STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

HTG BROWARD 3, LLC,

Petitioner

v.

FHFC Case No. 2014-055BP
DOAH Case No: _____
FHFC Application No.: 2014-194C

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

FORMAL WRITTEN PROTEST AND PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, HTG Broward 3, LLC ("HTG 3"), by and through undersigned counsel, files this Formal Written Protest and Petition for Formal Administrative Hearing ("Petition") pursuant to Section 120.57(3), Florida Statutes, Rules 28-110.003 and 67-60.009, Florida Administrative Code, challenging the Notice of Intent to Award issued by Florida Housing Finance Corporation ("Florida Housing") regarding Request for Applications 2013-003 for Affordable Housing Developments located in Broward, Miami-Dade and Palm Beach counties. In support of its Petition, HTG 3 states as follows:

Parties

1. Petitioner, HTG 3 is a Florida limited liability company, authorized to transact business in the State of Florida, with an address at 3225 Aviation Avenue, Suite 602, Miami, Florida 33133. HTG 3's address, phone number and email address for purposes of this proceeding are that of undersigned counsel.

2. Florida Housing is the agency affected by this Petition. Florida Housing's address is 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301.

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, Florida Statutes (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. *Request for Applications 2013-003 for Affordable Housing Developments located in Broward, Miami-Dade and Palm Beach Counties* was issued on September 19, 2013 (the "RFA")[1].

6. Through the RFA process Florida Housing anticipated awarding up to an estimated $10,052,825 of Housing Credits to developments proposed in Broward, Miami-Dade and Palm Beach Counties (*See* RFA at 2).

7. The RFA provides that the review committee members independently evaluate and score their assigned portions of the submitted eligible applications based on various mandatory and point items. In addition, the RFA provides for a lottery number to be randomly assigned to each application. (*See* RFA at 1).

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[1] The RFA and all RFA documents can be found at the following link: http://www.floridahousing.org/Developers/MultiFamilyPrograms/Competitive/2013-003/. Applicable Rules 67-48 and 67-60 can be found at the following link: http://www.floridahousing.org/Developers/MultiFamilyPrograms/Competitive/

8. According to the Funding Selection section of the RFA, once an application is deemed eligible for funding:

> The highest scoring Applications will be determined by first sorting all eligible Applications from highest score to lowest score, with any scores that are tied separated first by the Application's eligibility for the Development Category Funding Preference which is outlined in Section Four A.4.c.(1)(a) of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference), then by the Application's eligibility for the Per Unit Construction Funding Preference which is outlined in Section Four A.9.e. of the RFA, (with Applications that qualify for the preference listed above, Applications to [sic] do not qualifying for the preference), then by the Application's Leveraging Classification (applying the multipliers outlined in Exhibit C below and having the Classification of A be the top priority), then by the Application's eligibility for the Florida Job Creation Preference which is outlined in Exhibit C below (with Applications that qualify for the preference listed above Applications that do not qualify for the preference), and then by lottery number, resulting in the lowest lottery number receiving preference.
>
> Unless otherwise provided below, Applications will be selected for funding only if there is enough funding available to fully fund the Eligible Housing Credit Request Amount (Funding Test).
>
> The Applications will be considered for funding in the following funding order: first the highest scoring eligible Application located in Miami-Dade County that can meet the Funding Test, then the highest scoring eligible Application located in Broward County that can meet the Funding Test, then the highest scoring eligible Application located in Palm Beach County that can meet the Funding Test, then the next highest scoring eligible unfunded application located in Miami-Dade County that can meet the Funding Test, then the highest scoring eligible unfunded Application located in Broward County regardless of the Funding Test. If there is not enough funding available to fully fund this last Broward County Application, the Application will be entitled to receive a binding commitment for the unfunded balance…
> (*See* RFA at 36).

9. HTG 3 timely submitted its application for the development named "SOLO Villages" (Application 2014-194C) in Broward County to Florida Housing before 2:00 p.m. on November 12, 2013 ("SOLO Villages"). HTG 3 was deemed an eligible application for funding.

10. The Florida Housing review committee met at a public meeting on January 23, 2014. At the meeting, the review committee scored and ranked the applications received and recommended certain applications for funding and approval to the Florida Housing Board of Directors. The Florida Housing Board approved those Developments recommended for funding at its meeting on Friday, January 31, 2014.

