

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

SP WINTER HAVEN GARDENS LP,

Petitioner,

vs.

FHFC Case. No. 2008-057UC  
Application No. 2008-109S

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

\_\_\_\_\_ /

**RECOMMENDED ORDER**

Pursuant to notice and Sections 120.569 and 120.57(2), Florida Statutes, the Florida Housing Finance Corporation, by its duly designated Hearing Officer, convened an informal hearing in Tallahassee, Florida, in the above captioned proceeding on August 27, 2008.

**APPEARANCES**

For Petitioner:

Lawrence E. Sellers, Jr., Esq.  
Holland & Knight, LLP  
315 S. Calhoun St., Suite 600  
P. O. Drawer 810  
Tallahassee, FL 32302-0810

For Respondent:

Matthew Sirmans  
Assistant General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Ste. 5000  
Tallahassee, FL 32301-1329

## **STATEMENT OF THE ISSUES**

The prime issue raised by the Petition for Informal Hearing was whether the Petitioner, SP WINTER HAVEN GARDENS LP, met threshold requirements regarding financing, and the related issues were whether there was a shortfall in construction and permanent financing and whether Petitioner was entitled to the 5 points available for local government contribution. More specifically, the prime issue was whether the evidence of bond financing from Polk County represented a firm funding commitment.

## **PRELIMINARY STATEMENT**

At the commencement of the informal hearing, the parties announced that a resolution of the issues had been reached in this proceeding and submitted a Joint Proposed Recommended Order, with three attached exhibits. That Joint Proposed Recommended Order is attached to and incorporated in this Recommended Order as Attachment A. No further argument or exhibits were offered.

## **RECOMMENDATION**

Based upon the parties' resolution of the issues and submission of the attached Joint Proposed Recommended Order, and in accordance therewith, it is RECOMMENDED that a Final Order be entered concluding that the Petitioner met the threshold requirement for a firm funding commitment, and

that its application receive a score of 66 points and 7.50 proximity tie-breaker points.

Respectfully submitted this 5<sup>th</sup> day of September, 2008.



DIANE D. TREMOR  
Hearing Officer for Florida Housing  
Finance Corporation  
Rose, Sundstrom & Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877-6555

Copies furnished to:

Sherry M. Green, Clerk  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301-1329

Matthew Sirmans  
Assistant General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301-1329

Lawrence E. Sellers, Jr., Esq.  
Holland & Knight LLP  
315 S. Calhoun St., Suite 600  
P. O. Drawer 810  
Tallahassee, FL 32302-0810

## **NOTICE OF RIGHT TO SUBMIT WRITTEN ARGUMENT**

In accordance with Rule 67-48.005(3), Florida Administrative Code, all parties have the right to submit written arguments in response to a Recommended Order for consideration by the Board. Any written argument should be typed, double-spaced with margins no less than one (1) inch, in either Times New Roman 14-point or Courier New 12-point font, and may not exceed five (5) pages, excluding the caption and certificate of service. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301-1329, no later than 5:00 p.m. on September 10, 2008. Submission by facsimile will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to Recommended Orders.

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

SP WINTER HAVEN GARDENS LP,

Petitioner,

v.

Florida Housing Case No. 2008-057UC

FLORIDA HOUSING FINANCE  
CORPORATION,

Application No. 2008-109S

Respondent.

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**JOINT PROPOSED RECOMMENDED ORDER**

SP WINTER HAVEN GARDENS LP, (2008-109S), ("Petitioner") and  
FLORIDA HOUSING FINANCE CORPORATION ("Florida Housing") hereby  
present the following Joint Proposed Recommended Order. Pursuant to notice, on  
August 27, 2008, an informal administrative hearing was held in this case in  
Tallahassee, Florida, before for Florida Housing Finance Corporation's appointed  
Hearing Officer, Diane Tremor.

**APPEARANCES**

**For Petitioner:**

Larry Sellers  
Holland & Knight, LLP  
315 S. Calhoun St., Suite 600  
P.O. Drawer 810  
Tallahassee, Fl 32301-0801

**For Respondent:**

Matthew Sirmans, Assistant General Counsel  
Florida Housing Finance Corporation  
227 N. Bronough Street, Ste 5000  
Tallahassee, Fl 32301-1329

**ATTACHMENT A**

**JOINT EXHIBITS**

The following exhibits were admitted into evidence:

Exh. 1: Florida Housing Preliminary Scoring Summary Sheet (dated 5/7/2008)

Exh. 2: Cure for Scoring Item 5T of the Preliminary Scoring Summary Sheet

Exh. 3: Florida Housing Final Scoring Summary Sheet (dated 7/16/2008)

**WITNESSES**

For Petitioner:

None.

