by The CED Companies, provides 192 units for low income families in Spring Hill. It was financed with multifamily bonds from the Florida Housing Finance Corporation, and as with virtually all rental developments financed by FHFC, Bridgewater Club Apartments provides a 5% homeownership incentive.*







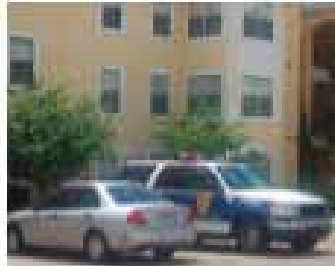
*Resident amenities and programs commonly found in Florida's affordable housing rental developments include on-site after school programs, computer labs, financial literacy training, and a down-payment assistance program to move residents toward home ownership.*



## AFFORDABLE HOUSING FACTS

**T**he only difference between market rate housing and affordable housing is that affordable housing uses government subsidy for construction costs in addition to its conventional financing. The facts about affordable housing in Florida are that most new developments carry a 50 year land use restriction agreement which requires the development to have professional management, substantial resident amenities and services, and meet strict compliance standards as to the eligibility of the residents and the condition of the units. The state monitors each site at least once a year for compliance. Developments that have both low income units and market rate units are identical in every way other than the income of the family living in the unit.





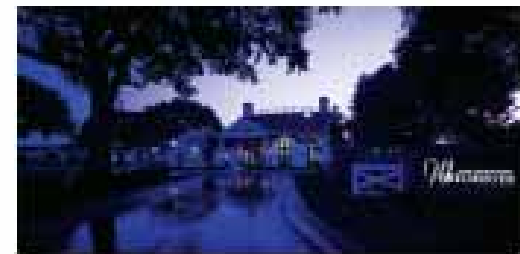
Affordable housing is sometimes referred to as "WORKFORCE HOUSING." This is because affordable housing serves the needs of people employed in the jobs that we rely upon to make every community viable. They are people such as teachers, teachers aids, nursing assistants, medical technologists, retail workers, government employees, emergency services providers, and law enforcement. These are some of the low and very low income members of your community.

# WHO LIVES IN AFFORDABLE HOUSING?

*They are people such as teachers, teachers aids, nursing assistants, medical technologists, retail workers, government employees, emergency services providers, and law enforcement.*

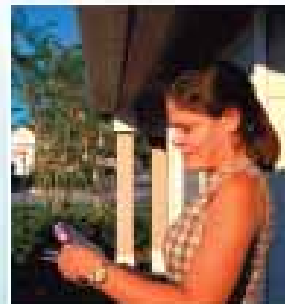


## THE WORKFORCE...



*Westchester entry and clubhouse.*

## RESIDENT PROFILE



In the Westchester Development, owned and operated by the Wilson Company, the resident profile is:

- Home Depot - Sales
- Hillsborough County Tax Collector - Customer Service
- Capital One - Asst. Support
- Quest Diagnostics - Data Entry
- Rooms to Go - Quality Control
- Tampa General Hospital - Nurse

- Walgreens - Pharmacy Tech
- Kindercare - Teacher
- Southtrust Bank - Teller
- Brookwood Academy - Preschool teacher
- Progressive Insurance - Underwriter
- Chase Manhattan - Customer Service Representative



*Built in 2004, The Villas at Hampton Park is a 48 unit apartment providing homes to extremely low-income seniors, with an average income of \$9,150. Each floor of the complex contains common space such as a dayroom, library, game room, computer lab, exercise room and a nondiscriminatory chapel. The Orlando Housing Authority supplemented its federal HOPE VI and public housing funds with nonfederal funds to provide the upgrades.*



*Casa Mariposa Senior Housing built by Community Housing of Resources, Inc., Sanibel.*

## THE ELDERLY...

Approximately 18% of all elderly households in Florida (65 years of age and older) live at or below the poverty level (U.S. Census, 2000). According to the Shimberg Center for Affordable Housing, Florida Housing Finance Corporation 2004 Rental Market Study of the 174,316 lower income, cost-burdened, renter households (renter households paying more than 30% of their income on housing with incomes at or below 60 percent of area median) aged 55 and over in Florida, 62% are paying more than 50% of their income toward housing costs.

*A person working a  
minimum wage job  
in Florida earns  
approximately  
\$12,000 per year.*





*The Coalition to Assist Supported Living (CASL) in Sarasota, provides affordable housing for people with developmental disabilities, funded with assistance from local government, foundations, and the Florida Housing Finance Corporation.*



*Affordable housing is also needed by the physically or mentally disabled.*

## PEOPLE WITH DISABILITIES AND THOSE WHO MIGHT OTHERWISE BE HOMELESS . . .

Affordable housing is also needed by people with physical or mental disabilities. These populations may be the very lowest income in your community. For example, a person living on supplemental security income may be living on less than \$7,700 per year. There are a number of non-profit organizations throughout the state of Florida in the business of

providing housing in partnership with others for these "special needs" populations. The developers of affordable housing, whether for profit or nonprofit, will usually include a mix of units in a development to meet the needs of a continuum of extremely low to low income families.



*Broward County CDC town home in Pompano Beach acquired through SHIP funds for a mental health consumer that was in the process of foreclosure. Formerly a medical doctor, a single mom with mental illness living on a fixed income now has a home for herself and her son for only \$178 per month.*

## AND CHILDREN . . .



*Children who are homeless, live in overcrowded housing, or are shuffled about as families search for decent housing, will suffer substantially in school.*







Every unit of local government in the state of Florida has a legal obligation to provide for the housing needs of its entire community pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 (Chapter 163, Part II, Florida Statutes, commonly referred to as the Growth Management Act). The Growth Management Act sets forth certain requirements for each plan element.

## WHY INCLUDE AFFORDABLE HOUSING IN YOUR COMMUNITY?

### AFFORDABLE HOUSING IS A LEGAL OBLIGATION

- *Housing all current and anticipated residents*
- *Providing adequate sites*
- *Eliminating substandard housing*

The requirements for housing are found in Section 163.3177 Florida Statutes, subsection (6)(f) as follows:

A housing element consisting of standards, plans and principles to be followed in:

- 1) The provision of housing for all current and anticipated future residents of the jurisdiction.
- 2) The elimination of substandard dwelling conditions.
- 3) The structural and aesthetic improvement of existing housing.
- 4) The provision of adequate sites for future housing, including housing for low-income,

very-low income, and moderate-income families, mobile homes, and group homes and foster care facilities, with supporting infrastructure and public facilities.

- 5) Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.
- 6) The formulation of housing implementation programs.
- 7) The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.





## CITY VIEW AT HUGHES SQUARE

*City View at Hughes Square is a mixed-use, mixed income development in downtown Orlando. It consists of 266 rental apartments, 23,000 square feet of neighborhood shopping, and associated amenities and is anchored by the corporate headquarters of a fortune 500 Company, Hughes Supply, Inc.*

*The affordable residential community at City View was jointly developed by Banc of America Community Development Corporation and the nonprofit Orlando Neighborhood Improvement Corporation (ONIC). It includes 14 three bedroom units, 133 two bedroom apartments, and 119 one bedroom units. Of the total 266 units, 10% will be reserved for very low income households (50% of area median household income), 30% will be reserved for those at 60% of median income, and 10% will be held for households at 120% of median. Because the debt is tax-exempt, the remainder of the apartments must be set aside for households below 150% of median income.*

*The planning, funding, and development of City View at Hughes Square was certainly complex, but nonetheless a replicable model.*

The Administrative Code requirements for the Housing Element are found in 9J-5, Florida Administrative Code(FAC), which states:

*The purpose of this element is to provide guidance to local governments to develop appropriate plans and policies to demonstrate their commitment to meet identified or projected deficits in the supply of housing. These plans and policies address government activities as well as provide direction and assistance to the efforts of the private sector.*

The administrative rule basically reiterates the statute, but clarifies that all current and anticipated future residents include those with special needs such as farmworkers; that local governments are expected to partner with the private sector; and utilize federal, state, and local subsidy programs to meet their housing goals.

## HOUSING ELEMENT DATA AND ANALYSIS REQUIREMENTS

The housing element is to be based on data from the latest decennial United States census or more recent estimates, including the affordable housing needs assessment that is provided by the state.

Pursuant to the requirement that the state provide a statewide needs assessment, the Department of Community Affairs contracts with the Shimberg Center at the University of Florida in Gainesville, to develop a methodology and perform the assessment. All local governments have been provided with the data for their jurisdiction. This has removed the burden of complying with the laundry list of data and analysis requirements in 9J-5.005(2), FAC.

*The state, through a contract with the Shimberg Center for Affordable Housing, provides every local government with data showing how many units of home ownership and rental units are needed within the jurisdiction.*



*The family pictured to the right had been living in this substandard housing. The SHIP program in Gadsden County assisted in the construction of their new home, pictured above.*

### **AFFORDABLE HOUSING IMPROVES THE ECONOMIC HEALTH OF THE COMMUNITY AND ENHANCES THE LIVABILITY OF THE COMMUNITY FOR EVERYONE.**

When a community has dilapidated housing stock, or people living on the streets, the entire community suffers. Those who are in the dilapidated housing or without any housing certainly suffer the most. But inadequate housing effects everyone in the community.

None of us want to explain to our children why the richest country in the world has people living in shacks or without homes at all. Some would argue that adequate housing is a moral imperative as much as a legal obligation.

Aside from the legal obligation to provide housing for the entire current and anticipated population, every local government in Florida should provide a mix of housing so that it can continue to grow economically. When new industries evaluate a prospective community, one of the factors they consider is whether adequate workforce housing is available. New industries provide jobs and a substantial ad valorem tax base. To attract new industry and raise the ad valorem tax base of your com-





## COMMUNITY INFRASTRUCTURE...

HOSPITALS...

SCHOOLS...

TECHNOLOGY/  
BUSINESS  
PARKS...



munity through the development of nonresidential properties, you must have an adequate inventory of affordable housing. In some communities, where housing is extremely expensive, such as the Florida Keys, Naples, and any number of other waterfront communities, there is a very real threat of losing basic services such as teachers and police protection due to a lack of affordable housing.

Affordable housing should be located throughout the jurisdiction to provide maximum housing opportunities to all families. It is not necessary to avoid a "concentration" of affordable housing in the way we have learned to avoid a concentration of government built housing. The premise behind avoiding a concentration of the public housing built and operated

by the government is that the public housing population may suffer from social ills associated with unemployment and poverty. The concentration of extremely low income families in poorly managed and maintained properties has in some instances lead to problems with drug or other criminal activity. Affordable housing built, managed, and maintained by the private sector is typically housing for working families; families that should be located near job centers, good schools and, whenever possible, public transportation.

*To attract new industry and raise the ad valorem tax base of your community through the development of nonresidential properties, you must have an adequate inventory of affordable housing.*





**T**he legal obligation to provide for the housing needs of the entire current and anticipated population, as outlined in Chapter Three, does not mean that local government is expected to develop or construct housing. Local government is expected to use its authority and expertise to encourage and assist the private sector to produce affordable housing. Affordable housing is developed by the private sector with the help of construction subsidy. But oftentimes financial subsidy for construction is not enough. Local government has a number of tools to encourage and assist the private sector in developing affordable housing. Those tools include (1) **PLANNING**, (2) **FINANCING**, and (3) **REGULATORY REFORM**.

## HOW IS AFFORDABLE HOUSING DEVELOPED?

*Local government has a number of tools to encourage and assist the private sector in developing affordable housing.*

### PLANNING FOR AFFORDABLE HOUSING

Planning is an essential part of producing affordable housing. In Florida, planning for affordable housing begins with comprehensive planning. Every local government is required to plan, in its housing element, for the housing needs of its entire population:

existing residents, anticipated residents, and those with special needs such as farmworkers and people in need of group homes. Part of comprehensive planning for affordable housing is the designation of adequate sites for affordable housing on the future land use map. The future land use map is a required element in the comprehensive plan. Another part of planning for affordable housing is implementation of the comprehensive plan housing element and future land use map through consistent land development regulations and development orders.







*Railroad Avenue Apartments: The City of Winter Park provided over one million dollars from a combination of local government funds generated from a linkage fee ordinance and other local government initiatives to leverage Federal HOME funds and provide 30 units of new construction rental for low income families developed by Orlando Neighborhood Improvement Corporation. Partners included the Winter Park Housing Authority (which is leasing the land from the city) the nonprofit developer, Orlando Neighborhood Development Corporation, the Orange County Housing Finance Authority, Florida Community Partners, and Florida Community Capital Corporation. 12 units house very low income families; 10 units house low income families; and 8 units are market rate, no income restrictions.*

## ADEQUATE SITES

Home ownership is what many favor for themselves and for others. Unfortunately, the number of persons earning wages too low to afford home ownership means that rental housing is the type of affordable housing most needed in Florida. Rental housing generally takes the form of high rise apartments, garden apartments, townhouses, and quadplexes, triplexes, or duplexes. Providing adequate sites for such housing means that local government future land use maps and local zoning codes designate sites for multi-family housing. These sites should be within the urban service boundary, close to major

employment, transportation, schools, day care, and other community and social services. To promote a mix of incomes and to avoid the concentration of low income housing, multi-family housing could be permitted in all residential areas, subject to design standards, as well as in mixed use areas where neo-traditional design is encouraged.

When adequate sites are not designated for multi-family housing the result is a deficit of housing for residents and employees within the jurisdiction. This is because developers are not likely to undertake the task of comprehensive plan or zoning changes to accommodate the multi-family housing.



*When adequate sites are not designated for multi-family housing the result is a deficit of housing for residents and employees within the jurisdiction.*





Photo: K. Williams/News Photo

*Planning for affordable housing includes adequate sites zoned for multi-family housing and a zoning code that creates a friendly environment for the development of affordable housing.*



*The Villas at Hampton Park is a 48 unit apartment providing homes to extremely low-income seniors, with an average income of \$9,150. The Orlando Housing Authority supplemented its federal HOPE VI and public housing funds with nonfederal funds to provide the upgrades.*

If the developer does brave an application for a zoning change he or she is often subjected to abusive behavior. Police escorts from city and county commission chambers to protect developers from the NIMBY crowd are not atypical enough. In addition to the emotional stress, the developer suffers substantial time delays and increases in the cost of development which may result in higher costs to the residents.

In 2004, the Florida Legislature amended Section 163.3177, Florida Statutes to encourage local governments to allow accessory dwelling units in any area zoned for single family residential use for the purpose of providing affordable rental housing. The Department of Community Affairs will make a report to the Legislature by January 1, 2007 specifying the number of accessory dwelling units that were created pursuant to ordinances that permit accessory dwelling units in single family areas.

## IMPLEMENTATION THROUGH LAND DEVELOPMENT REGULATIONS

Every local government must adopt land development regulations (ordinances), which implement the policies in the comprehensive plan within twelve months from adoption of the plan or plan amendment. These land development regulations may be as commonplace as an impact fee waiver/reduction, or as progressive as an inclusionary zoning ordinance, requiring all developments of a certain size to include some percentage of affordable housing within the development.

Even in instances of good comprehensive planning, evidenced by a housing element with measurable goals, objectives, and policies based on reliable data and analysis, an affordable housing development may be tied up in the development or permitting process by vehement opposition from the community because of inadequate land development regulations. For example, zoning codes that are so restrictive as to necessitate a public hearing for any increase in density or deviation from a minimum threshold will result in NIMBY opportunities.

The adoption of a zoning code that implements the future land use map and the goals, objectives, and policies of the housing element is the first step in avoiding this problem. For example, a zoning code which provides a density bonus as a special exception rather than as a conditional use, or a zoning code which permits all types of residential uses within each residentially zoned area would go a long way toward avoiding NIMBYism. Another progressive move toward averting NIMBYism is to delegate to staff those matters which are not required by local charter or bylaws to come before the city or county commission. Eliminating unnecessary public hearings will reduce opportunities for nonproductive community opposition.

## FINANCING

Most of the financing for affordable housing will come directly from the federal government or from federal and state programs administered by the Florida Housing Finance Corporation. Those programs are covered in Appendix 2. But in many of these programs developers are competing in a process that rewards those who can leverage state dollars with local contributions. All counties and entitlement cities in Florida have SHIP funds. Local governments over 50,000 in population also have federal HOME and CDBG monies to award to local developers. Making these awards in a timely



*Financing for affordable housing is available from numerous state, federal, and conventional sources.*

*Local governments can leverage these funds through a variety of contributions.*



*Regulatory reform should reduce costs while maintaining quality. Regulatory reforms provided as a matter of right will increase the delivery of affordable homes.*



Torti Gallas and Partners for the Michaels Development Co.



*"Airplane" and "Camel Back" style duplexes are two of the designs The Michaels Development Co. (Torti Gallas and Partners, used in Belmont Heights Estates, an affordable housing development in Tampa built with a variety of funds including multi-family bond financing from the Hillsborough County HFA.*

manner can be critical to the developer's success in securing the private sector conventional financing that often constitutes over half the funds needed to finance the development. Local government can also contribute financially through a number of other means, such as waiver, payment, or reduction in water and sewer, transportation or impact fees; contribution of infrastructure, and surplus land or use of general revenue to supplement the financial subsidy in the development. Developing affordable housing is only accomplished through the joint efforts of the private and public sectors.

## REGULATORY REFORM

Reforming regulations that add to the cost of housing is an essential local government tool. But housing quality must be maintained while costs are reduced. If too many reliefs from regulation are

granted simultaneously, such as reduced set-backs, combined with narrow streets, and on-street parking, the quality of the development will be reduced, giving the neighborhood a legitimate reason for opposing the development. But regulatory reforms that are balanced and provided as a matter of right will increase the delivery of affordable homes.

Regulations that have no positive effect on the health, safety, and welfare of the community and have a detrimental effect on affordability have no legitimate place in the zoning code. An example of this would be a minimum square footage requirement or a requirement that all homes have two car garages. Such an ordinance adds to the cost of housing without providing a counterbalancing public purpose. These issues are addressed in Chapter Six on the role of design and Chapter Seven on the connection between affordable housing and fair housing.



*Jones Landing - providing first time home ownership to seven families in this townhouse development built by Weststar Homes, Inc. with construction financing and down payment assistance from SHIP and HOME programs administered from the City of Orlando Housing Department. Each unit is resale restricted for 15 years; only low and very low income buyers qualify. Families paid as little as \$60,000 to live in these 1,500 square foot, two car garage townhomes in downtown Orlando.*

When the SHIP program was created in 1992 (see Appendix 3, William E. Sadowski Affordable Housing Act), providing millions annually in grant monies to local government for the production of affordable housing, it came with the condition that local government do its part to reduce the cost of housing by expediting permits specifically for affordable housing. "Permits" are defined in accordance with Section 163.3164 (7),(8), Florida Statutes:

A permit is a development order which means any order granting, denying, or granting with conditions an application for a development permit. A development permit includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

Local government planners, engineers, and others in the land use permitting loop, are not in the business of administering the SHIP program, and are frequently unfamiliar with its legal parameters. But unless a preference in timing is given to affordable housing development in all aspects of land use permitting, as defined above, the local program is not conforming to the requirements of the SHIP statute. And, if corrective action is not taken to implement expedited permitting for affordable housing, the grant of SHIP funds to the local government can be terminated.