11. Applying the last paragraph cited above (third paragraph of page 36 of the RFA), two (2) developments must be funded in Broward County. Applying the funding selection ranking criteria, this is a ranking of the eligible Broward Applications:

Application Number	Name of Development	County	Eligible For Funding?	Total Points	Development Category Funding Preference	Per Unit Construction Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
2014-241C	Oakland Preserve	Broward	Y	27	Y	Y	A	Y	12
2014-242C	Wisdom Village Crossing	Broward	Y	27	Y	Y	A	Y	20
2014-217C	Heritage at Pompano Station	Broward	Y	27	Y	Y	A	Y	26
2014-194C	SOLO Villages	Broward	Y	27	Y	Y	A	Y	48
2014-257C	Hickory Place	Broward	Y	27	Y	Y	A	Y	64
2014-178C	Suncrest Court	Broward	Y	27	Y	Y	A	Y	67
2014-231C	Village of the Arts	Broward	Y	27	Y	Y	A	Y	91
2014-273C	Northwest Gardens V	Broward	Y	27	Y	Y	A	Y	92
2014-232C	Lauderdale Place	Broward	Y	27	Y	Y	A	Y	93
2014-233C	The Madison	Broward	Y	27	Y	Y	A	Y	97
2014-181C	Uptown Village	Broward	Y	27	Y	Y	A	Y	113
2014-220C	Residences at Crystal Lake	Broward	Y	27	Y	Y	B	Y	59
2014-285C	Sunnyreach Acres	Broward	Y	27	N	Y	A	Y	104

12. The Applications recommended for funding in Broward County are Oakland Preserve, Application No. 2014-241C (lottery number 12) and Wisdom Village Crossing, Application No. 2014-242C (lottery number 20).

13. Florida Housing posted Notice of its Intent to Award resulting from *RFA 2013-003 – Review Committee Recommendations*, on Friday, January 31, 2013 at 11:10 a.m. on the Florida Housing website. A copy of the posted Notice is attached hereto as Exhibit "A".

14. On February 5, 2013, Petitioner timely filed its notice of intent to protest Florida Housing's intended decision. A copy of the Notice of Intent is attached hereto as Exhibit "B".

15. In accordance with Section 120.57(3), Florida Statutes, Chapter 28-110 and Rule 67-60.009, Florida Administrative Code, this Petition is being filed within 10 days of the date that HTG 3 filed its notice of intent to protest the intended decision.

16. Florida Housing's actions in terms of scoring are clearly erroneous, contrary to competition, arbitrary and/or capricious, and in violation of the terms of the RFA.

Statement of Ultimate Facts

Oakland Preserve (Application No. 2014-241C)

17. Oakland Preserve, LLC ("Oakland Preserve") is the Applicant of application 2014-241C for a proposed development called Oakland Preserve in Broward County.

I. Invalid Medical Facility

18. The RFA provides that proximity points are, "...based on the distance between the Development Location Point and the Bus or Rail Transit service...and the Community Services stated on the Surveyor Certification Form." (*See* RFA at 11).

19. Applicants may select four (4) of five (5) Community Services; Grocery Store, Public School, Senior Center, Medical Facility, or Pharmacy. (*See* RFA at 14). One of the five Community Services selected by Oakland Preserve was a Medical Facility.

20. The RFA specifically defines a Medical Facility as follows:

> "For purposes of proximity points, a medical facility means a medically licensed facility that: (i) employs or has under contractual obligation at least one physician licensed under Chapter 458 (medical practice) or 459 (Osteopathic medicine), Florida Statutes, available to treat patients by walk-in or by appointment and (ii) **provides general medical treatment to any physically sick or injured person**. Facilities that specialize in treating specific classes of medical conditions or specific classes of patients, including emergency rooms affiliated with specialty or class II hospitals and clinics affiliated with specialty class II hospitals will not be accepted". (Emphasis Supplied) (*See* RFA at 14)..

21. The Medical Facility that Oakland Preserve used on their Surveyor Certification Form is Dr. Edie Durand, D.O. 3511 N. Andrews Ave., Oakland Park, Florida 33309. However, Dr. Durand only provides medical services to adults 18 years old and above and thus, does not meet the specific requirements of a medical facility as set forth in the RFA. (Attached hereto as Exhibit "C" is Dr. Durand's business card). Accordingly, Oakland Preserve should not have received any proximity points for Medical Facility.