For Respondent:

None.

**STATEMENT OF THE ISSUE**

The issue in this case is whether Florida Housing Finance Corporation (“Florida Housing”) scored Petitioner’s application for State Apartment Incentive Loan (“SAIL”) funding in the 2008 Universal Cycle, in a manner which was neither unreasonable nor clearly erroneous. Specifically, Florida Housing contends that Petitioner failed to demonstrate a firm commitment from a Local Government issuing bonds sufficient to meet the required threshold, as required at Part V, Section D, Non-Corporation Issued Multifamily Bonds, in the 2008 Universal Application Instructions, UA1016 (Rev. 3-08), incorporated by reference in Rule 67-48.004, F.A.C.

## **PRELIMINARY STATEMENT**

Petitioner applied during the 2008 Universal Cycle, for SAIL funds. Petitioner was notified by Florida Housing of its final scores on or about July 16, 2008. On August 7, 2008, Petitioner timely filed a Petition for an Informal Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, disputing the Florida Housing's final scoring of its 2008 Universal Cycle Application for its proposed Gardens at Winter Haven development. After review of the Petition, Florida Housing granted Petitioner an informal hearing in this matter. Petitioner sought a determination that the Petitioner had demonstrated that it had provided firm funding commitment for its Application; that there is no shortfall in construction financing or permanent financing; that the Application met the applicable threshold requirements and should be scored; and the Application qualifies for the automatic 5 points for the local government contribution. The parties agree that the sole issue for determination in this proceeding is whether Petitioner demonstrated a firm commitment from a Local Government issuing bonds sufficient to meet the required threshold as a matter of law. As no disputed issues of material fact exist, an informal hearing was conducted pursuant to Sections 120.569 and 120.57(2), Fla. Stat., on August, 27, 2008. References to the evidence shall be designated as "Exh." followed by the appropriate Exhibit number.

## **FINDINGS OF FACT**

1. The Petitioner, SP Winter Haven Gardens LP ("SP"), is a Florida limited partnership. The address of the Petitioner is SP Winter Haven Gardens LP, 2430

Estancia Blvd., Suite 101, Clearwater, Florida, 33761, telephone number (727) 669-3360.

Petitioner's substantial interests are affected by the agency action.

2. The Respondent is Florida Housing Finance Corporation ("Florida Housing"), whose address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The Agency's file or identification number with respect to this matter is Application No. 2008-109S.

3. Petitioner applied for an allocation of low-interest loan funds under the Florida Housing State Apartment Incentive Loan ("SAIL") program.

4. The application for SAIL is comprised of numerous forms which request information of each applicant. Florida Housing adopted the forms by reference in Rule 67-48.004, F.A.C.

5. On or about April 7, 2008, Petitioner submitted to Florida Housing a SAIL application in the 2008 funding cycle. The application was submitted in an attempt to assist in the financing of the construction of a 50 unit apartment complex in Winter Haven, Florida, designed to provide housing for farm workers and other low to moderate income families.

6. Petitioner did not submit any evidence of a firm commitment from a Local Government issuing bonds in Petitioner's initial application submitted on or about April 7, 2008. (Exh. 1)

7. The application was scored by Florida Housing in accordance with the provisions of Rule Chapter 67-48, F.A.C. By the Scoring Summary dated on or about May 7, 2008. (Exh.1) Florida Housing advised Petitioner that its preliminary score was 61 points, together with 7.5 proximity tie-breaker points, and was found to have failed the



threshold requirement of a firm funding commitment at Item 5T, thereby creating a shortage of financing funds.

8. On or about June 16, 2008, Petitioner submitted "cure" documentation to Florida Housing in the form of a Letter dated June 16, 2008 from the Chairman of the Board of the Housing Finance Authority of Polk County, Florida. (Exh. 2) A Notice of Alleged Deficiency ("NOAD") was filed against Petitioner's application.