*All local governments receiving SHIP funds must:*

- (1) expedite all permits for affordable housing; and*
- (2) have an on-going process of review of all land development regulations, comprehensive plan amendments, and ordinances that increase the cost of housing, prior to adoption.*







*Trees and landscaping enhance pride in the home, provide a sense of community, and reduce NIMBY complaints.*





## THE USE OF LANDSCAPING

An example of a land development regulation that adds to the cost of construction, but is good for affordable housing is a landscaping and tree protection ordinance. Curb appeal is most significantly impacted by trees and landscaping. Trees and landscaping enhance pride in the home, provide a sense of community, and reduce NIMBY complaints. Trees can also provide a buffer between uses. For example, multi-family affordable housing can be nestled in a cluster development adjacent to large-lot single-family neighborhood without any break in the

scenic flow, provided adequate landscaping is used. The use of landscaping and natural buffers will allow the development to go forward and thrive as a community asset. Moreover, trees which provide shade and reduce the need for air conditioning may render a home more affordable due to lower utility costs. But no ordinances, including landscaping and tree ordinances, can apply only to affordable housing without running afoul of fair housing laws. See Chapter Seven on the connection between affordable housing and fair housing.

*The use of landscaping  
and natural buffers will  
allow the development to  
go forward and thrive  
as a community asset.*





**F**lorida's Growth Management Act gives great weight to citizen participation and the rights of citizens to challenge development orders for inconsistency with the local comprehensive plan (*see Appendix 4 for process*). When land use changes are proposed, nearby property owners are notified and invited to participate in the public hearing. Although affordable housing is no different in land use type than luxury housing, it may evoke a highly charged reaction within the neighborhood. **The legitimate concerns of neighbors to a proposed development must be addressed.**

## HOW SHOULD NEIGHBORS BE INCLUDED IN THE PROCESS?

### *Prior to the public hearing*

*Many times the developer will discover that opposition to the development is based on misinformation.*

#### **BEST PRACTICES FOR ADDRESSING COMMUNITY OPPOSITION PRIOR TO PUBLIC HEARING**

General education about affordable housing and its place of importance in the community should ideally take place long before public hearings on a specific development. Local government is in a position to assist in this effort by taking a leadership role through

the words and actions of its elected officials and staff. If the community has heard positive messages about affordable housing, is generally aware of the need for affordable housing, and has enough evidence that there is no reason to fear affordable housing, community opposition need not emerge.

- One school of thought is that it is best for the developer to meet with neighbors before having a set plan for development to give the neighbors the opportunity to join in the planning and design of the affordable development. In this way, neighborhood "buy-in" is the greatest. But many believe this is not the way to go, as it sends a mes-



sage to the neighborhood that there is something different about affordable housing that justifies it being treated in a different manner than market rate housing. After all, it would be highly unlikely that a developer of luxury or market rate housing would ever solicit community input for the design or plan of the proposed luxury or market rate development.

- To avoid the NIMBY battle during a public hearing, it is best if the developer can meet with the neighbors ahead of time to answer any questions they may have about the proposed development. Many times the developer will discover that opposition to the development is based on misinformation. This can be rectified by explaining

the plan for development or showing the development plans to the neighboring property owners. There is some difference of opinion as to whether the developer should outreach to neighbors. Some believe it is extremely productive, while others find it creates a forum for building opposition momentum.

- Neighboring property owners are often concerned that the affordable housing development will not look good. The developer could respond best to these concerns by taking the neighbors on a tour of developments similar to the proposed development and arranging for the neighbors to speak with residents who live nearby an affordable development. Oftentimes, if neighbors get a chance to

*To avoid the NIMBY battle during a public hearing, it is best if the developer can meet with the neighbors ahead of time to answer any questions they may have about the proposed development.*

*Dispelling the myth that affordable housing reduces property values is a must.*

*Fortunately, a great many studies have been done nationwide to provide us with the evidence we need that affordable housing does not reduce property values, and indeed, in some instances increases neighboring property values.*



see an affordable housing development they are so surprised by how attractive it is that they no longer object to the proposed development.

- A reduction in property value is usually the primary concern heard from community opposition. Dispelling the myth that affordable housing reduces property values is a must. Fortunately, a great many studies have been done nationwide to provide us with the evidence we need that affordable housing does not reduce property values, and indeed, in some instances increases neighboring property values. Appendix 5 provides a comprehensive bibliography of property value studies showing that affordable housing does not reduce neighboring real property values.

Distinguishing between legitimate concerns that may be easily addressed and opposition based on fear, ignorance, or bigotry is critical. A tip-off that community opposition is not grounded in legitimate concerns is when the developer addresses one issue, only to find another issue is raised; when that issue is addressed, yet another issue is raised, and so on.

## *During the public hearing*

Nearly every hearing in regard to a particular development approval will be quasi-judicial in nature. This means the county or city commission must conduct the hearing in a courtroom-like manner to ensure the due process rights of the citizen requesting a land use permit. The quasi-judicial nature of the proceeding requires that the comments made to the commissioners be treated as testimony and that decision-makers base their decisions on substantial competent evidence.

*For example:*

The crowd opposing the development makes vehement claims of traffic concerns, but does not produce a traffic study to support its position. The developer submits a credible traffic study which shows the traffic impacts to be negligible. In this case, the local government would not have substantial competent evidence upon which to deny the development due to traffic impacts.

It is important to encourage community participation while defusing affordable housing NIMBYs.





## BEST PRACTICES FOR ADDRESSING COMMUNITY OPPOSITION DURING THE PUBLIC HEARING

- Affordable housing should be treated exactly as any other housing. There are two exceptions to this rule: (1) Affordable housing permits must be expedited. Delaying or continuing a land use or permitting hearing based on neighborhood opposition undermines the legal requirement for expediting affordable housing permits. The most extreme example of delaying an affordable housing development based on neighborhood opposition would be the adoption of a moratorium which has the effect of stopping the development. (2) Affordable housing should be treated as "infrastructure like" for purposes of fiscal impact analysis, and like schools, roads, or hospitals, should not be subject to a fiscal impact analysis for purposes of permitting decisions.
- Treating affordable housing as you would treat any other housing means there should be no consideration given to the "type" of people who will be living in the housing when making a land use decision. If a permitting decision is made based on the fact that the development is affordable, the local government will be violating Section 760.26, Florida Statutes (see Chapter Seven, The



Connection Between Affordable Housing and Fair Housing).

- Everyone who speaks about the development at the public hearing should be treated as a witness. They should state their name and address for the record and speak into a microphone as the hearing is taped. This means it is inappropriate to allow anyone to yell out comments from their seats or the back of the room. After the testimony from the community opposition is heard, the party requesting the development permit should have an opportunity for response or rebuttal to that testimony. If, for example, a public hearing is held in a manner that allows the petitioner to make a five or ten minute presentation and that presentation is followed by five minutes of community opposition testimony from 75 people, the hearing has taken on a decidedly lopsided flavor, where decisions appear to be made by majority (or some might say "mob") rule rather than a fair evaluation of the facts.

## MORATORIUMS

*A moratorium is to be used in cases of emergency to stop construction or development for a temporary period of time so that local government can adequately plan.*

*In the case of affordable housing, every local government is legally compelled to have a local comprehensive plan and future land use map that has adequately planned for affordable housing (see Chapter Three, Why Include Affordable Housing In Your Community). It would therefore be unlikely that a moratorium on affordable housing could ever fall within legal parameters.*



**B**efore the community at large will embrace affordable housing, it must know that affordable housing can be as attractive as market rate housing. The education process begins with design. If neighborhood opposition has nothing to do with perceptions about the people who will be living in the housing, the concern over property values is more than likely a concern over design. The opposition is bottomed on the belief that affordable housing is somehow cheap or ugly and does not fit within a community of market rate housing.

# WHAT ROLE DOES DESIGN PLAY?

*Affordable housing can and should fit aesthetically within market rate communities.*

*All low cost housing is not affordable housing.*

## WHY IS THERE A PERCEPTION THAT AFFORDABLE HOUSING IS CHEAP OR UGLY?

A number of Floridians moved here from the Northeast, where they may have had personal experience with large government housing projects causing a deleterious effect in their area. They have moved to Florida for its beauty and want to make absolutely sure that what they experienced "up north" is not going to happen here.

Another reason for the perception of affordable housing as cheap or ugly is the assumption that all cheap and ugly housing in the community is affordable housing. If you were to drive around a given town and ask your passenger to point to which developments are affordable housing, he or she would most likely point to the unattractive and run down housing and say "that's affordable housing." But in fact, the housing which is pointed to as "affordable" is actually market rate housing (housing that is built without financial subsidy) that is rented or sold to low income people. All low cost housing is not affordable housing. Affordable housing is safe and decent housing (not substandard), which is made affordable to low income persons





*Pinnacle View*



*Parker Place has five bungalow style homes located in the City of Lakeland. Developed by Keystone Challenge Fund with assistance from the City of Lakeland SHIP program, these homes have provided low and moderate income families with first time home ownership.*

through financial subsidies in the construction or downpayment and closing cost assistance to the homeowner and generally requires the resident or homeowner to spend no more than 30% of its income on housing costs.

## **WE MUST DISPEL THE MYTH THAT AFFORDABLE HOUSING IS CHEAP OR UGLY**

The National Low Income Housing Coalition dedicated the Fall, 2001 issue of the national NIMBY Report to design. You can read that article on line at [www.nlihc.org](http://www.nlihc.org) or order a copy of the report from the National Low Income Housing Coalition using the contact information provided in Appendix 6.

*"Affordable housing has acquired an important niche in the architectural community.... Often the architecture of affordable housing is better than the architecture of the market-rate production housing."* Interview

with Michael Pyatok,

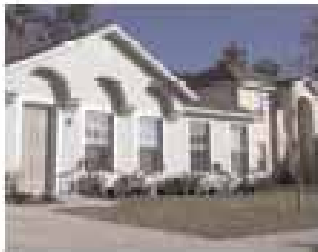
Design and Public

Opinion,

The NIMBY Report,

NLIHC, Fall, 2001.





*Minds are loathe  
to change once a  
neighborhood  
opposition effort  
has been launched.*



*Titus Miami Corporation developed "Bradenton Village", 160 townhomes in Bradenton, financed with a combination of funding including FHFC 9% Housing Credits. Approximately 85% serve families at or below 60% of area median income; 5% of the homes serve families at or below 30% of area median income.*

You will find articles and illustrations from architects, developers, and affordable housing advocates to assist you in allaying the negative perceptions about what affordable housing looks like.

## **DISPELLING THE MYTH BEGINS WITH EDUCATION**

Tackling NIMBYism in general, and NIMBY design issues in particular, is fairly new territory and as yet unsettled among housing professionals. For example, a common dilemma for the affordable housing developer is whether to proceed stealthily in an attempt to avoid neighborhood opposition, or to boldly bring the development to the attention of

the neighborhood early on, in an effort to enlist neighborhood support. Both strategies have been used successfully. Nationally known architect Michael Pyatok, one of the authors of *Good Neighbors: Affordable Family Housing*, Rand Publishing, 1996, recommends participatory design workshops with the neighborhood to garner support for the development. He recommends that the developer meet with the neighbors before a plan is developed, so the neighbors have the opportunity to participate in the development plans. But others vehemently disagree with this tact.

One thing upon which everyone can agree is that it is never too early to educate public officials and the public at large about affordable housing design. Minds are loathe to change once a neighborhood



*Pinnacle Housing Group, uses "Art in Public Places" to reduce NIMBY opposition and provide a more lovely environment for the residents of their affordable communities. Rayos Del Sol stands out for its design beauty, topped off by vibrant colored metal butterflies and a fiber optics lighting sculpture depicting the rays of the sun atop this 13 story Spanish-flavored building in East Little Havana. Pinnacle View boasts a 40 foot mural while providing apartments for 186 low income families in downtown Miami. The Pinnacle Housing Group commissions world renowned local artists to design artwork for each of its affordable developments.*

opposition effort has been launched. If the prospect of a multifamily affordable development conjures images of the mammoth government built and mismanaged public housing apartments of yesteryear and the prospect of an affordable single family home conjures images of a bare bones house that sticks out like a sore thumb as the "affordable house," the private sector affordable housing developer will be in for a difficult time from the market rate neighborhood.

The Florida Housing Coalition and the Department of Community Affairs have received a great deal of positive feedback from the design workshops we have provided using the expertise of Florida architect Robert Koch, of Fugleberg Koch Architects. Mr. Koch contributes the following guidelines for designing affordable homes to fit aesthetically within Florida's market rate neighborhoods.

*"People who know contemporary affordable housing are aware that developers have incorporated valuable lessons from the overly publicized failed public housing 'projects' and no frills apartment complexes... a new cohort of architects has created attractive, well functioning buildings that are often more attractive than market-rate developments. Yet, the broader public and most decision-makers are unaware of this well-kept affordable housing secret"*

*Tim Iglesias,  
The Promise and  
Limits of Design,  
The NIMBY Report,  
NLIHC, Fall, 2001.*



*Four different designs for affordable single family housing used in the Hampton Park Development, Orlando*



*Robert Koch, AIA  
Fugleberg Koch  
Architects*

*I am convinced of  
the need to introduce  
affordable choices into  
areas where higher  
values prevail.*



## HOW TRADITIONAL NEIGHBORHOOD DESIGN CAN SUPPORT DIVERSITY

*By Robert A. Koch*

**I**f families with limited incomes are to have choices in where they live, housing they can afford must be built in many neighborhoods. In a perfect world, neighborhoods, developments, and communities would have a blend of housing at various price levels. But this approach is too inefficient for many developers. Mass production,

with little variety and customization, permits greater economy. Heterogeneous developments are more expensive, regardless of size and quality.

Nonetheless, I am convinced of the need to introduce affordable choices into areas where higher values prevail. Here are some of the tools I recommend



for those interested in developing what I call “inclusionary housing.” These tools come from the school of Traditional Neighborhood Design, or TND, an urban design movement whose popularity continues to grow. TND, rooted in American neighborhoods of the early 20th century, emphasizes mixed-use development, pedestrian-friendliness, and opposition to sprawl. Front porches are a hallmark of TND design, but the movement extends to land use planning and balanced development principles.

## 1. VARY THE LOT SIZE

Since the 1950s, lot arrangements for residential neighborhoods have relied on the street for all automobile and pedestrian access. Lot widths have been diminishing, and consequently the amount of the lot frontage dedicated to the automobile has grown significantly. In this day of 50-foot-wide (and sometimes narrower) lots with two-car garages and nominal setbacks, street faces are dominated by the car population. The hidden human spaces behind the cars and garages often face away from the street.

The rediscovery of traditional patterns with service drives and garages at the rear has prompted a surprising discovery: Narrow lots where the garage is concealed generate the same perceived value as wider lots with garages dominating the street front. With this new-

found awareness we now can consider neighborhood patterns that can offer different lot dimensions without measurably altering street perception.

The most common lot pattern in “traditional neighborhood development” designs employs the service drive. This allows the garage to displace to the rear increasing the “friendly face” of the dwelling on the street. It also allows the garage to be an option for initial buyers, one that can be added in the future.

The perception of value follows the amount of “friendly face” oriented toward the street. When garages are rear accessed, the whole face of the building can be used to express dwelling size. Rear garage massing can be as expensive-looking as larger homes with front-facing garages, as shown in Illustration A.

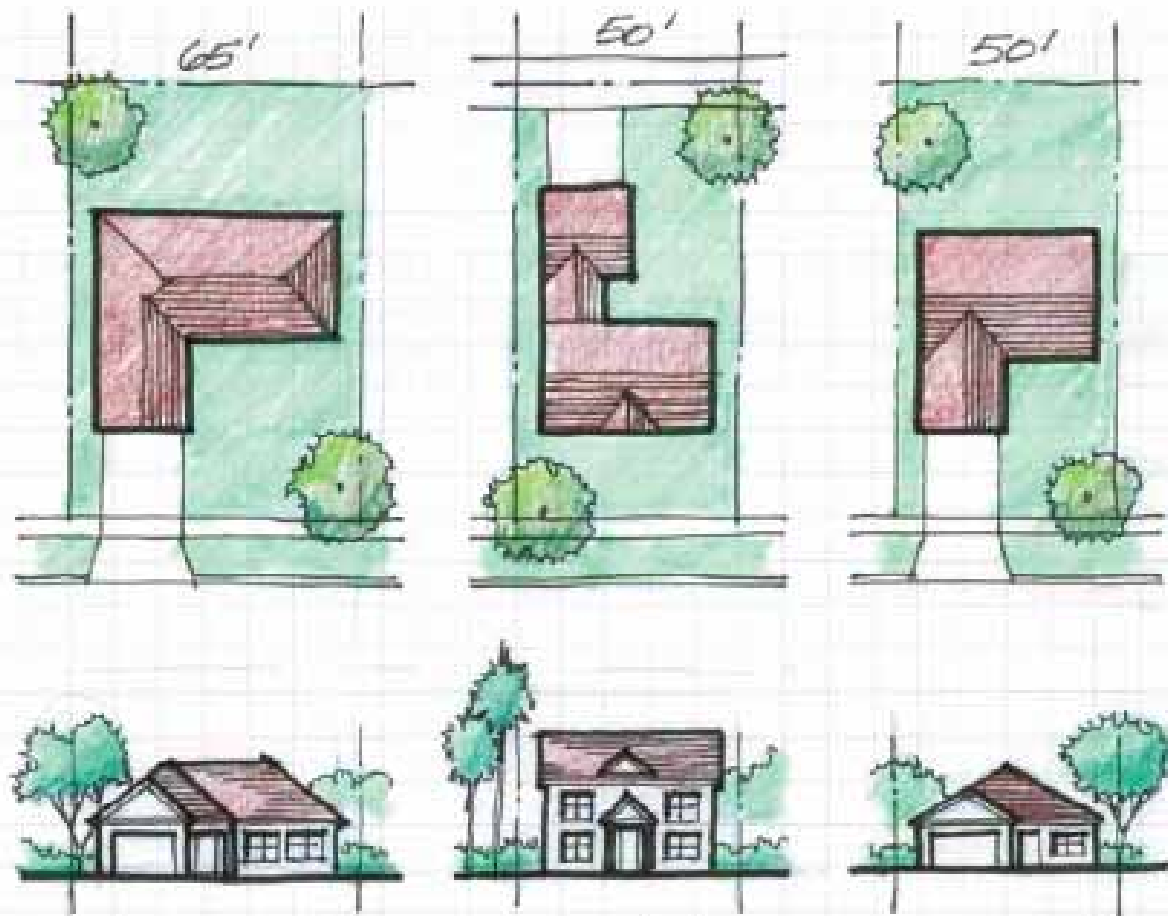
### PUTTING THE GARAGE IN THE REAR RESULTS IN A MORE APPEALING FACADE FACING THE STREET.

Since lots with rear service drives are most efficiently organized on interior blocks in larger developments, and lots with front access streets more efficiently address boundary and rear view-oriented locations, we now have a basic pattern that



*Narrow lots where the garage is concealed generate the same perceived value as wider lots with garages dominating the street front.*

*Varying lot types with rear entry and front entry arrangements permit smaller lots to co-exist with wider lots while not reducing the perceived value as seen from the public way.*



## CONSIDERING THE 'FRIENDLY FACE'

Illustration A

permits land and infrastructure adjustments within a community without producing disturbing results.

Varying lot types with rear entry and front entry arrangements permit smaller lots to co-exist with wider lots while not reducing the perceived value

as seen from the public way. Some customers prefer the service drive lots to the front access lots for personal reasons unrelated to price. This blend of taste and opinion helps to mask the allocation of affordable occupancies within the neighborhood.