22. Florida Housing's proximity scorer's report on Oakland Preserve, attached as Exhibit "D" and obtained through a Public Records Request to Florida Housing, indicates:

(a) *On 7th line (from bottom to top) of page a 293, that the awarded "Medical Facility points" is 4,*

(b) *On 5th line of page a 295 (from top to bottom), that the "Total Points earned" is 17.5, and*

(c) *On next line "Minimum Service Points met?"- (6th of page 295), that yes, the Minimum Proximity points were met.*

23. Without points for Medical Facility, Oakland Preserve would have scored 13.5 total proximity points. Therefore, Oakland Preserve could not score the Minimum Proximity Points required for their application to be considered for funding (page 11 of the RFA):

> (2) Minimum and Maximum Proximity Points:
> (a) For Broward County and Miami-Dade County Applications:
> • The **minimum proximity score required to be considered for funding is 14.75 points**.
> • To receive the maximum amount of 22 points, Broward County and Miami-Dade County Applications must achieve a minimum score of 16.75 proximity points. If the Application achieves a score of at least 16.75 proximity points, then the Application will be awarded the maximum of 22 points. (Emphasis Supplied)

24. Thus, Oakland Preserve should have received 13.5 proximity points and should have been deemed ineligible for funding.

25. Florida Housing's scoring of Oakland Preserve is clearly erroneous, contrary to competition, arbitrary and/or capricious and in violation of the terms of the RFA.

II. Unacceptable Surveyor Certificate Form

26. The RFA provides that "*in order for an Application to be considered for any proximity points, the **Applicant must provide an acceptable** Surveyor Certification form, as Attachment 6*" (Emphasis Supplied)(page 10 of the RFA).

27. Section THREE D., "Procedures and Provisions" (page 3 of the RFA), contemplates an inquiry procedure. Florida Housing, in response to a question provided as follows:

> **Question 3:**
> The Surveyor's Certification Form posted on the website is changing the input of two digit numbers when the first digit is a "0". For instance, if one types in the degrees or minutes as "07" which would be the correct input of information and what we have always provided in the form of two digits, the cell is automatically eliminating the "0" and changing the "0" the input to just "7".
>
> **Answer:**
> The formatting of the cell...on the interactive pdf Surveyor Certification form is causing the "0" to be dropped. Florida Housing has replaced the form on the Website with a corrected form which will allow the user to enter a two-digit number which begins with "0". For Applications where the Surveyor Certification form has already been completed and signed, the Applicant may manually add the "0" without the need to complete the corrected form.[2]

28. Oakland Preserve did not include an acceptable Surveyor Certification form at Attachment 6 of their application. The form provided indicates coordinates without a double digit format in the minutes (without a leading zero when the stated minute is less than ten) for the Development Location Point, Transit Service and Community Services. Thus, Oakland Preserve's application should not be considered for proximity points.

29. Furthermore, Page 3 of the Surveyor Certification Form (page 55 of the RFA) specifically states "[I]f this certification contains corrections or 'white-out', or if it is altered or retyped, the form will not be considered". Notwithstanding such rule in the RFA, Florida Housing did consider Surveyor Certification Forms that were manually

[2] A true and correct copy of the Questions and Answers for RFP 2013-003 is attached hereto as Exhibit "E".

altered for the purpose of adding such zero[3]. Florida Housing should have enforced the double digit requirement and refused to accept Oakland Preserve's Surveyor Certification Form. Otherwise, FHFC's application of Question 3 to Questions and Answers for RFA 2013-003 to some Applications and not to others is arbitrary or capricious.

30. Florida Housing's failure to make Oakland Preserve ineligible is clearly erroneous, contrary to competition, arbitrary and/or capricious and in violation of the terms of the RFA.

Wisdom Village Crossing
(Application No. 2014-242C)

31. Wisdom Village Crossing, LP (hereinafter "WVC" or "Wisdom Village Crossing") is the applicant proposing Wisdom Village Crossing in Broward County.

I. Invalid Site Control

32. The RFA requires an Applicant to demonstrate site control through either an Eligible Contract, a Deed or Certificate of Title or a Lease (*See* RFA at 23).

33. As evidence of site control, WVC submitted four (4) documents:

(a) *Vacant Land Contract* between Bruce A. Bollinger and James B. Bollinger PR's of Benjamin A. Bollinger, Deceased as Seller and Home Start, LLC as Buyer dated March 1, 2013 ("Contract").

(b) *Addendum for Additional Terms Paragraph 18 – Continued* between Bruce A. Bollinger and James B. Bollinger as Personal Representatives of the Estate of Benjamin A. Bollinger, Deceased and Jean Rupp Bollinger,

[3] As an example, see Surveyor Certification Form (Attachment 6) of application 2014-231C. Here, the Surveyor Certification Form was altered manually and the application was declared eligible by Florida Housing and considered for funding.

Deceased and Home Start, LLC dated February 28, 2013 ("Additional Addendum").

(c) *Assignment of Interest in Vacant Land Contract* between Home Start, LLC, as Assignor and Wisdom Village Crossing, L.P. as Assignee dated September 23, 2013 ("Assignment").