9. The pertinent part of the letter (Exh. 2) stated that, "The SAIL loan is to be made in conjunction with the issuance of the bonds (the "Bonds") by the Housing Finance Authority of Polk County, Florida (the "Issuer"); the proceeds of which will be loaned to the Owner to finance the Project...The issuer intends to prioritize Gardens at Winter Haven in its request for not to exceed \$4,500,000 in 2009 volume cap allocation."

10. On or about July 16, 2008, Florida Housing advised Petitioner that its total points remained at 61, that Petitioner's total proximity tie-breaker points remained at 7.5, and that Petitioner had satisfied and cured all prior failures of threshold requirements, with the exception of the threshold requirement of Funding Commitment, noting "As a cure for Item 5T, the Applicant provided a letter from the Polk County Housing Authority showing a firm commitment for bond financing. However, the letter does not contain affirmation that the tax-exempt bond allocation has been reserved or that the HFA has agreed to award the necessary allocation when available as required by the 2008 Universal Application Instructions. Therefore the bond amount cannot be counted as a firm source of financing." (Exh.3) Accordingly, Florida Housing also determined that Petitioner had a construction financing shortfall of \$4,206,691 and permanent financing shortfall of \$3,608,745 due to its scoring of the Funding Commitment. (Exh. 3)

## CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Fla. Stat. and Rule Chapters 67-21 and 67-48, F.A.C., the Hearing Officer has jurisdiction over the parties to this proceeding.

2. Florida Housing is authorized to institute a competitive application process, for the SAIL program, Sec. 420.507, Fla. Stat., and has done so under Rule Chapter 67-48, F.A.C.

3. Petitioner's substantial interests are affected by Florida Housing's actions, thus, Petitioner has standing to initiate this action.

4. Florida Housing's Universal Application form and Instructions are adopted as Form, UA1016 (Rev. 3-08) at Rule 67-48.004(1)(a), F.A.C. Part V, Section D, Subsection, Non-Corporation Issued Multifamily Bonds, of the Universal Application Instructions requires that if the first mortgage financing is to come from non-Corporation issued Multifamily Bonds, evidence of the following items must be included to receive a firm commitment:

1. Local Government Issuance of Bonds: Letter signed by the Chairperson of the Local County Housing Finance Authority (HFA) or Public Housing Authority, as applicable, which is Development Specific and includes the following:

a. Affirmation that the Local HFA has passed an Inducement Resolution for the proposed Development;

b. Affirmation that a TEFRA hearing has been held by the Local HFA or designated Hearing Officer;

c. Affirmation that the TEFRA hearing has been approved by the local Board of County Commissioners; and

d. Affirmation that the Tax-exempt Bond allocation has been reserved or that the HFA has agreed to award the necessary allocation when available.

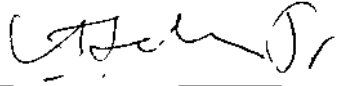
5. Part IV, Section A of the Universal Application Instructions provides in pertinent part: “The following Applications will automatically receive 5 points without any requirement to obtain a Local Government contribution: Applicants receiving Tax-Exempt Bonds issued by either the Corporation or a Local Government, excluding 501 (c)(3) Bonds from either source.”

6. Petitioner, through its cure, (Exh. 2) adequately provided evidence of the threshold requirement of financing from non-Corporation issued Multifamily Bonds as being a firm commitment. As such, Petitioner demonstrated that it qualifies for the automatic 5 points for the local government contribution, has no financing shortfalls and met all applicable threshold requirements.

### **RECOMMENDATION**

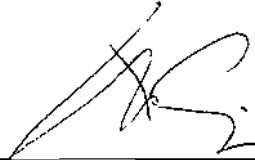
Based on the Findings of Fact and Conclusions of Law stated above, the Parties recommend that the Hearing Officer enter a Recommended Order finding that Petitioner did meet the threshold requirement therein for “firm funding commitment,” at Part V, See. D, Non-Corporation-Issued Multifamily Bonds, of the Universal Application Instructions, UA1016 (Rev. 3-08) and should be scored as having 66 total points and 7.50 proximity tie-breaker points. Petitioner demonstrated that it does not have a construction or permanent financing shortfall and that it met all threshold requirements.

Respectfully submitted August 27, 2008.



