

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

CITY VISTA ASSOCIATES, LLC,

Petitioner

v.

FHFC Case No.: 2014-049BP  
Request for Applications: 2013-003

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent,

and

HTG BROWARD 3, LLC,

Intervenor.

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**MOTION TO INTERVENE**

Pursuant to Rule 28-106.205, Florida Administrative Code, Intervenor, HTG Broward 3, LLC, Intervenor, files this Motion to Intervene in this proceeding and states:

1. HTG Broward 3, LLC ("HTG 3") is a Florida limited liability company authorized to transact business in the State of Florida. HTG 3's address is 3225 Aviation Avenue, Suite 602, Miami, Florida 33133. HTG 3's address, phone number and email address for purposes of the proceeding are that of undersigned counsel.
2. Counsel for HTG 3 is:

**MAUREEN M. DAUGHTON**

E-mail: [mdaughton@sniffenlaw.com](mailto:mdaughton@sniffenlaw.com)

**MARK K. LOGAN**

E-mail: [mlogan@sniffenlaw.com](mailto:mlogan@sniffenlaw.com)

**SNIFFEN & SPELLMAN, P.A.**

123 North Monroe Street

Tallahassee, Florida 32301

Telephone: (850) 205-1996

Facsimile: (850) 205-3004

3. *Request for Applications 2013-003 for Affordable Housing Developments located in Broward, Miami-Dade and Palm Beach Counties* was issued by Florida Housing Finance Corporation (“Florida Housing”) on September 19, 2013 (the “RFA”).

4. HTG 3 timely submitted its application, for a development named “SOLO Villages”, in response to RFA 2013-003. Florida Housing deemed HTG 3 as eligible for funding and awarded it 27 points, the maximum allowed point total. HTG 3’s Lottery Number is 48.

5. HTG 3 has filed a Formal Written Protest challenging the selection of the applications in Florida Housing’s Final Agency Action, including the applications submitted by Heritage at Pompano Station (Lottery Number 26), Oakland Preserve (Lottery Number 12) and Wisdom Village Crossing (Lottery Number 20)<sup>1</sup>. HTG 3 contends that each of these Applicants failed to submit a responsive application and should not have been considered for funding, and therefore HTG 3 would be placed in the funding range and is entitled to an allocation of housing credits from the 2013-003 RFA.

6. On February 14, 2014, City Vista Associates, LLC (“City Vista”) filed a Petition for Formal Written Protest challenging Florida Housing’s Final Agency Action<sup>2</sup>. City Vista’s application was deemed ineligible for funding due to their failure to provide adequate evidence of site control. By its Petition, City Vista is seeking to change this determination and, if successful, would potentially be eligible for funding. City Vista’s Lottery Number is 11.

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<sup>1</sup> Currently, Oakland Preserve and Wisdom Village are the only two Applications selected for funding in Broward County. Heritage at Pompano Station has also filed a Formal Written Protest.

<sup>2</sup> City Vista alleged disputed issues of material fact in its Petition, however, Florida Housing deemed no disputed issues of material fact and referred this for an Informal Hearing.

7. If successful, City Vista would receive the same total points as HTG 3 but because City Vista has a lower lottery number, City Vista would take HTG 3's place for funding, assuming HTG 3's Formal Petition is successful. Therefore, this proceeding affects HTG 3's substantial interests and HTG 3 is entitled to intervene. Attached to this Motion and incorporated by reference, is Intervenor's Petition for Intervention which explains in more detail HTG 3's substantial interests and the issues which will be raised in this matter.

8. HTG 3 supports Florida Housing's decision that City Vista did not demonstrate site control and therefore is not eligible for funding. Florida Housing's determination as to City Vista's application is reasonable and consistent with Florida Housing's Request for Applications and applicable rules.

9. The undersigned has conferred with counsel for Florida Housing and counsel for City Vista which have no objection to HTG 3's intervention in this matter.

Wherefore, HTG 3 requests entry of an Order Granting its Motion to Intervene and accepting the attached Petition for Intervention.

Respectfully submitted this 26 day of March, 2014.



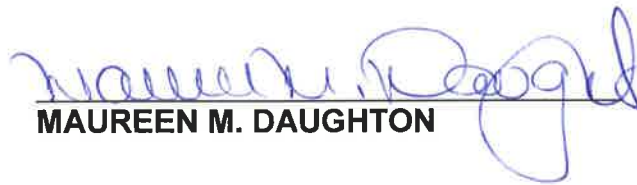
**MAUREEN M. DAUGHTON**  
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**MARK K. LOGAN**  
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Telephone: (850) 205-1996  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic delivery to the Ashley Black, Clerk, and Wellington Meffert, Esq. at the Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301, and electronic delivery Craig Varn, Esq. at Manson & Bolves, P.A., 1101 W. Swan Avenue, Tampa, Florida 33606, and Michael G. Maida, Esq., 1709 Hermitage Blvd., Suite 201, Tallahassee, Florida 32308 on this 26 day of March, 2014.