(a) *Addendum to Contract for Sale and Purchase 615 North Andrews Avenue, Fort Lauderdale, FL* between Bruce A. Bollinger and James B. Bollinger, as Personal Representatives of the Estate of Benjamin A. Bollinger, Deceased and Jean Rupp Bollinger, Deceased and Wisdom Village Crossing, LP dated September 23, 2013 ("Addendum").

34. The Seller under the Contract is listed as "Bruce A. Bollinger and James B. Bollinger PR's of Benjamin A. Bollinger, Deceased" and the Contract is signed by Bruce A. Bollinger and James B. Bollinger as the Personal Representatives of Benjamin A. Bollinger, Deceased.

35. A search of the Public Records of Broward County for the property in the Contract reveal a Quit Claim Deed dated June 6, 1988 from Benjamin A. Bollinger, as grantor to Benjamin A. and Jean Rupp Bollinger (joint ownership), as grantee (the "Deed") which is attached here as Exhibit "F".

36. The Deed indicates that both Benjamin A. and Jean Rupp Bollinger, as joint owners, are the lawful owners of record of the property subject to the Contract and therefore, the Contract should have been signed by both Benjamin A. and Jean Rupp Bollinger, or if they are deceased, as the Contract, Additional Addendum,

Assignment and Addendum seem to indicate, the personal representatives of the estates of both Benjamin A. and Jean Rupp Bollinger.

37. Since the Contract[4] was not signed by Jean Rupp Bollinger or a personal representative of the estate of Jean Rupp Bollinger, if she is deceased, WVC does not demonstrate site control which is a mandatory item and thus its application should have been deemed ineligible for funding by Florida Housing.

38. The Additional Addendum indicates that Bruce A. Bollinger and James B. Bollinger are the personal representatives of the estate of Benjamin A. Bollinger, Deceased and Jean Rupp Bollinger, Deceased.

39. However, the Additional Addendum is only signed by Bruce A. Bollinger and James B. Bollinger, as Personal Representatives of the Estate of Benjamin A. Bollinger, Deceased.

40. As with the Contract, the Additional Addendum is not signed by both lawful sellers, Benjamin A. and Jean Rupp Bollinger, or if they are deceased, the personal representatives of the estates of both lawful sellers.

41. Since the Additional Addendum[5] was not signed by Jean Rupp Bollinger or a personal representative of the estate of Jean Rupp Bollinger, if she is deceased, the Additional Addendum should not be considered a valid and enforceable part of Applicant's site control documents.

42. WVC has failed to provide a valid and enforceable contract which meets the requirements for an Eligible Contract and therefore has failed to demonstrate site

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[4] Note that both the Assignment and the Addendum were signed by Bruce A. Bollinger and James B. Bollinger, as PR of Benjamin A. Bollinger, Deceased and Jean Rupp Bollinger, Deceased.

[5] Note that both the Assignment and the Addendum were signed by Bruce A. Bollinger and James B. Bollinger, as PR of Benjamin A. Bollinger, Deceased and Jean Rupp Bollinger, Deceased.

control which is a mandatory item and thus its application should have been deemed ineligible for funding by Florida Housing.

II. Financing Proposal

43. Section FOUR 9.d.(1)(a) of the RFA requires for each financing proposal whether the documentation is in the form of a commitment, proposal, term sheet or letter of intent, to contain:

(i) Amount of the construction loan, if applicable;

(ii) Amount of the permanent loan, if applicable;

(iii) Specific reference to the Applicant as the borrower or direct recipient;

(iv) **Signature of all parties, including acceptance by the Applicant.** (*See* RFA at 32). (Emphasis Supplied).

Not Accepted by the Applicant

44. At Attachment 12 to its Application, WVC submitted correspondence to William Schneider, Executive Director of Turnstone Development Corporation on JP Morgan Chase Bank letterhead regarding a construction and permanent loan, dated October 1, 2013.

45. On page four of this correspondence it provides,

> Borrower's "acceptance" of this preliminary outline of terms to satisfy the requirements of Florida Housing Finance Corporation shall not create a binding or enforceable agreement between Borrower and JP Morgan Chase. For the purpose of satisfying the requirements of Florida Housing Finance Corporation, the proposed Borrower has countersigned this preliminary outline of terms to evidence its acceptance thereof this ____ day of _____, 2013.
>
> Acknowledged By:
> Wisdom Village Crossing, L.P.

46. Mr. Schneider signed underneath the acknowledgement. This does not meet the requirements of the RFA, as it has not been "accepted" by the Applicant, but rather merely "acknowledged". Accordingly, the requirements of the RFA have not been met and Florida Housing should have deemed this Applicant ineligible for funding.