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Larry Sellers  
Bar No. 300241  
Holland & Knight, LLP  
315 S. Calhoun St., Suite 600  
P.O. Drawer 810  
Tallahassee, Fl 32301-0801



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Matthew Sirmans, Asst. General Counsel  
Bar No. 0961973  
Florida Housing Finance Corporation  
227 N. Bronough St., Suite 5000  
Tallahassee, Fl 32301

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via hand delivery to Diane Tremor, Hearing Officer, this 27th of August, 2008.



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Matthew Sirmans, Asst. General Counsel  
Florida Housing Finance Corporation

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 05/07/2008

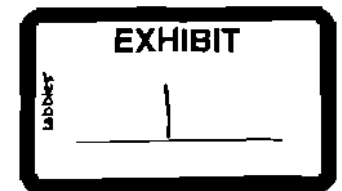
File # 2008-109S

Development Name: Gardens at Winter Haven

| As Of:         | Total Points | Met Threshold? | Proximity Tie-Breaker Points |
|----------------|--------------|----------------|------------------------------|
| 05 - 07 - 2008 | 61           | N              | 7.5                          |
| Preliminary    | 61           | N              | 7.5                          |
| NOPSE          | 0            | N              | 0                            |
| Final          | 0            | N              | 0                            |
| Final-Ranking  | 0            | N              | 0                            |

**Scores:**

| Item #                          | Part | Section | Subsection | Description                               | Available Points | Preliminary | NOPSE | Final | Final Ranking |
|---------------------------------|------|---------|------------|---|------------------|-------------|-------|-------|---------------|
| <b>Features &amp; Amenities</b> |      |         |            |   |                  |             |       |       |               |
| 1S                              | III  | B       | 2.a.       | New Construction                          | 9                | 9           | 0     | 0     | 0             |
| 1S                              | III  | B       | 2.b.       | Rehabilitation/Substantial Rehabilitation | 9                | 0           | 0     | 0     | 0             |
| 2S                              | III  | B       | 2.c.       | All Developments Except SRO               | 12               | 12          | 0     | 0     | 0             |
| 2S                              | III  | B       | 2.d.       | SRO Developments                          | 12               | 0           | 0     | 0     | 0             |
| 3S                              | III  | B       | 2.e.       | Energy Conservation Features              | 9                | 9           | 0     | 0     | 0             |
| 4S                              | III  | B       | 3          | Green Building                            | 5                | 5           | 0     | 0     | 0             |
| <b>Set-Aside Commitments</b>    |      |         |            |   |                  |             |       |       |               |
| 5S                              | III  | E       | 1.b.(2)(b) | Total Set-Aside Commitment                | 3                | 3           | 0     | 0     | 0             |
| 6S                              | III  | E       | 3          | Affordability Period                      | 5                | 5           | 0     | 0     | 0             |
| <b>Resident Programs</b>        |      |         |            |   |                  |             |       |       |               |
| 7S                              | III  | F       | 1.         | Programs for Non-Elderly & Non-Homeless   | 6                | 6           | 0     | 0     | 0             |
| 7S                              | III  | F       | 2.         | Programs for Homeless (SRO & Non-SRO)     | 6                | 0           | 0     | 0     | 0             |
| 7S                              | III  | F       | 3.         | Programs for Elderly                      | 6                | 0           | 0     | 0     | 0             |
| 8S                              | III  | F       | 4.         | Programs for All Applicants               | 8                | 8           | 0     | 0     | 0             |
| <b>Local Government Support</b> |      |         |            |   |                  |             |       |       |               |
| 9S                              | IV   |         | A.         | Contributions                             | 5                | 0           | 0     | 0     | 0             |
| 10S                             | IV   |         | B.         | Incentives                                | 4                | 4           | 0     | 0     | 0             |



## 2008 MMRB, SAIL & HC Scoring Summary

As of: 05/07/2008

File #: 2008-109S

Development Name: Gardens at Winter Haven

### Reason(s) Scores Not Maxed:

| Item # | Reason(s)  | Created As Result | Rescinded as Result |
|--------|--|-------------------|---------------------|
| 9S     | Because the Applicant failed to qualify for the Polk County Bonds (see Item 5T), the Application does not qualify for automatic points. The Applicant did not provide any of the Local Government Contribution forms. Therefore, no local Government Contribution points were awarded. | Preliminary       |                     |