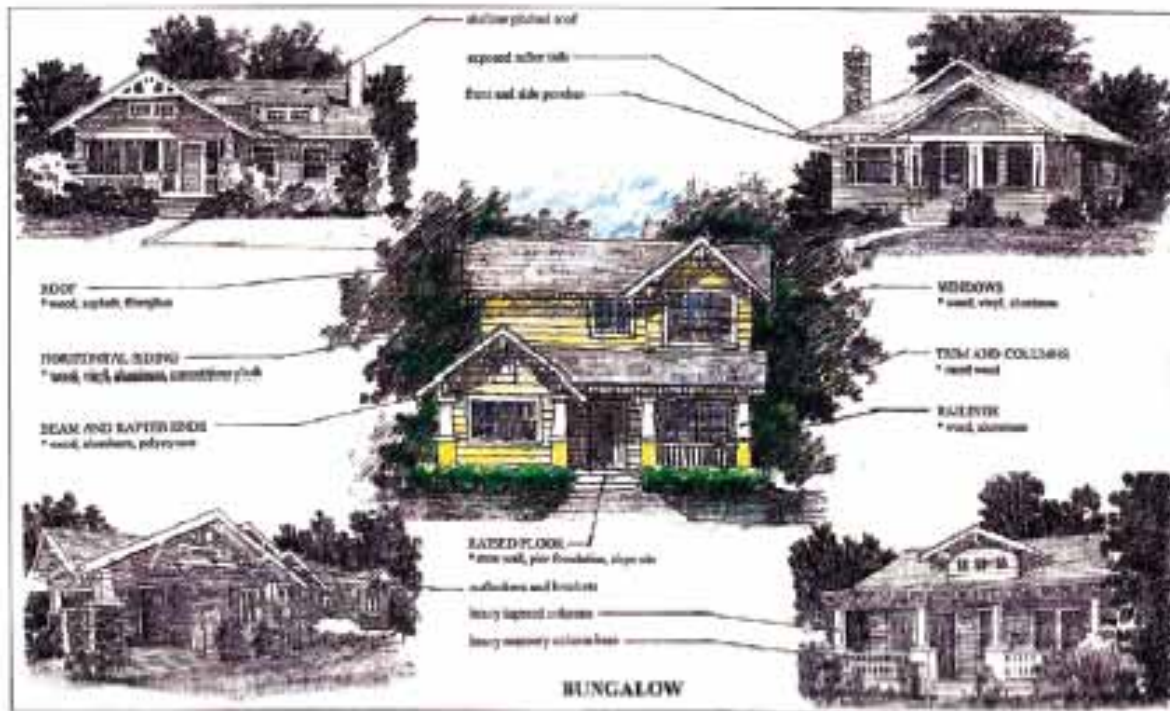


Illustration B

TND design also positions the garage and utility to the blind side of the street face. These amenities may be less essential to the low income family than the extra bedroom or enlarged living area. In such patterns the selective elimination of the garage initially does not alter the street face or the resulting neighborhood values. The garage is easily added later when the home fulfills its completed design intent.

Also, land costs can be reduced by making lots less deep. The width of a site is often proportionate to the home value that occupies it, so noticeably narrow lots will single out the affordable housing from the others in a neighborhood. Lot depth, however, is not as apparent. If lot depths can be varied, the smaller lots can have a measurable impact on development cost in areas with high land prices.



*If lot depths can be varied, the smaller lots can have a measurable impact on development cost in areas with high land prices.*



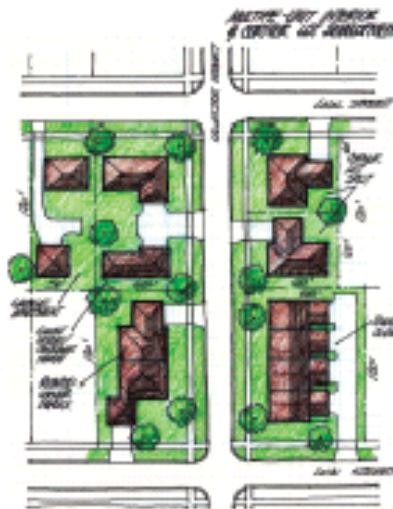


Illustration C

*The classic neighborhood often saw garage apartments, twin homes (duplexes), and even estate-imagined multi-family housing as products intermarried with single-family product.*



## 2. FOLLOW TRADITIONAL STYLES.

TND neighborhoods also invite traditional design executions. Exterior stylings reflective of classic and historic themes bring an added cost benefit. Historic building types are generally simpler designs that optimized enclosure with construction-efficient boxes. Their popularity permits this simplicity to exist without value erosion. The result is that simple historic building patterns can coexist with more animated contemporary building types without making simplicity the result of cost control but of accepted design preference.

Illustration B shows how the design of the classic bungalow is centered around simple massing. With traditional design themes, busy massing and expensive detailing can be avoided without appearing cheap.

**TRADITIONAL DESIGN THEMES OFTEN ARE LESS EXPENSIVE TO EXECUTE THAN CONTEMPORARY ONES.**

## 3. VARY BUILDING TYPES.

In our older neighborhoods, development often emerged without the controls of zoning or land use constraint. The classic neighborhood often saw garage apartments, twin homes (duplexes), and even estate-imagined multi-family housing as products intermarried with single-family product. These building types remain available choices for designers and planners alike:

- Tandem homes
- Twin homes (in-line duplex)
- The garage apartment
- Mother-in-law suites/carriage house
- Split lot
- Corner duplex
- The big home apartment block

Erecting multiple homes on a single lot can work in both interior and corner locations. Interior lots generally are best employed for tandem dwelling configurations, both attached and detached. Corner lot executions can take the more expensive lot conditions and increase their dwelling utility by using a variety of building types, thus lowering the individual lot allocation per dwelling without violating the neighborhood value system, as shown in Illustration C.

## ART IN ARCHITECTURE



Florida can boast a design initiative that is serving as a national model: **Art in Architecture**. Created by Realtor® Steve Chitwood, the program involves a cooperative community service effort between architects, builders, and Realtors® to produce well designed single family affordable homes. The homes pictured here are from the first phase of the Art in Architecture program in the Holden Heights area of Orlando. In a second phase to the Art in Architecture program, the City of Orlando will follow the lead of its neighbor,

the City of Winter Park, to provide vacant lots acquired through foreclosure or negotiation of tax and code liens to a be held in a community land trust. The City of Winter Park facilitated the development of Hannibal Square Community Land Trust, the first community land trust in Central Florida. The community land trust vehicle will ensure that these well designed homes remain permanently affordable. Visit the Orlando Regional Realtors Association Website [www.orirealtor.com](http://www.orirealtor.com) to get more information on Art in Architecture.



## AFFORDABLE HOUSING DESIGN ADVISOR

The seminal on-line resource for affordable housing design is the **Affordable Housing Design Advisor**.

You will find a gallery of photos from around the country illustrating good design with a step by step tutorial for developing and delivering affordable housing that will be embraced by affordable housing residents and the community at large, [www.designadvisor.org](http://www.designadvisor.org).

Deane Evans, FAIA, manages the Affordable Housing Design Advisor. He is the Executive Director of the New Jersey Institute of Technology, Center for Architecture and Building Science Research, and has provided training on design for Florida's nonprofits and local governments through the Florida Housing Coalition's workshops.

The Affordable Housing Design Advisor is the repository for the Campaign for Excellence in Affordable Housing Design, a national initiative to:

- increase the availability of affordable housing;
- decrease resistance to affordable housing;
- increase neighborhood stability; and
- improve the quality of life for residents of affordable housing.



When a governmental entity is pressured by opponents of affordable housing to make a land use decision which treats one person or group of persons differently from another person or group without a legitimate rationale, the issue of prohibited discriminations is flagged. A decision is actionable whether it is an act of intentional discrimination against a protected class or whether it is an act taken without an intent to discriminate but which has a disproportional impact on a protected class.

## WHAT IS THE CONNECTION BETWEEN AFFORDABLE HOUSING AND FAIR HOUSING?

*It is not uncommon for settlements and verdicts to run as high as several hundred thousand dollars.*



Both the Federal Fair Housing Act, 42 U.S.C. §§3601-3631, and the Florida Fair Housing Act, Chapter 760, Part II, §§760.20-760.37, Florida Statutes, prohibit discrimination in housing based on race, color, national origin, religion, sex, handicap, and familial status. These are the "protected classes." Each provides for sanctions, including damages, penalties, injunctive relief, and attorneys fees, which can be imposed for violation of fair housing law by governmental bodies, organizations, and

individuals for fair housing violations. A person injured by the violation may seek administrative or judicial review. Administrative complaints filed with HUD raising land use issues are handled by the Federal Department of Justice, a formidable adversary. Litigation of a fair housing claim in a losing cause can be very expensive; it is not uncommon for settlements and verdicts to run as high as several hundred thousand dollars.





Effective July, 2000, the Florida Fair Housing Act was amended to create section 760.26, Florida Statutes, as follows:

*It is unlawful to discriminate in land use decisions or in the permitting of development based on race, color, national origin, sex, disability, familial status, religion, or, except as otherwise provided by law, the source of financing of a development or proposed development.\**

\*That portion of the statute which states "it is unlawful to discriminate in land use decisions... except as otherwise provided by law" recognizes that there are some laws that discriminate *in favor* of affordable housing, such as the requirement that all development permits be expedited for affordable housing. The language "except as otherwise provided by law," makes clear that this type of "discrimination" in expediting permits is lawful.

The genesis for the "source of financing" amendment to the Florida Fair Housing Act was the experience of affordable housing advocates in securing appropriate zoning for Pueblo Bonito, a proposed farmworker housing development intended to draw residents primarily if not exclusively from the Hispanic population. In this instance, the power of the Florida and the Federal fair housing laws protecting against discriminatory acts based on race, national origin, and color was more than sufficient to force a rethinking of the denial and the resultant reversal allowing the change in zoning and the project to proceed.

But in many instances it is not possible to know for certain whether the prospective residents of the affordable development will be members of the protected classes. Prior to the enactment of Section 760.26 in 2000, fair housing laws may not

*If the only reason the land use or permitting request is denied is because the housing is affordable, the decision will be in violation of Section 760.26, Florida Statutes.*





*If the only reason the land use or permitting request is denied is because the housing is subsidized, the decision will be in violation of the Florida Fair Housing Act.*



*(Above), An historic property in Miami Beach known as Riveria was restored by Boston Capital Properties as an affordable housing development providing apartments for low and very low income residents using historic tax credits, FHFC Housing Credits, and SAIL. (Above Left), A partnership between Operation Hope, a nonprofit corporation, the City of Jacksonville, and Bank of America, constructed this for-sale home for a low income family to fit architecturally within the Springfield Historic District in Jacksonville using SHIP and HOME funds.*

have protected the prospective low income residents of the development if the developer could not show that members of a protected class would be living in the development. With this statutory change all affordable housing is now covered by the Florida Fair Housing Act. Action taken on the basis of the financing of the development is in violation of the Florida Fair Housing Act. If the only reason the land use or permitting request is denied is because the housing is subsidized, the decision will be in violation of the Florida Fair Housing Act. Low income persons have effectively become a protected class for purposes of land use decisions which impact affordable housing.





*Christmas Parade at Pueblo Bonito*

## WHEN NIMBY PRESSURE OVERTAKES SOUND LAND USE DECISIONS

### PUEBLO BONITO - A CASE STUDY

A faith-based nonprofit sought a rezoning in Bonita Springs, Lee County, for a 26 acre site that it had under contract for the purpose of developing farmworker housing. The site was zoned to allow mobile homes; the nonprofit, Partnership In Housing Inc., wanted to build duplexes. The local government comprehensive plan detailed the need

for farmworker housing, and the rezoning was consistent with the future land use map.

Partnership In Housing held a number of community meetings to discuss its development plans with the residents of the neighboring mobile home park and anyone else in the area who might be



*Pueblo Bonito is a thriving community. Neighbors who at one time vigorously opposed the development now have an entirely new attitude. Neighbors have volunteered their time and money to create a wonderful playground for the children of Pueblo Bonito.*





TOM KAY/STAFF PHOTO



*Before the matter was heard by the County Commission, the planning department had been deluged with letters from Bonita Springs residents decrying the horrors which they associated with the type of people who would be living in the development.*



interested. The meetings brought together a vocal group of opponents. Before the matter was heard by the County Commission, the planning department had been deluged with letters from Bonita Springs residents decrying the horrors which they associated with the type of people who would be living in the development. Substantial pressure was brought to bear on the County Commission by the opposition; protests were held with signs promising to oust in the next election those Commissioners who would permit the development to go forward. The County Commission gave way under the NIMBY pressure and denied the rezoning request.

Through its land use attorney, Partnership In Housing filed a petition for relief under the Bert J. Harris, Jr., Private Property Rights Protection Act, § 70.001, Florida



## BERT HARRIS ACT

Chapter 70, Florida Statutes, "Relief From Burdens On Real Property Rights," includes in Section 70.001 the "Bert J. Harris, Jr., Private Property Rights Protection Act" which creates a separate and distinct cause of action from the law of takings to provide for relief, or payment of compensation, when a new law, rule, regulation, or ordinance unfairly affects real property. Section 70.51, known as the "Florida Land Use and Environmental Dispute Resolution Act" provides for a special master process when an owner of real property believes that a development order is unreasonable or unfairly burdens the use of the owner's real property. "Development order" is defined as any order, or notice of proposed action which is or will have the effect of granting, denying, or granting with conditions an application for a development permit, and includes the rezoning of a specific parcel. "Development permit" is defined as any building permit, zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of local government...."



Statutes, explaining that the denial of the rezoning request was unreasonable and unfairly burdened the use of the property. At the same time, Florida Legal Services, Inc. filed a housing discrimination administrative complaint with the federal government on behalf of the farmworkers. While the special master process was underway in the property rights case, the Department of Justice began laying the ground work for judicial intervention through a fair housing law suit by investigatory fact finding; of particular focus in the document review was the three inch stack of NIMBY letters and on site interviews with the Lee County government staff and officials.

The special master report came in with findings that the denial of the rezoning request was unreasonable and did unfairly burden the use of the property at issue. The Lee County Commission then wisely settled with Partnership In Housing permitting the development to proceed. In consideration of the settlement, the Department of Justice closed its fair housing file thereby alleviating the very real danger to the County that it would be on the losing end of a judgment for substantial damages, penalties, and attorneys fees.



*Adelina Cardenas (age 75),  
(blind widow now in wheel  
chair) gives thanks to God  
for her "palace" in Pueblo  
Bonito.*

*Pueblo Bonito now built  
and occupied has been a  
tremendous success.*





**B**efore denying a land use or permitting request, government planners and elected officials should consider the following questions: 1. Is this action consistent with the adopted local comprehensive plan? 2. Will this action be prohibited under the Federal or Florida Fair Housing Acts? 3. Will this action be unreasonable or will it unfairly burden the use of the property? 4. Is this action supported by substantial, competent evidence made in accordance with the landowner's due process rights to a fair hearing? 5. Is this action in compliance with the requirements of the State Housing Initiatives Partnership (SHIP) program?

## HOW CAN LOCAL GOVERNMENT AVOID LEGAL LIABILITY FROM NIMBYISM?

*Plan amendments, land development regulations, and development orders that are exclusionary are likely to run afoul of the comprehensive plan.*



### 1. IS THIS LAND USE OR PERMITTING DECISION CONSISTENT WITH THE ADOPTED LOCAL COMPREHENSIVE PLAN?

The Local Government Comprehensive Planning and Land Development Regulation Act, §§163.3161-163.3217, Florida Statutes, requires local governments to provide for the housing needs of all current and anticipated populations, including special needs populations such as farmworkers and the disabled. The requirements of the housing element include

the provision of adequate sites for housing, including housing for very low income families, group homes, and foster care facilities.

### HOW COULD NIMBYISM EFFECT COMPREHENSIVE PLANNING DECISIONS?

Plan amendments, land development regulations, and development orders that are exclusionary are most likely inconsistent with the adopted local comprehensive plan. An example of exclusionary





practices is the adoption of an ordinance that sets a minimum residential square footage, making affordable homes economically infeasible. Such an ordinance is likely to be inconsistent with the adopted comprehensive plan, and would be grist for consideration as a fair housing violation.

## 2. IS THIS LAND USE OR PERMITTING DECISION PROHIBITED UNDER THE FEDERAL OR FLORIDA FAIR HOUSING ACTS?

Both the Federal Fair Housing Act, 42 U.S.C. §§3601-3631, and the Florida Fair Housing Act, Chapter 760, Part II, §§760.20-760.37, Florida Statutes, prohibit discrimination in housing based on race, color, national origin, religion, sex, handicap, and familial status. The Florida law was recently amended to protect "source of financing" from discriminatory land use or permitting decisions. Each Act provides for sanctions, including damages, penalties, injunctive relief, and attorneys fees, which can be imposed for violation of fair housing law by government action. A decision is actionable whether it is an act of intentional discrimination against a protected class or whether it is an act taken without intent to discriminate but which has a disproportional impact on a protected class.

### *Both the Federal and Florida Fair Housing*

*Acts prohibit discrimination in housing based on race, color, national origin, religion, sex, handicap, and familial status.*

*The Florida Fair Housing Act also prohibits discrimination based on the financing of the development or proposed development.*





*If the decision would have been different had the development been market rate, rather than affordable, the decision runs afoul of the Florida Fair Housing Act, Section 760.26, Florida Statutes.*



### HOW COULD FAIR HOUSING LAW BE IMPLICATED IN LAND USE OR PERMITTING DECISIONS?

The unsubstantiated testimony from opponents of affordable housing coupled with the inability of the government to demonstrate a valid land use rationale for the land use or permitting decision is strong evidence that the challenged decision was made for reasons of prejudice and fear, rather than for the health, safety, and welfare of the community.

If the decision would have been different had the development been market rate, rather than affordable, the decision runs afoul of the prohibition on discrimination against developments based on the financing found in Section 760.26, Florida Statutes, of the Florida Fair Housing Act.

### 3. IS THIS LAND USE OR PERMITTING DECISION UNREASONABLE OR DOES IT UNFAIRLY BURDEN THE USE OF THE PROPERTY?

The Bert J. Harris, Jr., Private Property Rights Protection Act, §70.001, Florida Statutes, provides a cause of action to all landowners and buyers under a purchase and sale contract for relief from government action that inordinately burdens the use of real property. This is a much easier standard

for the landowner or buyer to meet than that found in traditional takings law.

### HOW COULD THE BERT HARRIS PROPERTY RIGHTS ACT APPLY IN THE NIMBY SITUATION?

A typical example is a rezoning request that is consistent with the comprehensive plan, but is opposed by the adjoining landowners. Denial of the rezoning request may result in the inability to build the affordable housing development or the inability to build at the density desired. Denying the rezoning request may be found to be unreasonable or to have unfairly burdened the use of the real property. A refusal to rezone must pass the Section 70.001, Florida Statutes, standard: does it create an inordinate, unfair, or undue burden on the use of the property?

### 4. IS THIS LAND USE OR PERMITTING DECISION SUPPORTED BY SUBSTANTIAL, COMPETENT EVIDENCE MADE IN ACCORDANCE WITH THE LANDOWNER'S DUE PROCESS RIGHTS TO A FAIR HEARING?

The Florida Supreme Court in Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993) held that local land use

decisions affecting a small area of the community, such as rezonings, are quasi-judicial in nature. Therefore, these decisions must be supported by substantial, competent evidence rather than the deferential "fairly debatable rule." Snyder made clear that the landowner has constitutional due process rights to a fair hearing. Among the elements of that fair hearing is the prohibition of *ex parte* communication with the decision-makers. Jennings v. Dade County, 589 So. 2d 75 (Fla. 1992).