III. Unacceptable Surveyor Certification Form

47. The RFA provides that "*in order for an Application to be considered for any proximity points, the* ***Applicant must provide an acceptable*** *Surveyor Certification form, as Attachment 6*" (Emphasis Supplied) (page 10 of the RFA).

48. WVC did not include an acceptable Surveyor Certification form as Attachment 6. The form provided indicates coordinates without a double digit format for the Development Location Point, Transit Service and Community Services. Thus, WVC's application should not be considered for proximity points. *See argument at 27, 28 & 29 of this Petition.*

49. Florida Housing's failure to make WVC's application 2014-242C ineligible is clearly erroneous, contrary to competition, arbitrary and/or capricious and in violation of the terms of the RFA.

Heritage at Pompano Station
(Application No. 2014-217C)

50. Heritage at Pompano Housing Partners, LP ("Heritage at Pompano") is the applicant proposing Heritage at Pompano Station in Broward County, Florida.

I. Invalid Surveyor Certification Form

51. The RFA provides that in Order for an Application to be considered for any proximity points, the Applicant must submit an acceptable Surveyor Certification Form reflecting a Development Location Point. (*See* RFA at 10).

52. Specifically, "[T]he Applicant must identify a Development Location Point on the proposed Development site and provide the latitude and longitude coordinates..." (*See* RFA at 10).[6]

53. The 2013 Surveyor Certification Form submitted on behalf of Heritage at Pompano does not reflect a Development Location Point on the proposed Development site.

54. The proposed Development site is described on the Legal Description provided at Attachment 7 of application 2014-217C. The Development Location Point is clearly outside the proposed Development site's Legal Description.

55. Thus, Heritage at Pompano should not have received any proximity points and should have been deemed ineligible for funding.

56. Furthermore, at least one other application was deemed ineligible by Florida Housing for applicant's failure to provide a Development Location Point ("DLP") within its proposed Development site. Application 2014-237C ("Tuscany Cove II") received zero (0) proximity points based on its DLP not on being on its site, as stated in Florida Housing's review committee's findings.[7] Tuscany Cove II was ultimately determined ineligible for funding. In the event Tuscany Cove II had placed its DLP within its proposed Development site they would have scored 22 proximity points. There is no difference between Tuscany Cove II's error and Heritage at

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[6] "Development Location Point" means a single point selected by the Applicant on the proposed Development Site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development..." (*See* page 55 of the RFA and rule 67-48.002(33) at page 3 of rule 67-48).

[7] Exhibit G has been obtained through a Public Records Request to Florida Housing.

Pompano's error, other than the way Florida Housing's review committee scored proximity points.

57. Florida Housing's failure to score Heritage at Pompano's application 2014-217C with zero (0) proximity points and therefore make Heritage at Pompano's application ineligible is clearly erroneous, contrary to competition, arbitrary and/or capricious and in violation of the terms of the RFA.

II. Invalid Site Control

Extensions Not Conditioned Solely Upon Payment of Additional Monies

58. The RFA provides a definition of Eligible Contract, which in part provides:

> ...an eligible contract is one that has a term that does not expire before a date that is six (6) months after the Application Deadline or that contains extension options exercisable by the purchaser and conditioned *solely upon payment of additional monies which*, if exercised would extend the term to a date that is not earlier than six (6) months after the Application Deadline...
> (*See* RFA at 23). (Emphasis Supplied).

59. As evidence of site control, Heritage at Pompano submitted an Agreement of Purchase and Sale ("Agreement") between Pompano Station, LLC ("Seller") and NuRock Acquisitions Florida, LLC ("Purchaser") dated September 4, 2013 and an Assignment between NuRock Acquisitions Florida, LLC ("Purchaser") and Heritage at Pompano Housing Partners, LP ("Assignee"), dated November 1, 2013.

60. The Agreement provides, in part:

> Closing Date; Extension of Closing Date.
>
> The closing shall be held on March 21, 2014 (the "**Closing Date**") at such location to which the parties may mutually agree in writing. Notwithstanding anything contained herein to the contrary, Purchaser shall have the right, at any time prior to the Closing Date, to extend the Closing Date by up two (2) 30-day extensions by (a) no less than five (5) days before the then scheduled Closing Date, providing Seller with prior written notice of Purchaser's election to so extend the closing date (each an "**Extension Notice**") and (b) along with the

providing of such Extension Notice, delivering to Escrow Agent...an extension fee in the amount of $25,000.00 for each 30-day extension (the "Extension Fees"), which funds shall be non refundable and applicable to the Purchase Price. Unless otherwise agreed by the parties, the final extension shall expire as of the close of business on May 20, 2014.