### Threshold(s) Failed:

| Item # | Part | Section | Subsection | Description                      | Reason(s)   | Created As Result of | Rescinded as Result of |
|--------|------|---------|------------|----------------------------------|---|----------------------|------------------------|
| 1T     | V    | B       |            | Construction Financing Shortfall | The Applicant has a construction financing shortfall of \$5,601,899.  | Preliminary          |                        |
| 2T     | V    | B       |            | Permanent Financing Shortfall    | The Applicant has a permanent financing shortfall of \$5,601,899.   | Preliminary          |                        |
| 3T     | V    | D       |            | Equity Commitment                | Per page 73 of the 2008 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner. The Applicant stated at Exhibit 9 of the Application that the Limited Partner's interest in the Applicant entity is 99%. However, the syndication agreement at Exhibit 57 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the equity commitment cannot be considered a firm source of financing. | Preliminary          |                        |
| 4T     | V    | B       |            | Pro Forma                        | Contingency reserves were listed for the Development in the Application, however, the Applicant did not provide detail of those reserves as required by the pro forma.  | Preliminary          |                        |
| 5T     | V    | D       |            | Funding Commitment               | Although the Applicant listed Bonds from Polk County HFA in the amount of \$4,250,120 for construction and permanent financing (with evidence to be provided at Exhibit 56), no commitment for this has been provided. Therefore, the Bond amount cannot be counted as a source of financing.   | Preliminary          |                        |
| 6T     | III  | C       | 1          | Site Plan Approval               | The Applicant failed to provide the required Local Government Verification of Status of Site Plan Approval for Multifamily Developments form.   | Preliminary          |                        |

### Proximity Tie-Breaker Points:

| Item # | Part | Section | Subsection  | Description   | Available | Preliminary | NOPSE | Final | Final Ranking |
|--------|------|---------|-------------|---|-----------|-------------|-------|-------|---------------|
| 1P     | III  | A       | 10.a.(2)(a) | Grocery Store   | 1.25      | 1.25        | 0     | 0     | 0             |
| 2P     | III  | A       | 10.a.(2)(b) | Public School   | 1.25      | 1.25        | 0     | 0     | 0             |
| 3P     | III  | A       | 10.a.(2)(c) | Medical Facility  | 1.25      | 0           | 0     | 0     | 0             |
| 4P     | III  | A       | 10.a.(2)(d) | Pharmacy  | 1.25      | 1.25        | 0     | 0     | 0             |
| 5P     | III  | A       | 10.a.(2)(e) | Public Bus Stop or Metro-Rail Stop                          | 1.25      | 0           | 0     | 0     | 0             |
| 6P     | III  | A       | 10.b.       | Proximity to Development on FHFC Development Proximity List | 3.75      | 3.75        | 0     | 0     | 0             |

**HOUSING FINANCE AUTHORITY  
OF POLK COUNTY, FLORIDA**

P. O. Drawer 7608  
Winter Haven, FL 33883-7608

June 16, 2008

Florida Housing Finance Corporation  
227 North Bronough Street – Suite 5000  
Tallahassee, FL 32301

RE: Gardens at Winter Haven, South side of S. Deer Lake Drive,  
Approximately 800 feet west of the intersection of S. Lake Deer  
Drive and E. Lake Deer Drive, Winter Haven, Florida 33880

Ladies and Gentlemen:

In reference to the above-captioned matter, and at the request of SP Winter Haven Gardens LP (the "Owner"), this letter is supplied to you as part of the Owner's application to the Florida Housing Finance Corporation for funds from the SAIL Program for the development of a multi-family housing project located in Winter Haven (Polk County), Florida (the "Project"). The SAIL loan is to be made in conjunction with the issuance of bonds (the "Bonds") by the Housing Finance Authority of Polk County, Florida (the "Issuer"); the proceeds of which will be loaned to the Owner to finance the Project.

Please be advised of the following:

1. The Housing Finance Authority of Polk County has passed an Indueement Resolution for the proposed Gardens at Winter Haven.
2. A TEFRA hearing has been held by the Housing Finance Authority of Polk County.
3. The TEFRA hearing has been approved by the Polk County Board of County Commissioners, and
4. The Issuer intends to prioritize Gardens at Winter Haven in its request for not to exceed \$4,500,000 in 2009 volume cap allocation;

Very Truly Yours,

HOUSING FINANCE AUTHORITY OF POLK COUNTY, FLORIDA

By: 

Name: Charles W. Johnson

Title: Chairman

EXHIBIT

tabbies  
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## 2008 MMRB, SAIL & HC Scoring Summary