#### HOW COULD SNYDER APPLY TO NIMBYISM?

One response to vehement and vocal opposition might be to deny a land use or permit request based on the magnitude of the opposition. Without substantial, competent evidence supported by expert witnesses introduced by the opposition at the hearing showing that the land use or permit request was inconsistent with the comprehensive plan, the local government denial is subject to reversal upon appeal as arbitrary and capricious.

#### 5. IS THIS LAND USE OR PERMITTING DECISION IN COMPLIANCE WITH THE REQUIREMENTS OF THE STATE HOUSING INITIATIVES PARTNERSHIP ACT (SHIP) PROGRAM?

The SHIP program, in effect in all counties and entitlement cities within Florida, requires that permits are to be expedited for affordable housing to a greater degree than other projects. The definition of permits, adopted from Section 163.3164 (7),(8), Florida Statutes, is broad, and includes all development orders, building permits, zoning permits, subdivision approvals, rezonings, certifications, special exceptions, variances, or any other official action of local government having the effect of permitting the development of land.

#### HOW COULD SHIP RULES APPLY TO NIMBYISM?

One response to large neighborhood turnout in opposition to a request from an affordable housing developer, might be to postpone or delay the land use/permitting decision. This would undermine the SHIP rule for expedition of affordable housing permits.



*Land use decisions affecting a specific development must be supported by substantial, competent evidence.*



# MEDIAN INCOMES FOR FLORIDA, 2004

Daytona Beach MSA (Flagler/Volusia) . . . . .	\$48,600	Tampa-St. Petersburg-Clearwater MSA (Hernando/Hillsborough/Pasco/Pinellas) . . . . .	\$51,200
Fort Lauderdale PMSA (Broward) . . . . .	\$57,700	West Palm Beach-Boca Raton MSA (Palm Beach) . . . . .	\$62,100
Fort Myers-Cape Coral MSA (Lee) . . . . .	\$54,100	Baker County . . . . .	\$51,400
Fort Pierce-Port Lucie MSA (Martin/Saint Lucie) . . . . .	\$50,800	Bradford County . . . . .	\$45,300
Fort Walton Beach MSA (Okaloosa) . . . . .	\$54,700	Calhoun County . . . . .	\$33,100
Gainesville MSA (Alachua) . . . . .	\$52,200	Citrus County . . . . .	\$41,400
Jacksonville MSA (Clay/Duval/Nassau/St. Johns) . . . . .	\$56,600	Columbia County . . . . .	\$41,100
Lakeland-Winter Haven MSA (Polk) . . . . .	\$46,700	DeSoto County . . . . .	\$38,300
Melbourne-Titusville-Palm Bay MSA (Brevard) . . . . .	\$54,700	Dixie County . . . . .	\$37,900
Miami PMSA (Dade) . . . . .	\$45,400	Franklin County . . . . .	\$34,700
Naples MSA (Collier) . . . . .	\$63,300	Gilchrist County . . . . .	\$39,800
Ocala MSA (Marion) . . . . .	\$42,400	Glades County . . . . .	\$41,000
Orlando MSA (Lake/Orange/Osceola/Seminole) . . . . .	\$54,700	Gulf County . . . . .	\$41,300
Panama City MSA (Bay) . . . . .	\$49,200	Hamilton County . . . . .	\$34,500
Pensacola MSA (Escambia/Santa Rosa) . . . . .	\$50,700	Hardee County . . . . .	\$37,600
Punta Gorda MSA (Charlotte) . . . . .	\$48,600	Hendry County . . . . .	\$38,600
Sarasota-Bradenton MSA (Manatee/Sarasota) . . . . .	\$54,300	Highlands County . . . . .	\$46,100
Tallahassee MSA (Gadsden/Leon) . . . . .	\$56,500	Holmes County . . . . .	\$40,900
		Indian River County . . . . .	\$52,400
		Jackson County . . . . .	\$41,900
		Jefferson County . . . . .	\$45,900
		Lafayette County . . . . .	\$40,300
		Levy County . . . . .	\$34,000
		Liberty County . . . . .	\$40,900
		Madison County . . . . .	\$37,000
		Monroe County . . . . .	\$57,200
		Okeechobee County . . . . .	\$41,900
		Putnam County . . . . .	\$41,000
		Sumter County . . . . .	\$43,800
		Suwannee County . . . . .	\$38,700
		Taylor County . . . . .	\$39,400
		Union County . . . . .	\$41,600
		Wakulla County . . . . .	\$51,300
		Walton County . . . . .	\$44,000
		Washington County . . . . .	\$38,400



# FINANCIAL RESOURCES FOR AFFORDABLE HOUSING

*Affordable housing programs, especially those administered by the Florida Housing Finance Corporation, tend to be dynamic. This appendix was prepared in January 2005. Please check the FHFC Website for updates to programs and contacts: [www.floridahousing.org](http://www.floridahousing.org).*

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# COMMUNITY CONTRIBUTION TAX CREDIT (CCTC)

## AT A GLANCE:

<i>Source:</i> <b>STATE OF FLORIDA ANNUAL APPROPRIATION</b>	<i>Applicants:</i> <b>NONPROFITS AND OTHER COMMUNITY ENTITIES</b>	<i>Finance Type:</i> <b>STATE TAX CREDITS EXCHANGED FOR GIFT/DONATION</b>
<i>Enacted:</i> <b>1995</b>	<i>Cycle:</i> <b>OPEN - NON-COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL, HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 220.183, FLORIDA STATUTES</b>	<i>Administrator:</i> <b>FL. OFFICE OF TOURISM, TRADE &amp; ECONOMIC DEVELOPMENT</b>	<i>Primary Uses:</i> <b>ACQUISITION, CONSTRUCTION, REHABILITATION</b>

The Community Contribution Tax Credit Program (CCTCP) provides \$10 million each year as an incentive (50 percent tax credit) to encourage Florida corporations to make donations toward community development and low-income housing projects. The tax credit is easy for a business to receive. Corporations doing business anywhere in Florida that make donations to approved community development projects may receive a tax credit equal to 50 percent of the value of the donation. Businesses may take the credit on Florida corporate income tax, franchise tax, or insurance premium tax.

Businesses may donate up to \$400,000 per tax year and take up to \$200,000 in tax credit per year. Unused credits may be carried over for up to 5 years. Donations may be made in the form of cash, real estate, and equipment and/or supplies.

**Eligible Activities/Beneficiaries:** Approved sponsors of a project may construct, improve, or substantially rehabilitate housing, commercial, industrial, or public facilities, or promote entrepreneurial or job development opportunities for low-income (80 percent or less of ami) persons.

**Eligible Applicants/Application Process:** The project must be undertaken by an eligible sponsor which may be: A community action program, community development corporation, neighborhood housing services corporation, local housing authority, community redevelopment agency, historic preservation district agency or organization, private industry council, direct-support organization, enterprise zone development agency, units of local government or such other agency as the Office of Tourism, Trade, and Economic Development (OTTED) may, from time to time, designate by rule. Eligible sponsors may submit an application at any time by contacting the OTTED.

**Program Contact:** Burt Von Hoff, Executive Office of the Governor, Office of Tourism, Trade, and Economic Development, The Capitol, Suite 2001, Tallahassee, FL 32399-0001  
Phone: (850) 487-2568 Fax: (850) 487-3014  
Email: [vonhoffb@eog.state.fl.us](mailto:vonhoffb@eog.state.fl.us)  
Website: [http://www.myflorida.com/myflorida/government/governorinitiatives/otted/pdfs/community\\_tax.pdf](http://www.myflorida.com/myflorida/government/governorinitiatives/otted/pdfs/community_tax.pdf)



# COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

## SMALL CITIES AND RURAL AREAS

### AT A GLANCE:

The Florida Small Cities Community Development Block Grant (CDBG) Program provides grants to non-entitlement cities with populations less than 50,000 persons and counties with populations less than 200,000 persons to improve local housing, streets, utilities, and public facilities. The program also supports downtown redevelopment and creates jobs for low and moderate

income Floridians. The program is administered under four grant categories: (1) housing; (2) neighborhood revitalization; (3) commercial revitalization; and, (4) economic development. Twenty percent of CDBG funds will go toward housing activities. The Department also administers the Small Cities 108 Loan Guarantee Program which can be used for a wide range of CDBG eligible purposes.

**Eligible Activities/Beneficiaries:** Small Cities CDBG housing funds must be used to rehabilitate or reconstruct (demolish and replace) substandard housing for very low-income (50 percent or less of the area median income) or low-income (50.01 to 80 percent of the area median income) persons or households. Activities may include:

- (a) The rehabilitation of houses or publicly owned or acquired properties;
- (b) Demolition of dilapidated housing and relocation of residents;
- (c) Weatherization and energy-efficiency improvements;
- (d) Code enforcement;
- (e) Installation of wells or septic tanks where water or sewer service is unavailable; and
- (f) Mitigation of future natural disaster hazards.

To qualify under the Low-Moderate National Objective, at least 51 percent of the beneficiaries must be low and moderate income persons. The U. S. Department of Housing and Urban Development has defined a low and moderate income person as one whose total

<i>Source:</i> <b>TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 - U.S. HUD</b>	<i>Applicants:</i> <b>CITIES &amp; COUNTIES NOT IN CDBG ENTITLEMENT PROGRAM</b>	<i>Finance Type:</i> <b>LOANS AND GRANTS</b>
<i>Enacted:</i> <b>1981</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP, RENTAL</b>
<i>Regulation:</i> <b>SECTION 290, FS RULE CHAPTERS 9B-43, FAC AND FEDERAL RULE 24 CFR PART 570</b>	<i>Administrator:</i> <b>DEPARTMENT OF COMMUNITY AFFAIRS</b>	<i>Primary Uses:</i> <b>REHABILITATION, INFRASTRUCTURE</b>

family income is at or below 80 percent of the area's median income. Under the Slum and Blight National Objective, the area must be a slum or blighted area as defined by state or local law. Activities funded under the Urgent Needs National Objective must alleviate existing conditions which pose a serious and immediate threat to those living in the area and are 18 months or less in origin. Additionally, the local government must demonstrate that it is unable to finance the activity on its own and that other funding is not available.

**Application Process/Eligible Applicants:** 244 local governments are eligible to apply as long as they have closed out previous developments under housing, neighborhood and commercial revitalization. Application cycles are held annually and are competitive. Scoring is based on such factors as: average cost of CDBG funds requested per unit; percentage of very low-income persons to be served; leveraging of funds; maintaining a Fair Housing Ordinance; establishing fair housing training programs for the general public and local professionals; and, performance on equal opportunity employment practices.

**Program Contact:** Jim Austin, *Planner*, Small Cities CDBG, Florida Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100; (850) 922-1880; email: [jim.austin@dca.state.fl.us](mailto:jim.austin@dca.state.fl.us)  
Website: [www.dca.state.fl.us/fhcd/programs/cdbgp/index.htm](http://www.dca.state.fl.us/fhcd/programs/cdbgp/index.htm)

# FEDERAL HOME LOAN BANK OF ATLANTA AFFORDABLE HOUSING PROGRAM (AHP)

## AT A GLANCE:

<i>Source:</i> <b>SALE OF CONSOLIDATED OBLIGATIONS</b>	<i>Applicants:</i> <b>NONPROFIT SPONSORS THROUGH FHLBANK ATLANTA MEMBER</b>	<i>Finance Type:</i> <b>BELOW MARKET LOANS &amp; GRANTS</b>
<i>Enacted:</i> <b>1989</b>	<i>Cycle:</i> <b>SEMI-ANNUAL, COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL, HOME OWNERSHIP</b>
<i>Regulation:</i> <b>THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (FIRREA).</b>	<i>Administrator:</i> <b>FEDERAL HOME LOAN BANK OF ATLANTA</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION, ACQUISITION</b>

rehabilitation of the following: (1) owner-occupied housing for very low-, low- and moderate-income households; and, (2) rental housing, of which a minimum of 20 percent of the units must be occupied by and made affordable for very low-income households. Rental projects are required to insure that 20 percent of the total units are for very low income (50% or less of ami) families. Owner-occupied properties must remain affordable

for five years. Rental properties must remain affordable for 15 years.

The Affordable Housing Program (AHP) provides direct subsidies (grants) and subsidized interest rates for loans to FHLBank Atlanta member financial institutions engaged in lending to local governments and for- and nonprofit corporations for the creation of affordable housing. Generally, AHP funds are leveraged with other sources of funds (such as FHL Bank Atlanta’s Community Investment Program, SHIP, HOME, HC, etc.). The maximum AHP subsidy amount available is \$500,000 per project, per competitive round.

In addition to making AHP funds available by competitive application, FHLBank Atlanta sets aside a portion of its annual AHP allocation each year for the First-Time Homebuyer Program (FHP). Interested member financial institutions, who are encouraged to involve nonprofit organizations, can submit an application to the Bank. Subsidies under FHP are limited to \$5,000 in downpayment/closing cost assistance for households at 80 percent or less of area median income, adjusted for family size. Homebuyers must provide at least \$500 of their own funds toward the downpayment. FHP subsidies may not be leveraged with AHP competitive funds.

**Eligible Activities/Beneficiaries:** AHP subsidized units must serve households earning 80% or less of the area median income. Subsidies under AHP must be used to finance the purchase, construction, and/or

**Eligible Applicants/Application Process:** FHLBank Atlanta holds two competitive application cycles annually, with application deadlines of March 15 and September 15. Project sponsors must register through the FHLBank Atlanta website in order to obtain a user ID and password (required to access the AHP application). Once the sponsor completes an application, it must be approved and submitted for review through a FHLBank Atlanta member financial institution. The project is scored according to nine criteria (such as income targeting, AHP subsidy per units, sponsorship by a nonprofit organization or government entity, etc.). Applications are ranked by score, in descending order, and funds are awarded until the available subsidies are exhausted.

**Program Contact:** David Bennett, *Community Investment Services*, Federal Home Loan Bank of Atlanta, Post Office Box 105565, Atlanta, GA 30348; (404) 888-8378; Fax: (404) 888-5632. For additional information regarding the submission and/or preparation of AHP applications, please contact the Bank’s Community Investment Services department via email at [ahpprogram@fhlbatl.com](mailto:ahpprogram@fhlbatl.com) or via telephone at (800) 536-9650, ext. 8385.

Website: [www.fhlbatl.com](http://www.fhlbatl.com)

# FEDERAL HOME LOAN BANK OF ATLANTA COMMUNITY INVESTMENT PROGRAM (CIP)

## AT A GLANCE:

<i>Source:</i> <b>SALE OF CONSOLIDATED OBLIGATIONS</b>	<i>Applicants:</i> <b>NONPROFIT SPONSORS THROUGH FHLB MEMBER BANKS</b>	<i>Finance Type:</i> <b>BELOW MARKET LOANS</b>
<i>Enacted:</i> <b>1989</b>	<i>Cycle:</i> <b>AVAILABLE YEAR-ROUND</b>	<i>Housing Type:</i> <b>RENTAL, HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (FIRREA).</b>	<i>Administrator:</i> <b>FEDERAL HOME LOAN BANK OF ATLANTA</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION, ACQUISITION</b>

The Community Investment Program (CIP) is a targeted housing and economic development loan program which provides funds for community-oriented mortgage lending. CIP funds are available as advances, or loans, to FHLBank Atlanta members (financial institutions). Generally, a nonprofit, for-profit or local government will approach a FHLBank Atlanta member to make application on their behalf.

**Eligible Activities/Beneficiaries:** Mortgage loans are available for the acquisition, construction, or rehabilitation of the following:

- (1) single-family, owner-occupied housing for borrowers with incomes that do not exceed 115 percent of the area median income;
- (2) rental housing where the rents charged will be affordable to households with incomes under 115 percent of the area median income.

**Loan Terms:** Advances are available with fixed or adjustable rates, terms of one month to 20 years and with interest-only or amortizing payments

**Eligible Applicants/Application Process:** Member lending institution applies for CIP authorization by mailing or faxing a CIP Authorization request for to the Community Investment Services (CIS) department. The CIS department reviews the request and will notify the member lender if the request is approved (along with CIP authorization number if approved). Lastly, the member faxes an Advance Application to Funding Desk and provides authorization number.

**Program Contact:** David Bennett, *Community Investment Services*, Federal Home Loan Bank of Atlanta, Post Office Box 105565, Atlanta, GA 30348; (404) 888-8378; Fax: (404) 888-5632.  
Website: [www.fhlbatl.com](http://www.fhlbatl.com)

# FEDERAL HOME LOAN BANK OF ATLANTA PREDEVELOPMENT FUND

## AT A GLANCE:

<i>Source:</i> <b>SALE OF CONSOLIDATED OBLIGATIONS</b>	<i>Applicants:</i> <b>NONPROFIT SPONSORS THROUGH FHLBANK ATLANTA MEMBER BANKS</b>	<i>Finance Type:</i> <b>RECOVERABLE GRANTS</b>
<i>Enacted:</i> <b>2001</b>	<i>Cycle:</i> <b>AVAILABLE YEAR-ROUND</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP, RENTAL</b>
<i>Regulation:</i> <b>THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (FIRREA)</b>	<i>Administrator:</i> <b>FEDERAL HOME LOAN BANK OF ATLANTA</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION, ACQUISITION</b>

## PURPOSE

To provide funding for predevelopment expenses associated with affordable housing and real estate-based community economic development projects. This program is designed to encourage FHLBA members to undertake creative efforts to increase their participation in, and support of, these projects.

## STRUCTURE

Funds will be provided through a recoverable grant to an FHLBank Atlanta member financial institution. The member, in turn, will structure the disbursement of funds to the project sponsor as a recoverable grant. The maximum grant amount is \$100,000 per project, not to exceed 75 percent of the total eligible predevelopment expenses. Predevelopment Fund grants may only be used for eligible predevelopment activities, such as architectural services, boundary surveys, appraisals, title work, site control, environmental surveys, property carrying costs, etc.

## BENEFICIARIES

FHLBank Atlanta's intent is to provide assistance to the types of projects that qualify for its Affordable Housing Program (AHP) or

its Economic Development and Growth Enhancement (EDGE) program. Families, businesses, or communities benefiting from a proposed project must meet certain income requirements.

## GRANT RECOVERY

Grant funds shall be recovered from construction and/or permanent financing. If the grant is used to acquire property, and the property is subsequently sold, proceeds of the sale must be applied to repayment of the grant. In the event the project does not go forward, despite the best efforts of the project sponsor, and acquisition or construction financing is not obtained, no recovery of the grant will be required. However, if the project sponsor fails to comply with reporting requirements and/or, in the determination of the Bank, has failed to make a good faith effort to proceed with the project, the grant shall be recoverable from the sponsoring organization.

