2012 Legislative Wrap Up

by Mark Hendrickson

by Jaimie Ross

The Sadowski Coalition was only "close" to success this session, if success is measured solely in appropriation levels. However in a greater sense, the real success of our efforts will be found in the results of future legislative sessions. This is a multi-year project and is designed to educate legislators on housing issues which will ultimately lead to positive outcomes. We are making progress and have increased our legislative impact.

Legislators have stated that they "need" the monies in the Housing Trust Funds to be swept to general revenue to balance the budget. Notwithstanding the valid argument that many general revenue expenditures have less positive impact on the state residents and economy than housing—we needed another approach. The Sadowski Coalition took the position that if the Governor vetoes a general revenue appropriation, by definition the money from the Housing Trust Funds that were used for the vetoed item were no longer "needed." We proposed an appropriation for housing that would be contingent upon funds being available from general revenue vetoes.

The Senate accepted this and placed a $29.6 million SHIP appropriation in their version of the budget. In conference committee, the measure was not agreed to—we believe in large part because of staff opposition to the concept of using vetoed monies for contingent appropriations. However, we were close—and the vocal support by key legislators who are moving up the "power ladder" was heartening.

That being said, State Housing Initiatives Partnership Program (SHIP) and State Apartment Incentive Loan Program (SAIL) were not funded for FY 2012-2013. While buyers and sellers of real property in Florida continue to pay the documentary stamp tax on deeds that was raised specifically for affordable housing and the jobs it creates, lawmakers again redirected the approximate $100 million expected to be raised from the tax in 2012-2013 to the state's general revenue account. They swept these funds which were dedicated to affordable housing rather than use them to help SHIP offices assist extremely low income elderly with emergency repairs needed for safety, or make down payment or closing cost assistance loans for the rehabilitation of foreclosed or abandoned properties to put these properties into productive use.

But the Legislature did not sweep all trust funds into general revenue. Housing advocates might find particularly disconcerting that the SEED (economic development) Trust Fund created by the 2011 Legislature and funded in part by $75 million from the Sadowski Housing Trust Funds, was not swept into general revenue. So what have we learned? The SEED Trust Fund, which was ostensibly created to help the economy, was used for activities that create far fewer jobs than housing. Using housing trust fund money for housing creates 77 jobs for every $1 million dollars. So why wasn't the housing trust fund money used for housing? It is hard to know. What we do know, is that housing was not the 2012 Legislature's priority. While housing was not funded, SEED was used to fund

Sadowski Housing Coalition
Housing = Jobs

projects such as a rowing center in Sarasota and soccer combine in Orlando.

The Sadowski Coalition, aided by a professional communications and legislative team, maintained an interactive educational website - www.sadowskicoalition.com - posting and emailing to legislators, key staff and the Governor's office, the earned media coverage, including editorials in support of the housing trust funds from Florida's major news outlets, Op-eds in support of the housing trust funds, and news reports of the dire need for affordable housing and the jobs needed in the housing industry. The Sadowski Education Effort (SEE) is what brought us so close to funding this year. We now have in place the foundation for immediate and effective communications between advocates and elected officials. We all owe a debt of gratitude to the Florida Association of Local Housing Finance Authorities and their member agencies that provided the bulk of financial support for the SEE.

A Sampling of Editorials

The Jacksonville Florida Times Union
November 23, 2011

If Governor Scott and other state officials want to reverse the decline in construction jobs, they could begin by restoring funding to a program created in 1992…. Legislators essentially began raiding the trust fund, diverting the money to pay general expenses…. The Legislature should help restore construction jobs by using the fees as intended to boost affordable housing programs. ….There never was a good reason to raid a trust fund designed for affordable housing in this state. But to continue in this economy is an outrage.

Orlando Sentinel
December 1, 2011

Almost 20 years ago, Florida legislators increased a tax on real-estate transactions to create a trust fund that would finance state and local affordable-housing initiatives. They did so at the urging of a coalition of business groups, local governments and advocates for the poor and elderly.

But in recent years, legislators have been raiding those dollars to plug holes in the state budget. They've plundered at least $700 million from the fund since 2008.

Defenders of this fiscal faithlessness have argued that a glut of vacant homes and falling prices created by the real-estate crash in Florida make affordable-housing programs unnecessary. But many of the vacant homes need major repairs to be livable; and even with lower prices, many families still need help with mortgages before they can move in…. It would give the hard-hit construction industry a shot in the arm, aid struggling families and help stabilize the housing market by reducing the glut.

If legislators are sincere about creating jobs and reviving the state's economy, they'll keep their hands off the affordable-housing trust fund next year.

Gainesville Sun
December 21, 2011

As we've seen in the past, the term "trust fund" offers no protection from legislative raiders willing to go to any length to avoid raising tax revenues to pay the state's bills. But further depleting the Sadowski housing funds—which have suffered three straight years of such raids…would be extremely shortsighted in an economy that remains desperate for housing investments and jobs….The funds can still be used to repair and rehabilitate old apartment buildings and foreclosed, abandoned properties….Such projects would provide jobs for unemployed construction workers, renovate eyesores that hold down property values, and give many Florida communities an economic shot in the arm….We know that legislators must make painful budget choices in a slow-to-recover economy. But draining millions of dollars from the affordable-housing funds would jeopardize projects that can help turn the economy around. It wasn't a sound strategy in the past, and it makes even less sense now.