61. The Agreement provides the transaction must close by March 21, 2014, this fails the Eligible Contract definition which requires that a term not expire before six (6) months after the Application Deadline of November 12, 2013.[8] Thus, it must have a contract extension option that is conditioned solely upon payment of additional monies which if executed, would extend the term to a date that is not earlier than six (6) months after the Application Deadline.

62. The extension of the Agreement at issue for Heritage at Pompano is conditioned upon the payment of money, *and* providing Seller with prior written notice of Purchaser's election to extend the Closing Date. Due to the fact that the necessary extension is not conditioned solely upon payment of additional monies, the Agreement at issue is not an Eligible Contract, site control is not established and Florida Housing should not have deemed the applicant eligible for funding.

II. Invalid Certification and Acknowledgement and Attachments

63. The RFA provides:

> The Applicant must provide a *completed and executed Application found in Exhibit A to RFA 2013-003*, along *with all applicable attachments thereto, including the applicable certification and verifications forms set out in Exhibit B of the RFA*...
> (*See* RFA at 4).

64. RFA requires that the Applicant provide an original signature certifying and acknowledging approximately forty (40) critical items, including, without limitation,

[8] 6 months from the Application Deadline is May 12, 2014.

that the proposed Development can be completed and operating within the development schedule and budget submitted to the Corporation and that under penalties of perjury, the Applicant declares and certifies that they have read the foregoing and that the information is true, correct and complete.

65. The foregoing Certification and Acknowledgment was executed by Robert G. Hoskins, who lists his title as "Managing Member of NDG Heritage Pompano, LLC, Manager of Heritage at Pompano Housing Partners, L.P."

66. According to the Certificate of Limited Partnership filed with the Florida Secretary of State on August 26, 2013, the General Partner of Heritage at Pompano is NDG Heritage *Pompany*, LLC. A copy of the Certificate of Limited Partnership for Heritage at Pompano Housing Partners, LP is attached hereto as Exhibit "H".

67. In the Certification and Acknowledgement, Mr. Hoskins identifies his title as the Managing Member of an entity which is not legally the Manager[9] of Applicant and therefore, the Applicant has failed to properly sign the Applicant Acknowledgement and Certification in accordance with the requirements of the RFA.

68. The execution of the Application Certification and Acknowledgement Form is a mandatory item. The failure to properly execute on behalf of the Applicant deems the application ineligible for funding.

69. Heritage at Pompano submitted as Exhibit A – Attachment 3, the Principals of Applicant. In so doing, Heritage at Pompano identified its General Partner as NDG Heritage Pompano, LLC. According to the Certificate of Limited Partnership filed with

[9] This too is a material error, as the Certificate of Limited Partnership of Applicant states that Applicant is a Limited Partnership and therefore, should be controlled by a General Partner, not a Manager as Mr. Hoskins incorrectly states.

the Florida Secretary of State on August 26, 2013, the General Partner of Heritage at Pompano is NDG Heritage *Pompany*, LLC.

70. Heritage at Pompano should be deemed as ineligible for funding because they failed to provide a list identifying the Principals of the Applicant as of the Application Deadline. (*See* RFA at 5).

71. The RFA requires an Applicant to demonstrate site control through either an Eligible Contract, a Deed or Certificate of Title or a Lease (*See* RFA at 23).

72. As evidence of site control, Heritage at Pompano submitted an Assignment dated November 1, 2013 (the "Assignment").

73. The Assignment indicates that NuRock Acquisitions Florida, LLC is the Purchaser and Heritage at Pompano is the Assignee.

74. However, Heritage at Pompano, the Assignee, indicates that its Manager[10] is NDG Heritage Pompano, LLC, when their Certificate of Limited Partnership indicates that their General Partner is a different entity named NDG Heritage at *Pompany*, LLC.

75. Since the Assignment was not signed by a party on behalf of the correct general partner, Heritage at Pompano does not demonstrate site control which is a mandatory item and thus its application should have been deemed ineligible for funding by Florida Housing.

76. The RFA requires for each financing proposal whether the documentation is in the form of a commitment, proposal, term sheet or letter of intent, it must include the following,

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[10] Heritage at Pompano is a limited partnership and accordingly, as a limited partnership should be controlled by a general partner, not a manager.

(i) Amount of the construction loan, if applicable;

(ii) Amount of the permanent loan, if applicable;

(iii) Specific reference to the Applicant as the borrower or direct recipient; and

(iv) Signature of all parties, *including acceptance by the Applicant*. (*See* RFA at 32). (Emphasis Supplied).

77. Since the debt financing proposal was not signed by a party on behalf of the correct general partner, Florida Housing should not have included the above referenced debt financing proposal as a source because it was not properly executed by Heritage at Pompano.