**Program Contact:** David Bennett, *Community Investment Services*, Federal Home Loan Bank of Atlanta, Post Office Box 105565, Atlanta, GA 30348; (404) 888-8378; Fax: (404) 888-5632.  
Website: [www.fhlbatl.com](http://www.fhlbatl.com)

# FLORIDA COMMUNITY LOAN FUND

## AT A GLANCE:

<i>Source:</i> <b>PRIVATE FUNDING</b>	<i>Applicants:</i> <b>COMMUNITY-BASED 501(C)(3) NONPROFITS</b>	<i>Finance Type:</i> <b>COMMERCIAL LOANS</b>
<i>Enacted:</i> <b>1994</b>	<i>Cycle:</i> <b>OPEN CYCLE</b>	<i>Housing Type:</i> <b>RENTAL, HOME OWNERSHIP, SUPPORTIVE HOUSING, MIXED-USE PROJECTS</b>
<i>Regulation:</i> <b>NONE</b>	<i>Administrator:</i> <b>FLORIDA COMMUNITY LOAN FUND</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION, ACQUISITION</b>

The Florida Community Loan Fund (Loan Fund), a statewide Community Development Financial Institution, provides loan capital and technical assistance to qualifying organizations throughout Florida that have insufficient access to funding from conventional lending sources. The Loan Fund seeks low-interest loans and equity capital contributions from socially-concerned institutions and individuals. Contributions are then used to make below-market interest rate or flexibly-structured loans to eligible nonprofits to support affordable housing, economic development and social services in urban and rural, low-income communities.

**Eligible Activities/Beneficiaries:** Loans from \$5,000 to \$1,000,000, with variable terms and interest rates are made for: (1) affordable housing benefiting low-income families; (2) supportive housing for low-income or at-risk and special needs clients; (3) community facilities to deliver shelter or services to low-income families and neighborhoods; and (4) economic development projects that are targeted to low-income neighborhoods.

**Eligible Applicants/Application Process:** Nonprofit 501(c)(3) organizations, that have a strong community base and serve low-

income clients, families and communities within the state of Florida may download an application from the Loan Fund’s Web site, or receive one by mail, fax or email. If determined to meet the mission and purpose qualifications of the Loan Fund, the nonprofit will be underwritten using criteria geared for the nonprofit sector. Loan decisions are rendered monthly by the Loan Fund’s Lending Committee and Board of Directors.

The Loan Fund provides flexibility in its loan products through early commitments to projects, loan structures designed to meet the needs of nonprofits, the assumption of higher risk than conventional lenders, and through participation with a wide variety of funding sources. Examples of the kinds of organizations and projects that the Loan Fund has funded can be found at its Website.

**Program Contact:** Ignacio Esteban, Executive Director, Florida Community Loan Fund, 3107 Edgewater Dr., Suite 2, Orlando FL 32804; (407) 246-0846; Fax: (407) 246-0856; Email: [ignacio@fclf.org](mailto:ignacio@fclf.org). Website: [www.fclf.org](http://www.fclf.org)



# AFFORDABLE HOUSING GUARANTEE PROGRAM

## AT A GLANCE:

<i>Source:</i> <b>SADOWSKI ACT FUNDS BOND ISSUE</b>	<i>Applicants:</i> <b>FOR-PROFIT, NONPROFIT, PUBLIC AGENCIES</b>	<i>Finance Type:</i> <b>“A” RATED LOAN &amp; BOND GUARANTEES</b>
<i>Enacted:</i> <b>1992</b>	<i>Cycle:</i> <b>YEAR ROUND</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP, RENTAL</b>
<i>Regulation:</i> <b>SECTION 420.5092, FS RULE CHAPTER 67-39, FAC</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORP. THROUGH QUALIFIED LENDING INSTITUTIONS</b>	<i>Primary Uses:</i> <b>GUARANTEES FOR PURCHASE, CONSTRUCTION, REHABILITATION, FINANCING AND REFINANCING</b>

rehabilitation, acquisition or refinancing of single and multifamily developments.

### Set aside Requirements:

Each development must set aside a minimum of 20 percent of its units for moderate income (120 percent or less of area median) households unless subject to more stringent restrictions.

### Eligible Applicants/Application

**Process:** Developers (non- and for-profits) can access the Guarantee Program through a Qualified Lending Institution (QLI) that meets certain criteria established in Rule Chapter 67-39, F.A.C. and is approved by the Guarantee Program Committee. Applications are accepted year round and commitments are issued on a non-competitive basis with emphasis placed on satisfying unmet demand for affordable housing. To apply, all subsidies must be firmly committed to a single or multifamily development and an Application for Guarantee Program Credit Enhancement must be completed and signed by a QLI. Upon approval of the Application, an application fee of 10 basis points (0.1 percent) of the total mortgage amount is required. Premiums, which vary with each loan type, coverage and coverage period, must be calculated from an independent feasibility study that is designed to help ensure the financial soundness of the Program. The Program has the flexibility to charge an annual premium or a one time premium.

**Program Contact:** Kevin Pichard, *Administrator*, Florida Affordable Housing Guarantee Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197.  
Email: [kevin.pichard@floridahousing.org](mailto:kevin.pichard@floridahousing.org)  
Website: [www.floridahousing.org](http://www.floridahousing.org)

The Florida Affordable Housing Guarantee Program (“Guarantee Program”) was created by the Florida Legislature as part of the William E. Sadowski Affordable Housing Act of 1992 for the purposes of:

- Stimulating creative private-sector lending activities to increase the supply and lower the cost of financing or refinancing eligible housing;
- Creating security mechanisms to allow lenders to sell affordable housing loans in the secondary market; and
- Encouraging affordable housing lending activities that would not have taken place or that serve persons who would not have been served but for the creation of this program.

The Guarantee Program encourages affordable housing lending activities through the issuance of guarantees on the obligations incurred in obtaining single and multifamily mortgage revenue bond financing for affordable housing. The Guarantee Program does not provide direct funding of developments; it facilitates direct funding by reducing the lenders’ and bondholders’ risk through the issuance of a guarantee.

**Eligible Activities/Beneficiaries:** Eligible obligations for guarantees include those made to finance the construction,



# HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

## HOMEOWNERSHIP FOR STATE AND NON-PARTICIPATING JURISDICTIONS

### AT A GLANCE:

The federally governed and funded HOME Investment Partnerships (HOME) Program was enacted in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act. The HOME Program provides Participating Jurisdictions (PJ), such as the state of Florida and some eligible cities within Florida, with the opportunity to administer and distribute federal funds to expand the supply of decent, safe, and affordable housing in accordance with their goals and strategies outlined in their consolidated plans. Florida Housing Finance Corporation (FHFC) administers the State’s annual allocation of HOME funds as two separate programs: (1) a multifamily rental development loan program; and, (2) a second mortgage loan program (a) single-family developments and (b) for first-time home buyers in conjunction with FHFC’s Single-Family Mortgage Revenue Bond (SFMRB) Program.

<i>Source:</i> <b>NATIONAL AFFORDABLE HOUSING ACT - U.S. HUD</b>	<i>Applicants:</i> <b>PUBLIC ENTITIES, NONPROFIT (INCLUDING CHDOs) FOR-PROFIT, PUBLIC AGENCIES</b>	<i>Finance Type:</i> <b>BELOW MARKET CONSTRUCTION LOANS, &amp;/OR NON-AMORTIZING DOWN-PAYMENT ASSISTANCE LOAN</b>
<i>Enacted:</i> <b>1990</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 420.5089, FS RULE CHAPTERS 67-50, FAC HOME FINAL RULE 24 CFR PART 92.</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATIONS</b>	<i>Primary Uses:</i> <b>ACQUISITION, NEW CONSTRUCTION, REHABILITATION, DOWNPAYMENT ASSISTANCE</b>

**Eligible Activities/Beneficiaries:** HOME Homeownership: Acquisition (in conjunction with new construction or rehabilitation), new construction, reconstruction, and moderate or substantial rehabilitation of non-luxury housing with suitable amenities. HOME provides construction loans that are secured by second mortgages on the property. HOME funds must be used to assist low income (80 percent or less of area median) persons or households. State and participating jurisdictions’ eligible activities may vary and are not required to allow all eligible activities as provided by HUD.

**Set aside Requirements:** All HOME assisted units must be occupied by families with incomes of 80 percent or less of median area income adjusted for family size.

**Loan Terms:** Construction loans have a term of three years. The loans are non-amortized and have a simple interest rate of zero percent for nonprofit and 3 percent for for-profit applicants with interest payments due annually. Permanent Loans to eligible home buyers have a non amortizing, zero percent interest rate with principal deferment until maturity. Maximum loan amount is the lesser of 25 percent of the purchase price or the amount necessary to enable an eligible buyer to purchase a home based on monthly mortgage payment. Maximum purchase price cannot exceed 95 percent of area median purchase price.

**Eligible Applicants/Application Process:** For the State HOME program, nonprofit and for-profit corporations, Community Housing Development Organizations (CHDOs), local governments, Regional Planning Councils, and, in some instances, Public Housing Authorities are eligible to apply. Upon receipt, FHFC staff review, score and rank applications according to items such as funding, ability to proceed, leveraging and experience of development team.

**Program Contacts:** Elizabeth Loggins, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850) 488-4197.

Email: [elizabeth.joggins@floridahousing.org](mailto:elizabeth.joggins@floridahousing.org)

Website: [www.floridahousing.org](http://www.floridahousing.org)



# HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

## RENTAL FOR STATE AND NON-PARTICIPATING JURISDICTIONS

### AT A GLANCE:

<i>Source:</i> <b>NATIONAL AFFORDABLE HOUSING ACT - U.S. HUD</b>	<i>Applicants:</i> <b>NONPROFIT (INCLUDING CHDOs) FOR-PROFIT, PUBLIC AGENCIES</b>	<i>Finance Type:</i> <b>BELOW MARKET MORTGAGE LOANS</b>
<i>Enacted:</i> <b>1990</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>SECTION 420.5089, FS RULE CHAPTERS 67-47, FAC HOME FINAL RULE 24 CFR PART 92.</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION</b>

FHFC is also developing a tenant-based rental assistance program to provide households with rent assistance for up to 24 months. Details of this program may be obtained on FHFC's Web site or by contacting program staff.

**Set aside Requirements:** Eighty percent of the HOME-Assisted Units must be occupied by families at 60 percent or less of the median family

The federally governed and funded HOME Investment Partnerships (HOME) Program was enacted in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act. The HOME Program provides Participating Jurisdictions (PJ), such as the state of Florida and some eligible cities within Florida, with the opportunity to administer and distribute federal funds to expand the supplies of decent, safe and affordable housing in accordance with their goals and strategies outlined in their Consolidated Plans. Florida Housing Finance Corporation (FHFC) administers the State's annual allocation of HOME funds as two separate programs: (1) a multifamily rental development loan program; and, (2) a second mortgage loan program for (a) single-family developments and (b) for first-time home buyers in conjunction with FHFC's Single-Family Mortgage Revenue Bond (SFMRB) Program.

**Eligible Activities/Beneficiaries:** HOME Rental: Acquisition (in conjunction with new construction or rehabilitation), new construction, reconstruction, and moderate or substantial rehabilitation of non-luxury rental housing with suitable amenities. HOME provides first or second position mortgage loans for rental developments. Affordability periods for rehabilitated properties is 15 years - 20 years for newly constructed properties. State and participating jurisdictions' eligible activities may vary and are not required to allow all eligible activities as provided by HUD.

income for the area, as determined by HUD, with adjustments for family size, and 20 percent of the HOME-Assisted Units must be occupied by families at 50 percent or less of the median family income for the area, as determined by HUD, with adjustments of family size.

**Loan Terms:** Construction loans have a term of 15 years for rehab and 20 years for new construction. The loans are non-amortized and have a simple interest rate of zero percent for nonprofit and 3 percent for for-profit applicants with interest payments due annually.

**Eligible Applicants/Application Process:** For the State HOME program, nonprofit and for-profit corporations, Community Housing Development Organizations (CHDOs), local governments, Regional Planning Councils, and, in some instances, Public Housing Authorities are eligible to apply. Upon receipt, FHFC staff review, score and rank applications according to items such as funding, ability to proceed, leveraging and experience of development team.

**Program Contacts:** Vicki Robinson, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850) 488-4197. Email: [vicki.robinson@floridahousing.org](mailto:vicki.robinson@floridahousing.org) Website: [www.floridahousing.org](http://www.floridahousing.org)

# HOMEOWNERSHIP ASSISTANCE PROGRAM (HAP)

## CONSTRUCTION/PERMANENT LOAN

### AT A GLANCE:

The Home Ownership Assistance Program, Construction/Permanent Loan is one of two sub-programs that make up HAP. Down Payment Assistance is discussed in the HAP/Down Payment Assistance Program. The HAP Construction Loan Program provides below market interest rate loans to nonprofit developers and sponsors for the construction or substantial rehabilitation of single-family residences.

<i>Source:</i> <b>SADOWSKI ACT FUNDS</b>	<i>Applicants:</i> <b>NONPROFIT DEVELOPERS AND SPONSORS</b>	<i>Finance Type:</i> <b>BELOW MARKET RATE LOANS &amp;/OR NON-AMORTIZING DOWN PAYMENT ASSISTANCE LOANS</b>
<i>Enacted:</i> <b>1992</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE CYCLE</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 420.508, FS AND RULE CHAPTERS 67-50, FAC.</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>CONSTRUCTION/PERMANENT LOANS</b>

**Eligible Activities/Beneficiaries:** Construction, rehabilitation, land acquisition, pre-development and infrastructure in the development of single family residences for very low (50 percent or less of area median), and low (80 percent or less of area median). For low-income home buyers, a portion of the Construction Loan may be converted into a Permanent Loan to be used as down payment or closing cost assistance or as a zero interest, deep subsidy, second mortgage loan to reduce the principal amount of the first mortgage (See HAP-Down Payment). A minimum of four housing units constitutes an eligible development for HAP Construction loans.

**Set Aside Requirements:** Thirty percent of the units must be sold to persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever is greater, adjusted for family size; and a minimum additional 30 percent of the units must be sold to persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. Any remaining units in the development must be sold to persons or families who have incomes that do not exceed 150 percent of the state or local median income, whichever is greater.

**Loan Terms:** The Construction Loan has a zero percent annual interest rate for a maximum three year term. Construction Loans are due and payable on a pro rata basis upon the sale, transfer, refinancing or rental of the home prior to the due date of the HAP Construction Loan. Repayment of principal on permanent loans is deferred for the term of the first mortgage, except in the event of sale, transfer, or rental of the single-family residence or refinancing or satisfaction of the mortgage loan, then the loan becomes due in full.

**Eligible Applicants/Application Process:** The annual competitive application cycle is open to nonprofit developers and sponsors with preference given to Community Development Corporations (CDCs) or Community Based Organizations (CBOs) that meet threshold score requirements, followed by developments that have received financing through the Pre-development Loan Program (PLP). The maximum HAP loan request is the lesser of 33 percent of the total cost of the development or the annual legislative appropriation.

**Program Contacts:** Elizabeth Loggins, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850) 488-4197. Email: [elizabeth.loggins@floridahousing.org](mailto:elizabeth.loggins@floridahousing.org) Website: [www.floridahousing.org](http://www.floridahousing.org)

# HOMEOWNERSHIP ASSISTANCE PROGRAM (HAP)

## DOWN PAYMENT ASSISTANCE

### AT A GLANCE:

<i>Source:</i> <b>SADOWSKI ACT FUNDS</b>	<b>APPLICANTS: FIRST-TIME HOME BUYERS (THROUGH LENDERS) PARTICIPATING IN THE SINGLE-FAMILY MORTGAGE REVENUE BOND PROGRAM</b>	<i>Finance Type:</i> <b>ZERO PERCENT SECOND MORTGAGE LOANS</b>
<i>Enacted:</i> <b>1992</b>	<i>Cycle:</i> <b>OPEN</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 420.5088, FS RULE CHAPTERS 67-45, FAC</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION THROUGH APPROVED LENDERS</b>	<i>Primary Uses:</i> <b>DOWNPAYMENT, CLOSING COST ASSISTANCE, AND FIRST MORTGAGE REDUCTION</b>

The Homeownership Assistance Program (HAP)/Down Payment Assistance Program works in conjunction with the Single Family Mortgage Revenue Bond (SFMRB) Program.

**Eligible Activities/Beneficiaries:** Florida Housing lends, on a first-come, first-served basis, an amount up to \$10,000 to assist persons with incomes at or below 80 percent of the state or county median income, whichever is greater. The loans are zero percent, non-amortizing second mortgages. Repayment of principal is deferred for the term of the first mortgage, except in the event of sale, transfer, refinancing, or non-occupancy of the single-family residence, in which case the HAP D/P loan is payable in full.

**Loan Terms:** The loan term is 30 years.

**Eligible Applicants/Application Process:** Eligible home buyers with incomes at or below 80 percent of the state or county median income, whichever is greater are encouraged to apply through lenders originating Single-Family Mortgage Revenue Bond funds (see SFMRB Program).

**Program Contacts:** Wallisa Cobb, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850) 488-4197.

Email: [wallisa.cobb@floridahousing.org](mailto:wallisa.cobb@floridahousing.org)

Website: [www.floridahousing.org](http://www.floridahousing.org)



# HOMELESS HOUSING ASSISTANCE GRANT (HHAG)

## AT A GLANCE:

<i>Source:</i> <b>SADOWSKI ACT</b>	<i>Applicants:</i> <b>CONTINUUM OF CARE LEAD AGENCIES</b>	<i>Finance Type:</i> <b>GRANTS</b>
<i>Enacted:</i> <b>2001</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>TRANSITIONAL, PERMANENT</b>
<i>Regulation:</i> <b>420.621-625 FS</b>	<i>Administrator:</i> <b>FLORIDA DEPARTMENT OF CHILDREN &amp; FAMILIES</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION REHABILITATION</b>

The Homeless Housing Assistance Grant is the state's newest homeless prevention program designed to supply Continuum of Care catchment areas with funds to construct or rehabilitate housing units to be used as either transitional or permanent housing for homeless persons. In 2005, \$5 million in funding was available and grants could not exceed \$750,000 per project.

**Eligible Activities/Beneficiaries:** A project to be assisted must serve homeless persons or families in either transitional or permanent housing. The grant is available for either new construction of housing units, or for the rehabilitation of existing buildings for housing units. Eligible costs for new construction and rehabilitation may include costs of permits and fees for the building process, on-site improvements to the property or utility service directly related to the building activity. Ineligible expenses include acquisition, development soft costs and impact fees. Manufactured housing units are eligible for assistance. All units assisted must be reserved for use by homeless persons. Assisted units may be part of a larger development. All assisted units must remain in reserve for homeless persons for a 10 year period.

**Eligible Applicants/Application Process:** Lead Agencies of a recognized Continuum of Care catchment area are eligible to apply for HHAG funds. Lead Agencies may sub-contract funds to housing development projects identified in the Continuum of Care Plan. Applications are ranked with preferences for leverage, number of units, and catchment area need. Lead Agencies may annually receive funding for up to two development requests per catchment area. Applications may be obtained from the State's Office on Homelessness.

**Contact Information:** Tom Pierce, *Executive Director*, Office on Homelessness, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700 Phone: (850) 922-4691 Fax: (850) 487-1361  
Email: [tom\\_pierce@dcf.state.fl.us](mailto:tom_pierce@dcf.state.fl.us)  
Website: [www.dcf.state.fl.us/homelessness](http://www.dcf.state.fl.us/homelessness)

# HOUSING CREDITS (HC)

## AT A GLANCE:

<i>Source:</i> <b>1986 TAX REFORM ACT - U.S.</b>	<i>Applicants:</i> <b>NONPROFIT, FOR-PROFIT</b>	<i>Finance Type:</i> <b>FEDERAL TAX CREDIT - EQUITY</b>
<i>Enacted:</i> <b>1986</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> SECTION 420.5099, FS RULE CHAPTER 67-48, FAC SECTION 42 INTERNAL REVENUE CODE	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION</b>

The Housing Credit (HC) Program is governed by the U.S. Department of the Treasury and Florida's allocation is administered by the Florida Housing Finance Corporation. Under the HC Program, successful applicants are provided with a dollar-for-dollar reduction in federal tax liability in exchange for the development or rehabilitation of units to be occupied by very low- and low-income households. Developers who cannot use the tax reduction may sell credits in exchange for equity to the development.