  
**MAUREEN M. DAUGHTON**

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FLORIDA HOUSING FINANCE  
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**PETITION FOR INTERVENTION**

Pursuant to sections 120.57 and 120.569, Florida Statutes and Rule 28-106.205, Florida Administrative Code, files this Petition for Intervention in this proceeding and states:

1. HTG Broward 3, LLC ("HTG 3") is a Florida limited liability company authorized to transact business in the State of Florida. HTG 3's address and telephone number is that of undersigned counsel.

2. Counsel for HTG 3 and Intervenors address for this proceeding is:

**MAUREEN M. DAUGHTON**  
E-mail: [mdaughton@sniffenlaw.com](mailto:mdaughton@sniffenlaw.com)  
**MARK K. LOGAN**  
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### **Background**

3. Florida Housing is designated as the housing credit agency for the State of Florida within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code ("IRC") and has the responsibility and authority to establish procedures for allocating and distributing Housing Credits §420.5099, Fla. Stat (2013).

4. Florida Housing has adopted Chapter 67-60, Florida Administrative Code (2013) which details the procedures for administering the competitive solicitation credit program authorized by Section 42 of the IRC and Section 420.5099, Florida Statutes.

5. HTG 3 timely submitted an application for the development named "SOLO Villages" (Application 2014-194C) in response to RFA 2013-003. Florida Housing scored HTG 3 as eligible for funding and awarded 27 points, the maximum allowed point total. HTG 3's Lottery Number is 48.

6. HTG 3 has filed a Formal Written Protest challenging the selection of the applications submitted by Oakland Preserve (Application No. 2014-241C); Wisdom Village Crossing (Application No. 2014-242C); and Heritage at Pompano Station (Application No. 2014-214C). Each of these three Applications have the same point total as HTG 3, 27, however they each have lower lottery numbers, 12, 20, and 26, respectively. Because Florida Housing erroneously scored these applications, HTG 3 will be in the funding range and will be entitled to an allocation of housing credits.<sup>1</sup>

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<sup>1</sup> The four highest lottery numbers for Applications eligible for funding in Broward County are 12, 20, 26, and 48. Currently both Oakland Preserve and Wisdom Village Crossing are in the funding. Heritage at

7. On February 14, 2014, City Vista Associates, LLC ("City Vista") filed a Petition Requesting a Formal Hearing and challenging Florida Housing's determination that the City Vista application was not responsive to the RFA. By its Petition, City Vista is seeking to change this determination and, if successful, would potentially be eligible for funding.

8. Should City Vista's Petition be granted, because City Vista has a lower lottery number than HTG 3, it would take HTG 3's place for funding. Therefore, this proceeding affects HTG 3's substantial interests and HTG 3 is entitled to intervene.

### **City Vista's Application**

9. The RFA requires an Applicant to demonstrate site control, through either an Eligible Contract, Deed and/or Lease.

10. An Eligible Contract as defined, requires that, the buyer,

"...MUST be the Applicant unless an assignment of the eligible contract which assigns all of the buyers rights, title and interests in the eligible contract to the Applicant is provided..."

(See RFA at 23).

11. As evidence of site control, City Vista submitted an Agreement for Sale and Purchase between Purchaser, Landmark Development Corp., and Seller, Pompano Beach Community Redevelopment Agency. Landmark Development Corp. is only the Applicant's Developer and not the actual Applicant. There was no assignment of the Contract in the Applicant's submission as is specifically required by the RFA.

12. Accordingly, the requirements of an Eligible Contract under the terms of the RFA have not been met since the Purchaser was not the Applicant, City Vista Associates, LLC, nor was there an assignment of the Contract to City Vista Associates, LLC.

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Pompano Station has filed a formal challenge contesting the selection of both Oakland Preserve and Wisdom Village Crossing.

13. HTG 3 supports Florida Housing's decision that City Vista failed to meet site control and is not eligible for funding. Florida Housing's determination that City Vista failed to satisfy site control is reasonable and consistent with Florida Housing's Request for Applications.

**Statement of Ultimate Facts and Law**

14. As a matter of ultimate fact, Florida Housing properly determined that City Vista's application was not completed in accordance with the RFA; was not responsive to the RFA; and not eligible for funding under the RFA.

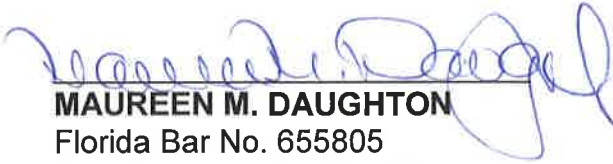
15. As a matter of ultimate fact, Florida Housing properly determined that City Vista was ineligible for funding.

**Right to Amend**

16. HTG 3 reserves the right to amend this Petition to add issues which may be discovered during the discovery process.

Wherefore, HTG 3 requests entry of an Order concluding that Florida Housing properly determined that City Vista's application was not completed in accordance with the RFA; and was not eligible for funding under the RFA.

Respectfully submitted this 26 day of March, 2014.

  
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**MAUREEN M. DAUGHTON**