78. Additionally, the RFA provides for an applicant to use an Equity Proposal as a funding source:

For the purpose of this RFA, to be counted as a source an equity proposal...must: (1) if syndicating/selling the Housing Credits meets the requirements outlined in (b) below...
***

If syndicating/selling the Housing Credits: (i) A Housing Credit equity proposal must also meet the following criteria:
- ***Be executed by all parties, including the Applicant***;
- Include specific reference to the Applicant as the beneficiary of the equity proceeds;
  ***
- State the anticipated Eligible Housing Credit Request Amount;
- State the anticipated dollar amount of Housing Credit allocated to be purchased;

(*See* RFA at 35). (Emphasis supplied),

79. As evidence of its equity commitment, Heritage at Pompano included a letter from RBC Capital Markets to Heritage at Pompano.

80. The equity financing proposal offered by the Heritage at Pompano is Attachment 12 to Heritage at Pompano's RFA response. However, it fails because the proposal is not signed by the Applicant since Heritage at Pompano indicates that its general

partner is NDG Heritage Pompano, LLC, when their Certificate of Limited Partnership indicates that their General Partner is a different entity named NDG Heritage at *Pompany*, LLC.

81. Florida Housing should not have included the above referenced equity proposal as a source because it was not executed by the Applicant.

82. Florida Housing's scoring of Heritage at Pompano is clearly erroneous, contrary to competition, arbitrary and/or capricious and in violation of the terms of the RFA.

Disputed Issues of Material Fact and Law

83. The disputed issues of material fact and law raised in this proceeding are as follows:

a. Whether Florida Housing's scoring of the application submitted by Oakland Preserve was contrary to the RFA specifications, clearly erroneous, contrary to competition, arbitrary and capricious.

b. Whether Edie Durand, D.O. meets the definition of a medical facility.

c. Whether Florida Housing's scoring of the application submitted by Wisdom Village Crossing was contrary to the RFA specifications, clearly erroneous, contrary to competition, arbitrary and capricious.

d. Whether Wisdom Village Crossing has an Eligible Contract to establish site control.

e. Whether Florida Housing's scoring of the application submitted by Heritage at Pompano Station was contrary to the RFA specifications, clearly erroneous, contrary to competition, arbitrary and capricious.

f. Whether Heritage at Pompano's Development Location Point was on the Development site.

Petitioners Substantial Interests

84. Petitioner timely filed its application seeking to be among the Applicants selected for funding. Petitioners' Application for the SOLO Village development in Broward County complies with all of the requirements of the RFA and has a lottery number of 48, which is the fourth highest lottery number among the Eligible Applications in Broward County. But for the erroneous decisions described above regarding Oakland Preserve, Wisdom Village Crossing and Heritage at Pompano Station, SOLO Village would be recommended for funding.

Request to Resolve by Mutual Agreement

85. Petitioner requests the opportunity to meet with Florida Housing within seven (7) working days after filing this protest, pursuant to Section 120.57(3)(d), Florida Statutes.

Reservation of Right to Amend

86. Petitioner reserves the right to amend this Petition as discovery proceeds.

Statutes/Rules that Entitle Petitioner to Relief

87. Petitioner is entitled to relief pursuant to sections 120.569 and 120.57, Florida Statutes, Chapters 28-106, 28-110 and 67-60, Florida Administrative Code and the established decisional law of Florida Courts, the Division of Administrative Hearings, Florida Administrative Hearings, and Florida administrative agencies.

Demand for Relief

Wherefore, Petitioner respectfully requests that Florida Housing:

a. Refer this matter to DOAH for a hearing with an administrative law Judge involving disputed issues of material facts.

b. That the administrative law Judge should enter an Order recommending that Florida Housing re-rank the proposals taking into consideration the issues raised in this protest.

c. That SOLO Villages be selected for funding.

d. For such further relief as the administrative law Judge deem appropriate.

Dated this 17th day of February, 2014.

Respectfully submitted,

MAUREEN M. DAUGHTON
Florida Bar No. 655805
E-mail: mdaughton@sniffenlaw.com
MARK K. LOGAN
Florida Bar No. 494208
E-mail: mlogan@sniffenlaw.com

SNIFFEN & SPELLMAN, P.A.
123 North Monroe Street
Tallahassee, Florida 32301
Telephone: (850) 205-1996
Facsimile: (850) 205-3004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via hand delivery to the Ashley Black, Clerk, at the Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301 and furnished via electronic correspondence to Hugh Brown, Esq., and Wellington Meffert, Esq. at the Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301 on this 17 day of February, 2014.