On a project basis, the amount of credits available is approximately equal to 9 percent of the cost of building each very low-income unit, including a reasonable developer fee but excluding land cost. For certain federally assisted projects such as, Multifamily Mortgage Revenue Bonds and Rural Housing Development this translates into 4 percent of building costs. Syndication of the credits to investors can raise equity to pay for 40 percent or more of a project's costs.

**Eligible Activities/Beneficiaries:** The HC Program targets the new construction or acquisition and substantial rehabilitation of housing for families at or below 60 percent of area median income. Rent, including utilities, for all tax credit assisted-units may not exceed 30 percent of the applicable income limitation for the surrounding area.

**Set-Aside Requirements:** Florida requires a higher standard than the minimum federal requirements for this program.<sup>1</sup> In order to be competitive in Florida Housing Finance Corporation application process for Low-Income Housing Tax Credits, developers must commit to set aside at least 70 percent of the development's units at 60 percent AMI or less, and depending on location, developers may have to additionally commit to

set aside at least 15 percent (included in the previously stated 70 percent figure) of the development's units at 30 percent AMI or less. Moreover, developers are induced to provide additional units at 40 percent AMI or less by allowing them to request more tax credits. Set aside units must remain affordable for a minimum period of 15 years; but in practice, all tax credit units are set aside for 50 years to be competitive in scoring.

**Eligible Applicants/Application Process:** For-profit and nonprofit organizations and public agencies may apply for tax credits on a competitive basis through a cycle that includes MMRBs and SAIL. Application cycles are held annually and are reviewed, scored and ranked according to such items as funding, ability to proceed, leveraging and experience of development team.

**Program Contact:** Chris Buswell, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197.  
Email: [chris.buswell@floridahousing.org](mailto:chris.buswell@floridahousing.org)  
Website: [www.floridahousing.org](http://www.floridahousing.org)

<sup>1</sup>The minimum federal requirements for the LIHTC Program is for developers to set-aside either 20 percent of a development's units at 50 percent AMI or less, or 40 percent of the development's units at 60 percent AMI or less.



# HOUSING OPPORTUNITIES FOR PEOPLE WITH AIDS (HOPWA)

## AT A GLANCE:

<i>Source:</i> <b>AIDS HOUSING OPPORTUNITY ACT - FEDERAL APPROPRIATION</b>	<i>Applicants:</i> <b>NONPROFITS &amp; PUBLIC ENTITIES</b>	<i>Finance Type:</i> <b>GRANTS</b>
<i>Enacted:</i> <b>1992</b>	<i>Cycle:</i> <b>FORMULA ALLOCATION AND ANNUAL CYCLE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>24 CFR PART 574 &amp; PART 91</b>	<i>Administrator:</i> <b>HUD - COMMUNITY DEVELOPMENT - FLORIDA DEPARTMENT OF HEALTH AND HUMAN SERVICES - LOCAL GOVT.</b>	<i>Primary Uses:</i> FINANCIAL SUPPORT SERVICES, TRANSITIONAL HOUSING NEW CONSTRUCTION, LEASING REHABILITATION, ACQUISITION

The Housing Opportunities for Persons with AIDS (HOPWA) program provides housing assistance and related supportive services for low-income persons with HIV/AIDS and their families. The program seeks to prevent homelessness by encouraging comprehensive strategies for meeting the holistic needs of AIDS victims. HUD provides formula allocations to states and qualified metropolitan areas as well as a competitive cycle for innovative programs not sponsored on a state or local level. The Florida Department of Health and Human Services administers state funds through ten regional groups. Metropolitan areas which receive formula allocations typically disperse funds through a regional planning process.

**Eligible Activities/Beneficiaries:** HOPWA funds may be used for an array of housing, rental assistance, supportive services, and program planning and development costs. Activities include, but are not limited to: the acquisition, rehabilitation or new construction of community residences and SRO units; costs for the operation and maintenance of facilities and community residences; rental assistance; and short-term payments to prevent homelessness. State and local formula dollars are used in compliance with planning efforts that may not include all eligible activities. Beneficiaries are persons stricken with HIV/AIDS and related diseases and their families with low (80% or less of area median) incomes.

**Eligible Applicants/Application Process:** States and qualified metropolitan areas may receive formula grants while sponsors of individual projects may be eligible for competitive grants. Formula grants are awarded to states and metropolitan areas with either a high incidence of AIDS infection or an above average relative incidence per population. Eligible recipients are notified of their formula allocation amounts and must submit an application detailing how those funds will be used. Competitive grants are awarded for special projects of national significance and other projects in areas not receiving formula grants. These funds are announced through the NOFA process.

**Contact Information:** For more information on the HOPWA program, contact: Office of HIV/AIDS Housing Office, U.S. Department of Housing and Urban Development, 451 Seventh St., SW, Room 7212 Washington, DC 20410-7000 Phone: (202) 708-1934 Fax: (202) 708-9313 TTY (800) 877-8339.

Website: <http://www.hud.gov/offices/cpd/aidshousing/index.cfm>

For a list of Florida regional HOPWA providers, contact: Department of Health, Bureau of HIV/AIDS, 4052 Bald Cypress Way, Bin#A09, Tallahassee, Florida 32399-1715 Ph: (850) 245-4335.

Website: [http://www.doh.state.fl.us/Disease\\_ctrl/aids/care/hopwa.html](http://www.doh.state.fl.us/Disease_ctrl/aids/care/hopwa.html).



# LOW-INCOME EMERGENCY HOME REPAIR PROGRAM (LEHRP)

## AT A GLANCE:

<i>Source:</i> <b>COMMUNITY SERVICES BLOCK GRANT</b>	<i>Applicants:</i> <b>WEATHERIZATION ASSISTANCE PROGRAMS</b>	<i>Finance Type:</i> <b>GRANTS</b>
<i>Enacted:</i> <b>1981</b>	<i>Cycle:</i> FORMULA GRANTS TO WEATHERIZATION ASSISTANCE PROGRAMS	<i>Housing Type:</i> <b>HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 420.36, FS AND RULE CHAPTER 9B-57, FAC.</b>	<i>Administrator:</i> <b>BUREAU OF COMMUNITY ASSISTANCE - DEPT. OF COMMUNITY AFFAIRS (DCA)</b>	<i>Primary Uses:</i> <b>EMERGENCY HOME REPAIRS</b>

The Low-Income Emergency Home Repair Program (LEHRP) provides grants to local agencies administering Weatherization Assistance Programs (WAPs) to assist low-income persons, especially senior citizens and persons with disabilities, with emergency home repairs.

**Eligible Activities/Beneficiaries:** A wide range of structural, health and safety repair assistance is available for persons with incomes at 125 percent or less of the poverty level (including TANF and SSI recipients) and includes the following: structural repair, ceiling repair, electrical repairs, adding handrails, wheelchair ramps or other accessibility items, plumbing, septic, termite treatments, etc.

Preference is given to persons 60 years of age or older and persons who are physically disabled.

The average level of assistance is approximately \$2,600 per unit.

**Eligible Applicants/Application Process:** Noncompetitive, formula grants are allocated to WAPs. Persons with incomes at 125

percent or less of the poverty level (including AFDC and SSI recipients) apply directly to the local WAP for assistance. WAPs maintain a waiting list for assistance and priority is given to senior citizens, persons with disabilities, and families with children under the age of twelve (12).

**Program Contact:** Norm Gempel, *Planning Manager*, Weatherization Programs, Bureau of Community Assistance, Florida Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100; (850) 488-7541.

Email: [norm.gempel@dca.state.fl.us](mailto:norm.gempel@dca.state.fl.us)

Website: <http://www.floridacommunitydevelopment.org/wap/index.cfm>

# LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LHEAP)

## AT A GLANCE:

<i>Source:</i> <b>COMMUNITY SERVICES BLOCK GRANT</b>	<i>Applicants:</i> <b>WEATHERIZATION ASSISTANCE PROGRAMS</b>	<i>Finance Type:</i> <b>GRANTS</b>
<i>Enacted:</i> <b>1981</b>	<i>Cycle:</i> FORMULA GRANTS TO WEATHERIZATION ASSISTANCE	<i>Housing Type:</i> <b>HOMEOWNERSHIP, RENTAL</b>
<i>Regulation:</i> <b>SECTION 409.58, FS FEDERAL OMNIBUS BUDGET RECONCILIATION ACT OF 1981</b>	<i>Administrator:</i> <b>BUREAU OF COMMUNITY ASSISTANCE - DEPT. OF COMMUNITY AFFAIRS (DCA)</b>	<i>Primary Uses:</i> <b>ENERGY ASSISTANCE PAYMENTS</b>

The Low-Income Home Energy Assistance Program (LIHEAP) provides grants to over 33 local governments and nonprofit organizations (serving all of Florida's 67 counties) to help low-income households pay their monthly energy bills during times of financial crisis.

**Eligible Activities/Beneficiaries:** The Low-Income Home Energy Assistance Program can assist customers in paying their home energy expenses. The program has three categories of assistance: home energy assistance, crisis assistance, and weather related or supply shortage emergency assistance. Each category has unique requirements. Applicants can receive up to one energy assistance payment and up to two crisis assistance payments annually.

**Eligible Applicants/Application Process:** Households with a net income that do not exceed 150 percent of the poverty level (including WAGES and SSI recipients) may apply directly to the local provider of LIHEAP funds. Applicants must present proof of an obligation to pay for home energy costs.

**Program Contact:** Hilda Frazier, *LIHEAP Planning Manager*, Bureau of Community Assistance, Florida Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100; (850) 488-7541.

Email: [hilda.frazier@dca.state.fl.us](mailto:hilda.frazier@dca.state.fl.us)

Website: <http://www.floridacommunitydevelopment.org/liheap/index.cfm>



# MORTGAGE REVENUE BONDS FOR RENTAL HOUSING (MRB)

## AT A GLANCE:

<i>Source:</i> <b>BOND ISSUES</b>	<i>Applicants:</i> <b>FOR- &amp; NONPROFIT DEVELOPERS</b>	<i>Finance Type:</i> <b>BELOW MARKET RATE LOANS</b>
<i>Current Provisions Enacted:</i> <b>1986</b>	<i>Cycle:</i> YEAR ROUND WITH PREFERENCE IN LIMITED CYCLE	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>SECTION 420.508(2), FS RULE CHAPTER 67-21, FAC</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>ACQUISITION, NEW CONSTRUCTION, REHABILITATION</b>

The Multifamily Bond Program utilizes funds generated from the sale of both taxable and tax-exempt bonds to make below-market interest rate loans to nonprofit and for-profit developers of rental housing. Developments that receive tax exempt financing also receive automatic four percent Housing Credits directly from the federal government.

**Eligible Activities/Beneficiaries:** Low-interest rate loans, not to exceed 95 percent of the total development costs, are available for the new construction or acquisition and rehabilitation of rental housing units.

**Set Aside Requirements:** For Tax Exempt bonds, developers must agree to minimally set aside 20 percent of the development's units for very low-income persons with incomes at or below 50 percent of the area median, or 40 percent of the development's units for persons with incomes at or below 60 percent of the area median. (If loan funds are combined with another rental program, e.g. HOME, HC, or SAIL, the more stringent requirements regarding income, set-asides and affordability periods apply). For taxable bonds, developers must agree to set aside 20 percent of the units for low income persons with

incomes 80 percent of the area median. In practice, almost every development sets aside 100 percent of the units for income eligible families.

**Terms of the Loan:** Maximum Loan term is 45 years. Interest rate is determined at the time bonds are sold. Loans are limited to the lesser of 95 percent of total development cost or amount economically feasible and supported by project cash flow.

**Eligible Applicants/Application Process:** For-profit and nonprofit organizations and public agencies may apply for MRBs on a competitive basis through a cycle that includes HC and SAIL. Application cycles are held annually and are reviewed, scored and ranked according to such items as funding, ability to proceed, leveraging and experience of development team.

**Program Contact:** David Westcott, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197. Email: [david.westcott@floridahousing.org](mailto:david.westcott@floridahousing.org) Website: [www.floridahousing.org](http://www.floridahousing.org)



# PRE-DEVELOPMENT LOAN PROGRAM (PLP)

## AT A GLANCE:

The Pre-Development Loan Program (PLP) provides below market interest rate financing and technical advisory services to nonprofit organizations and public entities for preliminary development activities necessary to obtain the requisite financing to construct homeownership or rental housing developments.

<i>Source:</i> <b>SADOWSKI ACT FUNDS</b>	<i>Applicants:</i> <b>NONPROFIT DEVELOPERS AND PUBLIC ENTITIES</b>	<i>Finance Type:</i> <b>BELOW MARKET RATE LOANS</b>
<i>Enacted:</i> <b>1992</b>	<i>Cycle:</i> <b>YEAR ROUND</b>	<i>Housing Type:</i> <b>RENTAL, HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 420.521-529, FS RULE CHAPTER 67-38, FAC</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>ACQUISITION AND PRE-DEVELOPMENT ACTIVITIES</b>

**Eligible Activities:** Funds are provided as a line of credit of up to \$500,000 for pre-development activities including but not limited to: market and feasibility analyses, credit underwriting fees, consulting fees, biological and environmental assessments, appraisals, professional fees and site acquisition. Funding may not exceed the lesser of estimated pre-development costs or \$500,000.

**Eligible Beneficiaries and set aside requirements:** For rental developments, a minimum of 60 percent of the units must be rented to persons whose income is 60 percent or less of the area median income. For homeownership, units must be sold to persons whose income is 80 percent or less of the area median income. A minimum affordability period of 15 years is required for rental developments. Home buyers must be income eligible at time of purchase.

**Loan Terms:** The loan is set at 1 percent interest for nonprofits and 3 percent interest for nonprofit/for-profit partnerships and is non-amortizing with repayment of principal and interest deferred until maturity. A loan may be forgiven if applicant is unable to obtain construction or permanent financing for the development. The loan matures on the earlier of (i) the date of closing of the permanent/construction loan for the development or (ii) 3 years from the date of execution of loan documents. Loan terms can be

extended. With respect to homeownership developments, lots can be released from the mortgage lien with partial payment of the loan.

**Eligible Applicants/Application Process:** Applicants must submit a PLP Application, which is accepted on an ongoing basis as funds remain available. Applications can be obtained from Florida Housing Finance Corporation or online at [www.floridahousing.org](http://www.floridahousing.org). The application fee is \$100. The application is open to nonprofit organizations, Community Development Corporations, local governments, and public housing authorities. Applicants that meet threshold requirements are then invited to create a development plan. A PLP loan is issued once the Florida Housing Finance Corporation approves a development plan. Technical Assistance is provided to each applicant. To remain informed of current and upcoming notices of funding availability, contact the program administrator to place your name on the mailing list.

Program Contact: Rob Dearduff, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197.

Email: [rob.dearduff@floridahousing.org](mailto:rob.dearduff@floridahousing.org)

Web site: [www.floridahousing.org](http://www.floridahousing.org)



# SECTION 8 SINGLE ROOM OCCUPANCY MODERATE REHABILITATION (SRO)

## AT A GLANCE:

<i>Source:</i> <b>MCKINNEY ACT - FEDERAL APPROPRIATION</b>	<i>Applicants:</i> <b>NONPROFITS &amp; PUBLIC ENTITIES</b>	<i>Finance Type:</i> <b>GRANTS</b>
<i>Enacted:</i> <b>1987</b>	<i>Cycle:</i> <b>ANNUAL CYCLE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>SECTION 441 OF THE MCKINNEY ACT (42 U.S.C. 11401 ET SEQ.) AND SECTIONS 8(E) (2) AND 8(N) OF THE U.S. HOUSING ACT OF 1937 (42 U.S.C. 1437F). 24 CFR 882, SUBPART H</b>	<i>Administrator:</i> <b>HUD - COMMUNITY DEVELOPMENT</b>	<i>Primary Uses:</i> <b>REHABILITATION OF SRO UNITS AND RENTAL ASSISTANCE</b>

assistance to people currently residing in SRO units eligible for Section 8 assistance.

**Eligible Applicants/Application Process:** Public housing agencies and private nonprofit organizations may apply. Nonprofit organizations must subcontract with public housing agencies to administer the rental assistance. HUD makes Section 8 SRO rental assistance available through an annual competition

The SRO Program provides Section 8 rental assistance for moderate rehabilitation of buildings with SRO units single-room dwellings, designed for the use of an individual, that often do not contain food preparation or sanitary facilities. A public housing authority makes Section 8 rental assistance payments to the landlords for the homeless people who rent the rehabilitated units. The SRO program makes these units available by providing rental assistance to owners for the cost of some rehabilitation, ownership, and maintenance of SRO units. Rental assistance payments cover the difference between the tenant's rental payment (generally 30 percent of the tenant's adjusted income) and a unit's rent, which must not exceed the fair market rent for the area.

**Eligible Activities/Beneficiaries:** Housing providers may only use the funds for rehabilitation of housing into SRO units that will be coupled with rental assistance. One quarter of the units proposed for assistance must be vacant at the time of the application so that a significant portion of those served are homeless. To qualify, a unit must need between \$3,000 and \$16,000 in rehabilitation, which may be amortized by the rental assistance. The initial lease between a homeless person and the owner must be at least a year. The program gives priority to homeless individuals. It also provides rental

that includes the Supportive Housing and Shelter Plus Care programs. HUD enters into annual contracts with eligible providers for 10 years. No single city or urban county can receive more than 10 percent of SRO funds awarded in a given year. After HUD publishes a Notice of Funding Availability (NOFA) for Continuum of Care Homeless Assistance in the Federal Register, applicants must submit specific information about a proposed project, along with their Continuum of Care application. They must also certify that the project is consistent with the Consolidated Plan of the jurisdiction where each proposed project is found. The application packet for Continuum of Care programs is available online or by calling Community Connections, (800) 998-9999.

**Contact Information:** The Office of Special Needs Assistance Programs in HUD's Office of Community Planning and Development (CPD) administers the program. Contact: Alma Thomas, 451 7th Street, SW, Washington, DC 20410, (202) 708-0614, ext. 4470. Hearing impaired users may call the Federal Information Relay Service at 1 (800) 877-8339.

Website: [www.hud.gov/offices/cpd/homeless/programs/sro/index.cfm](http://www.hud.gov/offices/cpd/homeless/programs/sro/index.cfm)

# SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

## AT A GLANCE:

<i>Source:</i> <b>HOUSING ACT OF 1959, 210 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 - U.S. HUD</b>	<i>Applicants:</i> <b>NONPROFIT SPONSORS</b>	<i>Finance Type:</i> <b>LOANS AND RENT SUBSIDIES</b>
<i>Enacted:</i> <b>1974</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>24 CFR PART 891</b>	<i>Administrator:</i> <b>HUD - MULTIFAMILY</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, RENTAL ASSISTANCE, REHABILITATION, ACQUISITION</b>

**H**UD provides capital advances to finance the construction, rehabilitation or acquisition with or without rehabilitation of structures that will serve as supportive housing for very low-income elderly persons, including the frail elderly, and provides rent subsidies for the projects to help make them affordable. It provides very low-income elderly with options that allow them to live independently but in an environment that provides support activities such as cleaning, cooking, transportation, etc. The program is similar to Supportive Housing for Persons with Disabilities (Section 811).