As of: 07/16/2008

File # 2008-109S

Development Name: Gardens at Winter Haven

| As Of:         | Total Points | Met Threshold? | Proximity Tie-Breaker Points |
|----------------|--------------|----------------|------------------------------|
| 07 - 16 - 2008 | 61           | N              | 7.5                          |
| Preliminary    | 61           | N              | 7.5                          |
| NOPSE          | 60           | N              | 7.5                          |
| Final          | 61           | N              | 7.5                          |
| Final-Ranking  | 0            | N              | 0                            |

**Scores:**

| Item #                          | Part | Section | Subsection | Description                               | Available Points | Preliminary | NOPSE | Final | Final Ranking |
|---------------------------------|------|---------|------------|---|------------------|-------------|-------|-------|---------------|
| <b>Features &amp; Amenities</b> |      |         |            |   |                  |             |       |       |               |
| 1S                              | III  | B       | 2.a.       | New Construction                          | 9                | 9           | 9     | 9     | 0             |
| 1S                              | III  | B       | 2.b.       | Rehabilitation/Substantial Rehabilitation | 9                | 0           | 0     | 0     | 0             |
| 2S                              | III  | B       | 2.c.       | All Developments Except SRO               | 12               | 12          | 12    | 12    | 0             |
| 2S                              | III  | B       | 2.d.       | SRO Developments                          | 12               | 0           | 0     | 0     | 0             |
| 3S                              | III  | B       | 2.e.       | Energy Conservation Features              | 9                | 9           | 9     | 9     | 0             |
| 4S                              | III  | B       | 3          | Green Building                            | 5                | 6           | 5     | 5     | 0             |
| <b>Set-Aside Commitments</b>    |      |         |            |   |                  |             |       |       |               |
| 5S                              | III  | E       | 1.b (2)(b) | Total Set-Aside Commitment                | 3                | 3           | 3     | 3     | 0             |
| 6S                              | III  | E       | 3.         | Affordability Period                      | 5                | 5           | 5     | 5     | 0             |
| <b>Resident Programs</b>        |      |         |            |   |                  |             |       |       |               |
| 7S                              | III  | F       | 1.         | Programs for Non-Elderly & Non-Homeless   | 6                | 6           | 6     | 6     | 0             |
| 7S                              | III  | F       | 2.         | Programs for Homeless (SRO & Non-SRO)     | 6                | 0           | 0     | 0     | 0             |
| 7S                              | III  | F       | 3.         | Programs for Elderly                      | 6                | 0           | 0     | 0     | 0             |
| 8S                              | III  | F       | 4.         | Programs for All Applicants               | 8                | 8           | 8     | 8     | 0             |
| <b>Local Government Support</b> |      |         |            |   |                  |             |       |       |               |
| 9S                              | IV   |         | A.         | Contributions                             | 5                | 0           | 0     | 0     | 0             |
| 10S                             | IV   |         | B.         | Incentives                                | 4                | 4           | 3     | 4     | 0             |





## 2008 MMRB, SAIL & HC Scoring Summary

As of: 07/16/2008

File # 2008-1095

Development Name: Gardens at Winter Haven

### Reason(s) Scores Not Maxed:

| Item # | Reason(s)  | Created As Result | Rescinded as Res |
|--------|--|-------------------|------------------|
| 9S     | Because the Applicant failed to qualify for the Polk County Bonds (see Item 5T), the Application does not qualify for automatic points. The Applicant did not provide any of the Local Government Contribution forms. Therefore, no local Government Contribution points were awarded. | Preliminary       | Final            |
| 9S     | Because the Applicant failed to qualify for the Polk County Bonds (see Item 7T), the Application does not qualify for automatic points. The Applicant did not provide any of the Local Government Contribution forms. Therefore, no local Government Contribution points were awarded. | Final             |                  |
| 10S    | Because the Applicant failed to provide the Local Government Verification of Affordable Housing Incentives Modification of Fee Requirements for Affordable Housing Properties or Developments form, it is not eligible to receive 1 point for this incentive.                          | NOPSE             | Final            |