Faux Appropriation

An "appropriation" was made for special needs housing. However, this appropriation is contingent upon doc stamp collections far exceeding current projections. Specifically, $10 million was appropriated to FHFC for special needs housing—with the funding to be provided only if the doc stamp collections going to the State Housing Trust Fund (now estimated at $25 million) are greater than $35 million. For the $10 million to be funded would require statewide doc stamp collections to exceed projections by 40%—a highly unlikely event.

An Appropriation to Help the Homeless

There was one real appropriation for housing in the budget. The Legislature utilized $3 million of general revenue to fund homeless activities: $2,000,000 was appropriated to the United Way of Brevard County for distribution to homeless coalitions in the state with a maximum of $66,667 per coalition.

The $2 million was appropriated to provide administrative support for the 28 local homeless coalitions throughout the state. According to the local coalitions, the loss of the staff capacity would leave these smaller coalitions to rely totally upon volunteers to carry out required planning and data collection tasks. The loss of the state aid to cover these federally required grant actions would cause an estimated 12 to 14 coalitions to be unable to compete for the homeless housing grant awards. The state coalition of the local homeless agencies projected the potential loss of federal grants at 25% of the statewide awards in 2011, or $17 million.

The other $1 million was specifically designated to a particular organization in Brevard County, the National Veterans Support Group.

Florida Housing Finance Corporation

The Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) will conduct a joint audit and review of the programs and operations of the Florida Housing Finance Corporation (FHFC), and will jointly develop a work plan for the audit and review to be submitted to the President of the Senate and the Speaker of the House no later than July 1, 2012.

The audit and review at a minimum will include a review of FHFC's:

- Assets, liabilities, income, and operating expenses;
- The internal management, financial and operations controls employed, and programmatic decision making processes used;
- The governance, direction, and oversight provided by the FHFC board of Directors;
- The performance outcomes of the programs administered by the FHFC.

The audit and review will also include recommendations to the Legislature for changes to the structure, governance, and operational processes of FHFC.

A written report of the audit and review shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than December 1, 2012.

Florida Statutes Section 420.507 sets forth the powers of FHFC. The 2012 Legislature provided this additional power to the FHFC, as subsection (48) of 420.507:

To use up to 10 percent of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and SAIL funds appropriated by the Legislature and available to allocate by request for proposals or other competitive solicitation funding for high-priority affordable housing projects, such as housing to support economic development and job-creation initiatives, housing for veterans and their families, and other special needs populations in communities throughout the state as determined by the corporation on an annual basis.

The SAIL program, created in the late 1980s, is typically used to provide subordinated gap financing for properties serving very low income populations. The SAIL statute, Section 420.5087 was amended as follows:

> (9) The corporation is authorized to accept payment of deferred program interest at an interest rate that is consistent with rates currently authorized under this section, if the deferred interest is paid in not more than five equal annual installments, subject to the qualifications contained in this subsection.

(10) Funding under this subsection shall be to preserve existing projects having financing guaranteed under the Florida Affordable Housing Guarantee Program pursuant to Section 420.5092. (a) A project shall be given priority for funding if:

1. It was approved by the corporation board in calendar year 2011 to provide additional units for extremely-low-income persons as defined in s. 420.0004;
2. The Guarantee Program mortgage note was executed and recorded not later than September 30, 2003;
3. It commits to provide additional units for extremely-low-income persons; and
4. The shareholders, members, or partners of the project owner have funded deficits in an amount that is not less than 20 percent of the State Apartment Incentive Loan not later than closing of any financing made under this subsection. . . .

   (b) The maximum amount that may be funded under this subsection is $2.5 million per project.

   (c) This subsection expires June 30, 2013.

The purposes of these changes are:

1. To allow developments with older SAIL loans that had deferred interest at a 9% rate to repay that interest at the current 3% (or lower) rate, so long as the repayment is made within a five year period. This is designed to move developments towards refinancing and repayment of SAIL loans—creating SAIL revenue that would be available for new loans.
2. To utilize all available SAIL funds that become available from payments of principal and interest to assist Guarantee Fund deals that are troubled.

Developments of Regional Impact CS/CSHB 979

This bill makes several changes related to developments of regional impact; these are large scale developments, known as DRIs. The provision that affordable housing advocates should pay attention to is that when a reviewing agency is considering whether the DRI will adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment, it will be necessary that the regional planning agency has adopted an affordable housing policy as part of its strategic regional policy plan. See Section 380.06(12)(a) (3), Florida Statutes.

There are 11 regional planning councils in Florida which together cover ever jurisdiction in the state. Each regional planning council has a strategic regional policy plan. Right now, every one of the 11 Strategic Regional Policy Plans has an affordable housing policy. The Adequate Housing Uniform Standards Rule that applies to DRIs is found in FAC 9J-2.048 and provides that the developer of a DRI ensure that there is an adequate supply of affordable housing to meet the needs generated by the proposed development. **HNN**