**Eligible Activities/Beneficiaries:** HUD provides interest-free capital advances to private, nonprofit sponsors to finance the development of supportive housing for the elderly. The capital advance does not have to be repaid as long as the project serves very low-income elderly persons for 40 years.

Project rental assistance funds are provided to cover the difference between the HUD-approved operating cost for the project and the tenants' contribution towards rent. Project rental assistance contracts are approved initially for 5 years and are renewable

based on the availability of funds. Occupancy in Section 202 housing is open to any very low-income household comprised of at least one person who is at least 62 years old at the time of initial occupancy.

**Eligible Applicants/Application Process:** Private nonprofit organizations can apply to develop a Section 202 project if they can, among other requirements, submit a resolution that they will provide a minimum capital investment equal to 0.5 percent of the HUD-approved capital advance, up to a maximum of \$25,000 for national sponsors or \$10,000 for other sponsors. Public entities are not eligible for funding under this program. Applications may be submitted to the local HUD Field Office during annual, competitive cycle.

**Contact Information:** To learn more about the Section 202 program, see *Supportive Housing for the Elderly (HUD Handbook 4571.3)* and *Supportive Housing for the Elderly—Conditional Commitment—Final (HUD Handbook 4571.5)* which are available on the Internet at <http://www.hudclips.org> or from the HUD Multifamily Clearinghouse at (800) 685-8470.

# SECTION 811: SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

## AT A GLANCE:

<i>Source:</i> <b>SECTION 811 OF THE NATIONAL AFFORDABLE HOUSING ACT OF</b>	<i>Applicants:</i> <b>NONPROFIT SPONSORS</b>	<i>Finance Type:</i> <b>LOANS AND RENT SUBSIDIES</b>
<i>Enacted:</i> <b>1990</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>24 CFR PART 891</b>	<i>Administrator:</i> <b>HUD - MULTIFAMILY</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, RENTAL ASSISTANCE, REHABILITATION, ACQUISITION</b>

**H**UD provides funding to nonprofit organizations to develop rental housing with the availability of supportive services for very low-income adults with disabilities, and provides rent subsidies for the projects to help make them affordable. The program also provides project rental assistance, which covers the difference between the HUD-approved operating costs of the project and the tenants' contribution toward rent. The program is similar to Supportive Housing for the Elderly (Section 202).

**Eligible Activities/Beneficiaries:** HUD provides interest-free capital advances and project rental assistance to nonprofit sponsors to help them finance the development of rental housing such as independent living projects, condominium units and small group homes with the availability of supportive services for persons with disabilities. The capital advance can finance the construction, rehabilitation, or acquisition with or without rehabilitation of supportive housing. The advance does not have to be repaid as long as the housing remains available for very low-income persons with disabilities for at least 40 years. Each project must have a supportive services plan. An eligible household may consist of a single qualified person with a very low income (within 50 percent

of the median income for the area) and at least one member must be 18 years old or older and have a disability, such as a physical or developmental disability or chronic mental illness.

**Eligible Applicants/Application Process:** Nonprofit organizations can apply to develop a Section 811 project if they can, among other requirements, submit a resolution that they will provide a minimum capital investment equal to 0.5 percent of the capital advance amount, up to a maximum of \$10,000. Applications may be submitted to the local HUD Field Office during annual, competitive cycle.

**Contact Information:** To learn more about the Section 811 program, see *Section 811 Supportive Housing for Persons with Disabilities (HUD Handbook 4571.2)* and *Supportive Housing for Persons with Disabilities, Conditional Commitment to Final Closing (HUD Handbook 4571.4)* which are available on Hudclips at [www.hudclips.org](http://www.hudclips.org) or view HUD's Website at <http://www.hud.gov/offices/hsg/mfh/progdsc/disab811.cfm>



# SINGLE-FAMILY MORTGAGE REVENUE BOND PROGRAM (SFMRB)

## AT A GLANCE:

<i>Source:</i> <b>PRIVATE ACTIVITY ALLOCATION</b>	<i>Applicants:</i> <b>FIRST-TIME HOME BUYERS</b>	<i>Finance Type:</i> <b>FIRST MORTGAGE LOANS</b>
<i>Enacted:</i> <b>1982</b>	<i>Cycle:</i> <b>CONTINUOUS FUNDING</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP</b>
<i>Regulation:</i> <b>SECTION 420.508, FS RULE CHAPTERS 67-25, FAC</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>PROVIDES LOW INTEREST RATE MORTGAGES FOR FIRST TIME HOME BUYERS</b>

The Single-Family Mortgage Revenue Bond (SFMRB) Program is also known as the First Time Home Buyer Program. It uses proceeds from tax-exempt and taxable mortgage revenue bonds to provide first time, low- to moderate-income home buyers with below-market interest rate mortgage loans. Buyers generally benefit by taking advantage of the low interest rate coupled with down payment and closing cost assistance. This savings often determines whether a potential buyer will be able to purchase a home.

**Eligible Activities/Beneficiaries:** Low rate mortgages for first time home buyers with incomes at or below 115 percent AMI, (140 percent in Targeted Areas) adjusted for household size. A portion of the available funds are made available at a subsidized rate for the origination of Urban Infill Area loans, Hope VI Project Area loans, Front Porch Florida Community Area loans, Rural Development Self-Help loans, and loans made to people with disabilities through a statewide pool accessible to Participating Lenders on a first-come, first-served basis.

**Terms:** Mortgages to home buyers are 30-year, fixed rate loans issued at the lowest possible interest rate. Zero percent, non-

amortizing second mortgage loans that are also provided by Florida Housing are used in conjunction with the bond loans to help with down payments and other closing costs (See Housing Assistance Program).

**Eligible Applicants/Application Process:** First-time home buyers who are income eligible may apply through an approved local participating lender. Potential homebuyers may visit [www.floridahousing.org](http://www.floridahousing.org) to obtain a current list of participating lenders or call 1 (888) 447-2977 to request a First-Time Home Buyer Program brochure. Lenders can obtain an application packet for participation in the program by visiting [www.floridahousing.org](http://www.floridahousing.org) or contacting the Program Administrator.

**Program Contact:** Wallisa Cobb, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197.  
Email: [wallisa.cobb@floridahousing.org](mailto:wallisa.cobb@floridahousing.org)  
Website: [www.floridahousing.org](http://www.floridahousing.org)



# STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

## AT A GLANCE:

<i>Source:</i> <b>SADOWSKI ACT FUNDS</b>	<i>Applicants:</i> <b>FOR-PROFIT, NONPROFIT, PUBLIC AGENCIES</b>	<i>Finance Type:</i> <b>GENERALLY SECOND OR BRIDGE LOANS</b>
<i>Enacted:</i> <b>1988</b>	<i>Cycle:</i> <b>ANNUAL COMPETITIVE CYCLE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>SECTION 420.5087, F.S. RULE CHAPTER 67-48 FAC</b>	<i>Administrator:</i> <b>FLORIDA HOUSING FINANCE CORPORATION</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION</b>

**Set aside Requirements:** Twenty percent of the units must be available to persons earning 50 percent or less of the area or state median income. For developments using Housing Credits a minimum of 40 percent of the units must be available to persons earning 60 percent or less of the area or state median income. Both are adjusted for family size. The minimum affordability term is 15

The State Apartment Incentive Loan (SAIL) Program provides low-interest rate mortgage loans to developers who build or substantially rehabilitate rental developments, made affordable to very low (50 percent or less of area median) income households. The SAIL loan bridges the gap between a development's primary financing and total development costs.

**Eligible Activities/Beneficiaries:** The SAIL Program targets the new construction or rehabilitation of very low-income housing in the following categories: farm worker or commercial fishing worker, elderly housing, family housing, and homeless developments. The program targets very low income persons, but allows a mixed income development in conjunction with private financing.

**Terms:** Loans are typically issued for a maximum of 15 years but can go longer. Loans generally are limited to 25 percent of the project costs but may go higher to certain nonprofit developments. Interest rates are set each year, and are currently 3 percent interest only, cash flow loans (1 percent on farmworker and homeless developments).

years though almost every applicant commits to 50 years. Among the top scoring applications in 2004, the average development's proposed set aside for family housing was 0.07 percent of units at 35 percent of area median income and 82 percent of units at 60 percent or less of area median income.

**Eligible Applicants/Application Process:** For-profit and nonprofit organizations and public agencies may apply for SAIL on a competitive basis through a cycle that includes HC and MRBs. Application cycles are held annually and are reviewed, scored and ranked according to such items as funding, ability to proceed, leveraging and experience of development team.

**Program Contact:** Vicki Robinson, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197.

Email: [vicki.robinson@floridahousing.org](mailto:vicki.robinson@floridahousing.org)

Website: [www.floridahousing.org](http://www.floridahousing.org)

# STATE HOUSING INITIATIVES PARTNERSHIP: SHIP PROGRAM

## AT A GLANCE:

Created in 1992 as part of the William E. Sadowski Affordable Housing Act, the State Housing Initiatives Partnership (SHIP) Program's mission is threefold: (1) provide funding to eligible local governments for the implementation of programs that create and preserve affordable housing; (2) foster public-private partnerships to create and preserve affordable housing; and, (3) encourage local governments to implement regulatory reforms and promote the development of affordable housing in their communities by using funds as an incentive for private development. Funds are allocated to every Florida county, as well as municipalities, which receive CDBG entitlement funds.

**Eligible Activities:** SHIP funds may be used for emergency repairs, new construction, rehabilitation, down payment and closing cost assistance, construction and gap financing, mortgage buy-downs, acquisition of property for affordable housing, special needs housing, home ownership counseling and match for federal housing loans and grants. A minimum of 65 percent of a local government's total annual distribution of SHIP funds must be used for home ownership. A minimum of 75 percent of a local government's total annual distribution of SHIP funds must be used for construction-related activities, including rehabilitation, new construction, emergency repairs, or financing for a newly constructed or rehabilitated unit.

**Eligible Beneficiaries:** At least 30 percent of a local government's total annual distribution of SHIP funds must be reserved for awards to very low-income persons (50 percent AMI), and an additional 30 percent of funds must be awarded to low-income persons (80 percent AMI). The remainder may serve any combination of very low, low- or moderate-income persons (120 percent AMI).

<i>Source:</i> <b>SADOWSKI ACT FUNDS</b>	<i>Applicants:</i> <b>FOR-PROFIT, NONPROFIT, PUBLIC AGENCIES, INDIVIDUALS</b>	<i>Finance Type:</i> <b>GENERALLY SECOND OR BRIDGE LOANS, GRANTS</b>
<i>Enacted:</i> <b>1992</b>	<i>Cycle:</i> LOCAL GOVERNMENT CONTROL BASED ON ANNUAL LEGISLATIVE APPROPRIATION	<i>Housing Type:</i> <b>HOMEOWNERSHIP, RENTAL</b>
<i>Regulation:</i> <b>SECTION 420 PART VII, FS RULE CHAPTER 67-37, FAC</b>	<i>Administrator:</i> <b>FHFC - LOCAL GOVERNMENT CONTROL</b>	<i>Primary Uses:</i> GAP FINANCING, <b>NEW CONSTRUCTION, REPAIRS, REHABILITATION, ACQUISITION, DOWNPAYMENT ASSISTANCE</b>

**Eligible Applicants/Application Process:** Individuals, nonprofit organizations, and for-profit developers must apply to local government for funding. Each local government receives an annual allocation, which is appropriated by the Florida Legislature. To participate, a local government must establish a Local Housing Assistance Program; submit and receive approval of a Local Housing Assistance Plan to the Florida Housing Finance Corporation; adopt and incorporate Local Housing Incentive Strategies; establish or amend local land development regulations, policies, and procedures in order to implement incentive strategies; submit an annual report of the housing program's accomplishments; and encourage public and private sector involvement in the form of a partnership to further program goals and reduce housing costs. Each locally administered SHIP Program determines the process of awarding and distributing funds within its community and is required to establish selection criteria to identify eligible applicants and the application process in their local Housing Assistance Plan.

**Program Contact:** Rob Dearduff, *Administrator*, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329; (850) 488-4197.  
Email: [rob.dearduff@floridahousing.org](mailto:rob.dearduff@floridahousing.org)  
Website: [www.floridahousing.org](http://www.floridahousing.org)



# SUPPORTIVE HOUSING (SHP)

## AT A GLANCE:

<i>Source:</i> <b>McKINNEY ACT - FEDERAL APPROPRIATIONS</b>	<i>Applicants:</i> <b>NONPROFITS &amp; PUBLIC ENTITIES</b>	<i>Finance Type:</i> <b>GRANTS</b>
<i>Enacted:</i> <b>1989</b>	<i>Cycle:</i> <b>ANNUAL, COMPETITIVE</b>	<i>Housing Type:</i> <b>RENTAL</b>
<i>Regulation:</i> <b>SUBTITLE C OF TITLE IV OF THE STEWART B. MCKINNEY ACT (42 U.S.C. 11361 ET SEQ.) 24 CFR 583</b>	<i>Administrator:</i> <b>HUD - COMMUNITY DEVELOPMENT</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, LEASING REHABILITATION, ACQUISITION</b>

Grantees must match funds for acquisition, rehabilitation, and new construction with equal or greater funding amounts from other sources. They may use up to \$200,000 for acquisition and rehabilitation of structures (up to \$400,000 in designated high-cost areas) and up to \$400,000 for new construction. SHP funds up to 75 percent of the operating costs for a supportive housing project for the

SHP provides grants to develop supportive housing and services that will enable homeless people to live as independently as possible. Program funds help homeless people live in a stable place, increase their skills or income, and gain more control over the decisions that affect their lives.

**Eligible Activities/Beneficiaries:** SHP funds supportive housing projects that include: (1) transitional housing (generally used for 24 months or less as a stepping stone to permanent housing); (2) permanent housing for homeless people with disabilities; (3) supportive services for homeless people not living in supportive housing; and (4) other types of innovative supportive housing for homeless people. Supportive services include: child care, employment assistance, outpatient health services, case management, help in getting permanent housing, nutritional counseling, security arrangements, and help in obtaining other assistance. SHP provides funding for new projects and for the renewal of projects currently receiving SHP funds. Providers may choose among a variety of activities: to acquire a homeless facility; to build, rehabilitate, or lease a homeless facility; to pay for new or increased supportive services to homeless people; and to meet some of the day-to-day operating expenses of homeless facilities. Finally, they may use SHP to pay limited administrative expenses.

first 2 years, and up to 50 percent the third year. Finally, grantees may use up to 5 percent of their grant for administrative expenses. A person must be homeless to receive help from SHP projects

**Eligible Applicants/Application Process:** Eligible applicants include States, local governments, other government agencies (such as public housing agencies), private nonprofit organizations, and community mental health associations that are public nonprofit organizations. HUD awards SHP funds as annual competitive grants through its NOFA process. Each application must include a certification that the project is consistent with the Consolidated Plan of the jurisdiction where each proposed project is found. The application packet for Continuum of Care programs is available by contacting Community Connections (Phone: (800) 998-9999, Fax: (301) 519-5027/5622, TDD: 800-483-2209, Web site: [www.comcon.org](http://www.comcon.org)) for the Homeless Assistance Program Application Package and the Homeless Application Instructional Video.

**Contact Information:** Relevant technical information on the Supportive Housing Program is available electronically through HUD-CLIPS. The Office of Special Needs Assistance Programs at the HUD Office of Community Planning and Development (CPD) administers the program. Contact: Mark Johnston, 451 7th Street, SW, Room 7262, Washington, DC 20410, (202) 708-4300. Hearing impaired users may call the Federal Information Relay Service at (202) 708-1455.

# U.S. DEPT. OF AGRICULTURE, RURAL HOUSING SERVICES (USDA/RHS)

## AT A GLANCE:

The USDA Rural Housing Service has various programs available to aid in the development of rural America. Rural housing programs are divided into three categories: Community Facilities (CF), Single-Family Housing (SFH), and Multifamily Housing (MFH). These programs were formerly operated by the Rural Development Administration and the Farmers Home Administration. The Florida State Office, located in Gainesville, administers USDA Rural Development programs for Florida through five area and 15 local offices. Detailed information and applications for financial assistance are available through area and local Rural Development offices.

<i>Source:</i> <b>FEDERAL APPROPRIATIONS</b>	<i>Applicants:</i> <b>FOR-PROFIT, NONPROFIT, PUBLIC AGENCIES</b>	<i>Finance Type:</i> <b>LOANS AND GRANTS</b>
<i>Enacted:</i> <b>VARIOUS BY PROGRAM</b>	<i>Cycle:</i> <b>VARIOUS BY PROGRAM</b>	<i>Housing Type:</i> <b>HOMEOWNERSHIP, RENTAL</b>
<i>Regulation:</i> <b>7 CFR PART 1980, PART 3550 AND HB2-3550</b>	<i>Administrator:</i> <b>USDA REGIONAL AND LOCAL OFFICES</b>	<i>Primary Uses:</i> <b>NEW CONSTRUCTION, REHABILITATION</b>

The Florida State Office, located in Gainesville, administers USDA Rural Development programs for Florida through five area and 15 local offices. Detailed information and applications for financial assistance are available through area and local Rural Development offices.

## SINGLE FAMILY HOUSING (SFH) PROGRAMS

**502 Direct Loan Program:** Provides home ownership loans to very low (50% or less area median) and low-(80% or less area median) income rural residents to purchase, construct, repair, reconstruct, or relocate a dwelling and related facilities. Up to 100 percent of the value may be financed, however, leveraging with other subsidies (such as SHIP and HOME) and private lenders is encouraged. The maximum loan term is 33 years and 30 for manufactured homes. Terms may go to 38 years for those with incomes at less than 60% of area median. The maximum mortgage limits, by county, are determined by the Department of Housing and Urban Development (HUD). Funds are available on a first-come, first-served basis and very low and low-income persons make direct application to their local USDA Rural Development office.

**504 Loan and Grant Program:** Provides home improvement and repair loans (with a 1 percent interest rate) and grants to

enable very low (50% or less area median) income rural homeowners to remove health and safety hazards in their homes and/or make homes accessible for people with disabilities. Grants are also available for persons 62 years of age and older who are unable to repay a loan. The maximum loan amount is \$20,000 and the maximum grant an elderly person can receive is \$7,500. Funds are available on a first-come, first-served basis and very low and low-income persons make direct application to their local USDA Rural Development office.

**Housing Preservation Grants:** Provide qualified nonprofit organizations and public agencies with grant funds to administer programs that assist very low- and low-income rural homeowners with the repairs and/or rehabilitation of their homes. Also, grants can assist rural, rental property owners and co-ops with repair and rehabilitation of their units, if units will be made available/reserved for low- and very low-income persons. A national, competitive application for Housing Preservation Grant funds is held annually (generally late fall/early spring) and qualified nonprofit organizations and public agencies are eligible to apply. Contact the local USDA Rural Development office for more information on upcoming cycles and application information.

**Guarantee Housing Program:** The single-family program targets persons and families with moderate incomes (up to 115 percent of the area median) who are lacking the down payment necessary to purchase a new or existing home. Guaranteed Rural Housing Loans may be made up to 100 percent of the market value or acquisition costs, whichever is less, which eliminates the need for both a down payment or mortgage insurance. The loan term is 30 years and the maximum loan may not exceed \$86,317 (unless the eligible property is located in a “high-cost area” as determined by HUD). Loans are purchased by either Fannie Mae or Ginnie Mae as 100 percent loan-to-value with the guarantee. Lenders must apply to their local Rural Development office to become approved to originate RHS Guaranteed Rural Housing loans (and then eligible home buyers apply to approved lenders).