### Threshold(s) Failed:

| Item # | Part | Section | Subsection | Description                      | Reason(s)   | Created As Result of | Rescinded as Result of |
|--------|------|---------|------------|----------------------------------|---|----------------------|------------------------|
| 1T     | V    | B       |            | Construction Financing Shortfall | The Applicant has a construction financing shortfall of \$5,601,899.  | Preliminary          | Final                  |
| 2T     | V    | B       |            | Permanent Financing Shortfall    | The Applicant has a permanent financing shortfall of \$5,601,899.   | Preliminary          | Final                  |
| 3T     | V    | D       |            | Equity Commitment                | Per page 73 of the 2008 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner. The Applicant stated at Exhibit 9 of the Application that the Limited Partner's interest in the Applicant entity is 99%. However, the syndication agreement at Exhibit 57 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the equity commitment cannot be considered a firm source of financing. | Preliminary          | Final                  |
| 4T     | V    | B       |            | Pro Forma                        | Contingency reserves were listed for the Development in the Application, however, the Applicant did not provide detail of those reserves as required by the pro forma.  | Preliminary          | Final                  |
| 5T     | V    | D       |            | Funding Commitment               | Although the Applicant listed Bonds from Polk County HFA in the amount of \$4,250,120 for construction and permanent financing (with evidence to be provided at Exhibit 56), no commitment for this has been provided. Therefore, the Bond amount cannot be counted as a source of financing.   | Preliminary          | Final                  |
| 6T     | III  | C       | 1          | Site Plan Approval               | The Applicant failed to provide the required Local Government Verification of Status of Site Plan Approval for Multifamily Developments form.   | Preliminary          | Final                  |
| 7T     | V    | D       |            | Funding Commitment               | As a cure for Item 5T, the Applicant provided a letter from the Polk County Housing Finance Authority showing a firm commitment for bond financing. However, the letter does not contain affirmation that the tax-exempt bond allocation has been reserved or that the HFA has agreed to award the necessary allocation when available as required by the 2008 Universal Application Instructions. Therefore, the bond amount cannot be counted as a firm source of financing.  | Final                |                        |
| 8T     | V    | B       |            | Construction Financing Shortfall | The Applicant has a construction financing shortfall of \$4,206,691.  | Final                |                        |

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 07/16/2008

File # 2008-109S

Development Name: Gardens at Winter Haven

**Threshold(s) Failed:**

| Item # | Part | Section | Subsection | Description                   | Reason(s)   | Created As Result of | Rescinded as Result of |
|--------|------|---------|------------|-------------------------------|---|----------------------|------------------------|
| 9T     | V    | B       |            | Permanent Financing Shortfall | The Applicant has a permanent financing shortfall of \$3,608,745. | Final                |                        |

**Proximity Tie-Breaker Points:**

| Item # | Part | Section | Subsection  | Description   | Available | Preliminary | NOPSE | Final | Final Ranking |
|--------|------|---------|-------------|---|-----------|-------------|-------|-------|---------------|
| 1P     | III  | A       | 10.a.(2)(a) | Grocery Store   | 1.25      | 1.25        | 1.25  | 1.25  | 0             |
| 2P     | III  | A       | 10.a.(2)(b) | Public School   | 1.25      | 1.25        | 1.25  | 1.25  | 0             |
| 3P     | III  | A       | 10.a.(2)(c) | Medical Facility  | 1.25      | 0           | 0     | 0     | 0             |
| 4P     | III  | A       | 10.a.(2)(d) | Pharmacy  | 1.25      | 1.25        | 1.25  | 1.25  | 0             |
| 5P     | III  | A       | 10.a.(2)(e) | Public Bus Stop or Metro-Rail Stop                          | 1.25      | 0           | 0     | 0     | 0             |
| 6P     | III  | A       | 10.b.       | Proximity to Development on FHFC Development Proximity List | 3.75      | 3.75        | 3.75  | 3.75  | 0             |

**Additional Application Comments:**

| Item # | Part | Section | Subsection | Description       | Reason(s)   | Created As Result of | Rescinded as Result of |
|--------|------|---------|------------|-------------------|---|----------------------|------------------------|
| 1C     |      |         |            | Financial Arrears | A party to this Application (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) is listed on the May 15, 2008 Past Due Report as being in arrears to the Corporation as a related party (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) of Pinewood Pointe. The May 15, 2008 Past Due Report is posted to the FHFC Website at <a href="http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm">http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm</a> . The arrearage was satisfied prior to issuance of the NOPSE Scoring Summary. | NOPSE                |                        |