**Guarantee Housing Program:** The multifamily provides loan guarantees for the construction, acquisition, or rehabilitation of rural multifamily housing. Persons served must be very low, low, or moderate-income households, elderly, handicapped, or disabled persons with income not in excess of 115 percent of the area median income. The terms of the loans guaranteed may be up to 40 years, and the loans must be fully amortized. Rates of the loans guaranteed must be fixed, as negotiated between lender and borrower.

**Self-Help Housing Loans:** Are generally administered by nonprofits or municipalities working to assist groups of six to eight low-income families, helping each other to build homes. The loans are limited and competitive and nonprofits or municipalities must make application to their local RHS office. Loans fund the provision of materials, site acquisition and skilled labor, until the home is completed. The families must agree to work together until all homes are finished. Generally, Self-Help Housing Loans are combined with 502 Direct Loans to further assist low-income home buyers with down payment assistance or a deep subsidy second mortgage loan.

## MULTIFAMILY HOUSING (MFH) AND SITE DEVELOPMENT PROGRAMS

**Rural Rental Housing Loans:** Enable individuals or organizations to build or rehabilitate rental units for low- and moderate-income residents in rural areas.

**Rental Assistance:** Reduce out-of-pocket cash that very low- and low-income families pay for rent, including utilities.

**Farm Labor Housing Loans and Grants:** Enable farmers, public or private nonprofit organizations, and local governments to build, buy, or repair farm labor housing in either dormitory or multi family apartment style.

**Congregate Housing and Group Homes:** Provide living units for persons with low- to moderate-incomes and for those age 62 or older.

**Rural Housing Site Loans:** Enable private or public nonprofit organizations to purchase adequate building sites for development.

### USDA/RHS Program Contacts (State Office)

Website: <http://www.rurdev.usda.gov/rhs/index.html>

Daryl L. Cooper, <i>Director,</i> Single Family Housing 4440 NW 25th Place Gainesville, Florida 32606 Tel: (352)338-3436 Fax: (352)338-3437 Email: <i>daryl.cooper@fl.usda.gov</i>	Elizabeth Whitaker, <i>Director,</i> Multifamily Housing 4440 NW 25th Place Gainesville, Florida 32606 Tel: (352)338-3442 Fax: (352)338-3437 Email: <i>elizabeth.cooper@fl.usda.gov</i>	Michael A. Langston, <i>Director,</i> Community Programs 4440 NW 25th Place Gainesville, Florida 32606 Tel: (352)338-3440 Fax: (352)338-3485 Email: <i>michael.langston@fl.usda.gov</i>
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## THE WILLIAM E. SADOWSKI AFFORDABLE HOUSING ACT

The Florida Legislature enacted the William E. Sadowski Affordable Housing Act in 1992, creating a dedicated revenue source by increasing the documentary stamp tax by 20 cents. A strong coalition of diverse interest groups including the Florida Home Builders Association, the Florida Association of Realtors, the Florida League of Cities, the Florida Association of Counties, The Department of Community Affairs, the Florida Housing Finance Corporation, 1000 Friends of Florida, the Florida Housing Coalition, Florida Impact, Florida Catholic Conference, and Florida Legal Services banded together to support this legislation. The monies from the doc stamp are split between the Florida Housing Finance Corporation and all counties and entitlement municipalities. The monies are split approximately 70/30 between local government and the state, respectively. Currently, the Sadowski Act is generating over \$400 million annually and the Sadowski Coalition actively ensures the continuing success of the Sadowski Act in producing quality affordable housing.

The Sadowski Act created the State Housing Initiatives Partnership Program (SHIP). (Section 420.9067, Florida Statutes) Local governments receive annual allocations based on population, distributed monthly. These monies are to be used to implement the housing element of the local comprehensive plan consistent with the SHIP plan adopted by the local government. Certain legal parameters apply to SHIP plans, including that 65% of the monies are to be used for home ownership activities; no monies are allowed to be used for ongoing tenant subsidies; 75% of the monies are to be used for construction activities. Local government is required to implement regulatory reform in the form of expedited permitting for affordable housing and an ongoing process of review of all land development regulations, comprehensive plan amendments, and ordinances that increase the cost of housing, prior to adoption.

The Catalyst Program of Training and Technical Assistance was also created by the Sadowski Act. This program is currently administered by the Florida Housing Finance Corporation and is used to provide free technical assistance and training to local governments and non profit organizations. The Florida Housing Finance Corporation uses the Florida Housing Coalition to provide workshops and on-site technical assistance throughout the state on a broad range of housing issues.

The portion of the Sadowski Act monies that are distributed to the state are used by the Florida Housing Finance Corporation to fund its programs, which are largely low interest loan programs for the development of rental housing for low-and very low-income families. The Florida Housing Finance Corporation operates like a public interest bank. It makes loans based on a highly competitive process which generally requires an experienced development team with immediate ability to proceed on a project that uses the least amount of government subsidy and offers maximum resident services and amenities, with units set aside for 50 years of affordability. The programs operated by the Florida Housing Finance Corporation are covered in Appendix 2.

The William E. Sadowski Affordable Housing Act reactivated the Affordable Housing Study Commission, a 21 member blue ribbon panel of gubernatorial appointees. The Study Commission makes an annual report to the Governor, Speaker of the House, and President of the Senate.

In 1996, the Study Commission undertook a study of the problem of NIMBYism. The Commission found that although Florida is a national leader both in planning and financing affordable housing, our affordable housing shortage is growing faster than our production.

The Commission found that a serious obstacle to providing affordable housing is the neighborhood opposition that is too frequently encountered when a developer brings its plans to a local elected body for permitting or land use approvals. A number of land use remedies were explored in 1997, including a state override process for local land use decisions, and a “fair share” process similar to that used in New Jersey pursuant to the Mount Laurel cases. The Commission studied the Pueblo Bonito case in Lee County (*See page 43*) and recommended in its 1997 annual report that Florida adopt an amendment to its fair housing laws to prohibit land use decisions that are based on the source of financing in the development or proposed development. The amendment was enacted effective July 1, 2000 (*See page 41*).

# PLANS, LAND DEVELOPMENT REGULATIONS, AND DEVELOPMENT ORDERS

## **PROCESS AND PROCEDURE for the three types of land use proceedings dealing with:**

- (1) comprehensive plan amendments;**
- (2) land development regulations; and**
- (3) development orders.**

### **(1) COMPREHENSIVE PLAN AMENDMENTS**

Section 163.3184, Fla. Stat. (2000) (2003), establishes a two-tier process to amend a comprehensive plan. First, the local government, at a public hearing, decides to transmit a proposed plan amendment to the Department of Community Affairs for review. After this, the Department has up to 60 days to review the amendment, issue an Objections, Recommendations and Comments Report (ORC) and return the amendment to the local government for further consideration. Thereafter, the local government has 60 days to consider the ORC and adopt the amendment (If its an EAR-based amendment the local government has 120 days). If the amendment is adopted at a second public hearing, it is sent to the department again for a compliance review, which takes 45 days. Upon determining whether the amendment is consistent with Rule 9J-5 Florida Administrative Code (Florida Administrative Code), Section 163.3177, 163.31776, 163.3178, 163.3180, 163.3191, and 163.3245, the state plan and the regional plan, the Department will publish a Notice of Intent (NOI) in the local newspaper. If no one objected to the amendment and the department chose not to review it, upon the request by the local government, the department has 20 days to issue a notice of intent and must find the amendment in compliance. It is this determination that constitutes agency action and provides a point of entry for affected persons.

#### **AFFECTED PERSONS**

An affected person who can become a party in administrative proceedings dealing with a plan amendment is any person who is a resident of, owns property, or who owns or operates a business in the jurisdiction, and who provided written or oral comments, recommendations or objections to the local government during the time between the transmittal and the adoption hearings. It

also includes persons owning property adjacent to abutting a parcel that is the subject of a future land use map amendment and adjacent local governments.

#### **DETERMINATION OF COMPLIANCE**

If the department determines that the amendment is not in compliance with state law, it must initiate a formal administrative proceeding by filing a petition and a statement of intent setting forth the reasons why the amendment is not in compliance (SOI) with the Division of Administrative Hearings (DOAH). Any affected person may intervene in that hearing. Any new issue not raised by the Department in the SOI, may be raised by a third party within 21 days of the issuance of the NOI. If the department determines that the amendment is in compliance, any affected person has 21 days to file a petition for formal administrative proceedings with the department, or the amendment will become effective. The content of this petition is governed by 28-106.201, (Florida Administrative Code).

#### **DETERMINATION OF NONCOMPLIANCE**

Where the department has determined that the amendment is in compliance, the petitioner must show that the amendment is not “fairly debatable.” Where the department has found the amendment not to be in compliance, the burden of proof is the preponderance of evidence standard, which is easier to meet than the fairly debatable standard.

#### **SMALL SCALE AMENDMENTS**

If the plan amendment involves less than 10 acres or it is located in certain areas which have been designated a Sustainable Community pursuant to Section 163.3244, Florida Statutes, and it is adopted pursuant to the separate procedures authorized for small scale plan amendments set forth in Section 163.3187, the Department of Community Affairs is not involved in the review or approval of the plan amendment. With these types of amendments, the department does not issue an ORC, nor does the agency determine if the plan amendment is in compliance, and it does not publish a notice. The procedures to review these types of amendments are also different. Any affected person may challenge these amendments by filing a petition with the Division of Administrative Hearings in Tallahassee within 30 days after adoption of

the amendment. In such proceedings, the burden of proof on the petitioner is to show that the amendment is not in compliance by a preponderance of the evidence.

## (2) LAND DEVELOPMENT REGULATIONS

State law requires that local governments implement comprehensive plans through the adoption of appropriate land development regulations (LDRs). Zoning and subdivision regulations are types of LDRs, and other more innovative ordinances may also constitute LDRs. Section 163.3213, Florida Statutes sets forth the procedures by which a substantially affected person may challenge an LDR as inconsistent with the adopted comprehensive plan. Standing to initiate these types of proceedings was liberalized in the Act, which requires that the petitioner be a substantially affected person as provided by Section 120.57, Florida Statutes. This means the party must prove they come within the zone of interest protected by the plan or LDR, which is a broader grant of standing than that afforded the average citizen in the courts. See, *Florida Home Builders Association v. Department of Labor*, 412 So.2d 351 (Fla. 1982).

### PROCEDURE FOR CHALLENGING LDRs

Any challenge to an LDR must be brought within one year of its adoption. To initiate a challenge, the citizen must file a petition with the local government setting forth the LDR's inconsistency with the plan. The local government has 30 days to consider and respond to the petition, after which time the petition may be filed with the Department within 30 days. Upon receipt of a petition challenging an LDR, the Department will notify the local government of its receipt, and then initiate an informal fact-gathering process to determine if the LDR is consistent with the plan. This may entail a meeting with the affected parties and the filing of memoranda. Within 60 days of receipt of the petition the department will issue a written decision on the issue. If the department finds that the LDR is inconsistent with the plan, it will initiate a formal administrative proceeding at DOAH, in which proceeding the citizen and the local government are parties. If the department determines that the LDR is consistent with the plan, it will issue such an order and the substantially affected person who filed the initial petition

with the local government has 21 days to file a petition for formal administrative proceedings with DOAH.

In both proceedings, the burden of proof is on the petitioner to prove that the LDR's consistency with the plan is not fairly debatable, and in both cases the hearing officer issues a final order.

## (3) DEVELOPMENT ORDERS

The effective implementation of comprehensive plans is furthered through the requirement that all actions taken by local governments that effect the development of land be consistent with the plan. Section 163.3215, Florida Statutes sets forth the procedures to challenge development orders as inconsistent with the plan. A development order is defined as an order issued by the local government which grant, denies or grants with conditions an application for a development permit. Examples include site plan approvals, planned unit development approvals, special exceptions, rezonings, building permits, or variances. In practice, a development order is any action of local government which has the effect of permitting the development of land, and can include preliminary or final approvals. After a development order is issued, any aggrieved or adversely affected person may challenge the order as inconsistent with the plan. To establish standing under this provision, the person bringing the challenge must allege and prove that they will suffer an interest that is protected or furthered by the plan, which is different from that suffered by the public at large. An example is an adjacent property owner. The petition must be filed within 30 days from the date of the rendition of the development order or after exhausting local remedies, whichever is later, in the circuit court. Local governments are authorized by recent amendments to Chapter 163, Florida Statutes to adopt their own local special master process that meets certain minimum standards, which would substitute for a circuit court trial. In such cases review is based on the record prepared in the special master proceeding. However, few local governments have adopted these special master procedures, so most development order challenges involve a full circuit court trial. The challenge to a development order directly involves the developer. Consequently, since money is usually on the line, this process can get adversarial and expensive.

## BIBLIOGRAPHY OF PROPERTY VALUE STUDIES

Our homes are usually our most important financial investment. Homeowners' concern over property values is a constant. The following is a bibliography of property value studies based on statistical and empirical analysis and covering hundreds of case studies from throughout the nation. Virtually without exception, affordable housing developments have been found to have no effect on neighboring market rate property values, and in some instances have increased the value of neighboring property. Local government elected officials and their staff can use these studies as evidence to counteract homeowner fears about loss of property value.

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# OTHER RESOURCES AND CONTACT INFORMATION

## OTHER RESOURCES

### **Affordable Housing For Florida’s Future, a video and accompanying brochure**

The Florida Affordable Housing Study Commission (AHSC) is a twenty one member body appointed by the Governor to make annual recommendations to the Governor and the Legislature. The AHSC specifically addresses NIMBYism in its 1996 Report. The AHSC produced a film in response to the NIMBY problem to educate the public about affordable housing and to dispel some of the myths associated with affordable housing. The film, “Affordable Housing For Florida’s Future” (1997) and an accompanying brochure on NIMBYism and the law is available in extremely limited supply from the Florida Housing Coalition, 1367 East Lafayette, Street, Suite C, Tallahassee, FL 32301 Phone (850) 878-4219; Fax (850) 942-6312. See the Florida Department of Community Affairs AHSC Website for more information [www.dca.state.fl.us/fhcd/ahsc](http://www.dca.state.fl.us/fhcd/ahsc).

### **The National Low Income Housing Coalition NIMBY Report**

Established in 1974, the National Low Income Housing Coalition is dedicated solely to ending America’s affordable housing crisis. NLIHC educates, organizes and advocates to ensure decent, affordable housing within healthy neighborhoods for everyone. NLIHC provides up-to-date information, formulates policy, and educates the public on housing needs and the strategies for solutions. The NLIHC produces The NIMBY Report, a semi-annual report that provides in-depth analysis on specific subjects as well as a monthly supplement to Memo to Members available on line at [www.nlihc.org](http://www.nlihc.org).

### **The Building Better Communities Network**

The Building Better Communities Network Website is an information clearinghouse and communication forum dedicated to building inclusive communities and to successfully siting affordable housing and community services. This Website was created to help

those who site community housing, by providing them with the tools they need to successfully complete their housing efforts. [www.buildingcommunities.org](http://www.buildingcommunities.org).

### **The Affordable Housing Design Advisor**

Sponsored by the U.S. Department of Housing and Urban Development contains case studies with specifics for each project; lists of architects developers, contractors, and other professionals with experience the field of affordable housing design. Checklists and step-by- step guides, and good indexes for finding information can be found at [www.designadvisor.org](http://www.designadvisor.org).

### **Good Neighbors: Affordable Family Housing**

Written by Tom Jones, William Pettus, and Michael Pyatok, published by Rand Publishing, Inc., 1996, this is a 349 page book about affordable housing design. It includes a variety of case studies from various regions of the United States, illustrating different design and development challenges. The work of several innovative architects is featured. Available from online booksellers and from the authors’ Website [www.andnet.org/goodneighbors](http://www.andnet.org/goodneighbors).

### **Design Matters: Best Practices in Affordable Housing Design**

This is an online catalog of 75 developments embodying good design, built between 1980 and 2000. Compiled by the City Design Center at the University of Illinois at Chicago, the site allows users to search for project information by developer architect region, state, location typed, residential type, construction type, construction practices, and design objectives. [www.uic.edu/aa/cdc/AHDC/website](http://www.uic.edu/aa/cdc/AHDC/website).

### **Image Bank**

This is a section from the website operated by the Congress for the New Urbanism. It displays architect-supported drawings and photos of affordable housing developments. Go to [www.cnu.org](http://www.cnu.org), click on Resources at the top of the home page, and select Image Bank. Once on the Image Bank page, select Affordable Housing from the pull down keyword menu.

### **NIMBY A Primer for Lawyers and Advocates**

A publication of the American Bar Association Steering Committee on Unmet Legal Needs of Children and Commission on Homelessness and Poverty, 1999, American Bar Association. To obtain copies call (800) 285-2221 and request PC 4180008.

### **Fair Housing, The Siting of Group Homes for People with Disabilities and Children**

This Local Officials Guide is published by the National League of Cities. It consists of practical, how-to information designed to assist local government leaders in carrying out their policy and program implementation responsibilities more effectively. To order, contact NLC Publications Center (888) 571-2939 or Email [www.nlc.org](http://www.nlc.org)

### **The Campaign for Affordable Housing**

The affordable housing community has an excellent track record and a great story to tell. The Campaign for Affordable Housing is dedicated to telling that story. It is the only national organization with the sole purpose of educating Americans about the benefits of affordable housing as a community asset and supporting grass-roots efforts to mobilize support for housing programs. The Campaign for Affordable Housing: 1000 Corporate Pointe, Suite 200, Culver City, CA 90230 • 310-642-2061 - fax: 310-642-2083  
[www.tcach@tcach.org](http://www.tcach@tcach.org)

### **NIMBYism; Navigating the Politics of Local Opposition**

Michael C. Thomsett  
CenterLine Media  
1021 Arlington Blvd., Suite 1206  
Arlington, VA 22209  
[www.centerlinemedia.com](http://www.centerlinemedia.com)

## **CONTACT INFORMATION**

### **Florida Housing Finance Corporation**

227 North Bronough Street Suite 5000  
Tallahassee, FL 32301-1329  
(850) 488-4197  
[www.floridahousing.org](http://www.floridahousing.org)

### **The Florida Department of Community Affairs**

2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 488-8466  
[www.dca.state.fl.us](http://www.dca.state.fl.us)  
AHSC: (850) 922-1600  
[www.dca.state.fl.us/fhcd/ahsc](http://www.dca.state.fl.us/fhcd/ahsc)

### **The Florida Housing Coalition**

1367 East Lafayette Street Suite C  
Tallahassee, FL 32301  
850/878-4219; Fax (850) 9426312  
Catalyst Program for Training and Technical Assistance  
(800) 677-4548  
[www.flhousing.org](http://www.flhousing.org)

### **1000 Friends of Florida**

926 E. Park Avenue  
Tallahassee, FL 32301  
(850) 222-6277; Fax (850) 222-1117  
[www.1000fof.org](http://www.1000fof.org)

### **Shimberg Center for Affordable Housing**

University of Florida  
College of Design, Construction & Planning  
Rinker School of Building Construction P.O. Box 115703  
Gainesville, FL 32611-5703  
(352) 392-7697; Fax: (352) 392-4364  
[www.shimberg.ufl.edu](http://www.shimberg.ufl.edu)

### **National Low Income Housing Coalition/LIHC**

1012 Fourteenth Street N.W., Suite 610  
Washington, D.C. 20005  
(202) 662-1530; Fax (202) 393-1973  
[www.nlihc.org](http://www.nlihc.org)