MAUREEN M. DAUGHTON

RFA 2013-003 – Review Committee Recommendations

Total HC Available for RFA	10,052,825
Total HC Allocated	9,694,881
Total HC Remaining	357,944

Application Number	Name of Development	County	Name of Contact Person	Name of Developers	HC Request Amount	Eligible For Funding?	Total Points	Development Category Funding Preference	Per Unit Construction Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
First Miami-Dade Application Recommended												
2014-239C	Wagner Creek	Miami-Dade	Matthew Rieger	HTG Miami-Dade 5 Developer, LLC	$1,601,881.00	Y	27	Y	Y	A	Y	3
First Broward Application Recommended												
2014-241C	Oakland Preserve	Broward	David O.. Deutch	Pinnacle Housing Group, LLC; Building	$1,435,000.00	Y	27	Y	Y	A	Y	12
Palm Beach Application Recommended												
2014-201C	Silver Palm Place	Palm Beach	Francisco A. Rojo	Landmark Development Corp.;	$2,110,000.00	Y	27	Y	Y	A	Y	78
Second Miami-Dade Application Recommended												
2014-184C	Allapattah Trace	Miami-Dade	William T. Fabbri	The Richman Group of Florida, Inc.	$1,987,000.00	Y	27	Y	Y	A	Y	6
Second Broward Application Recommended												
2014-242C	Wisdom Village Crossing	Broward	Bill Schneider	Turnstone Development	$2,561,000.00	Y	27	Y	Y	A	Y	20

On January 31, 2014, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to select the above Applications for funding and invite the Applicants to enter credit underwriting.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

SNIFFEN & SPELLMAN, P.A.

123 NORTH MONROE STREET • TALLAHASSEE, FL • 32301
PHONE: 850.205.1996 • FAX: 850.205.3004
WWW.SNIFFENLAW.COM

February 5, 2014

VIA HAND DELIVERY AND ELECTRONIC MAIL

Ashley Black, Clerk
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301

Re: Notice of Intent to Protest – RFA – 2013-003
Application Number: 2014-194C – SOLO Villages/HTG Broward 3, LLLC

Dear Ms. Black,

Our firm represents SOLO Villages/ HTG Broward 3, LLLC. This letter shall serve as HTG Broward 3, LLLC's notice of its intent to protest the Notice of Intended decision of Florida Housing Finance Corporation in RFA 2013-003.

Sincerely,

Maureen McCarthy Daughton

Cc: Wellington Meffert, General Counsel (via electronic mail)

Dr. EDIE DURAND D.O.
Adult and Geriatric Medicine
Alternative Medicine
Immigration Physicals

3511 N. Andrews Avenue
Ft. Lauderdale, Fl 33309
phone 954 564 7666 Fax 954 564 8963

Website www.drediedurand.com

Email dr.ediedurand@yahoo.com

App #	2014-241C
Development Name	Oakland Preserve
County	Broward
Total Units	78
Set-Aside Units	78
HC Request	$1,435,000.00
Demographic Commitment	F
Development Category	NC
How many total Units are NC?	78
New Construction Units X 3.376	263
How many total Units are Rehab?	
Rehabilitation Units X 1.534	0
Multiply by 1,000,000 and then divide by HC Request	183.50
If calculated number is equal to or greater than 100, Applicant qualifies for Florida Job Creation Preference. Did it qualify?	Y
If Rehab, estimated qualified basis in R expenses per set-aside unit (must be more than $20,000 to meet Rehab requirements)?	
Qualifes as NC or Rehab, or if Redev, confirmed that at least 50% of units are NC?	Y
Dev. Category Funding Pref Auto qualification - Dev Category of NC or Redev (with or w/o Acquisition)	Y
If Rehab, qualifies for Dev Cat Funding Preference if answered No at 4.c.(2)(c) - it doesn't meet Preservation defintiion. What was the answer provided?	
Does the Applicant qualify for the Development Category Funding Preference?	Y
If NC or Rehab, Did the Applicant provide the Development Category letter? (Exhibit 5)	N
If letter was provided, did the Applicant state all of the following?	
Name of Development	
Address of Development	
# of Units that will receive PBRA, ACC and/or other form of long-term retal assistance if funded. If stated, provide number.	
The federal program associated with the rental assistance.	
Required langauge	
If Redevelopment or Acq/Redevelopment, did the Applicant provide the letter?	N
If letter was provided, did the Applicant state all of the following?	

App #	2014-241C
Development Name	Oakland Preserve
Name of Development	
Address of Development	
Year built (must be 1984 or earlier)	
# of Units that will receive PBRA and/or ACC if funded. If provided, state number.	
The HUD or RD program currently associated with the existing development.	
For all Development Categories, what is the number of RA Units, if known?	0
% of Units that are RA Units	0%
Using the %, what is the RA Level?	6
Using the # of Units, what is the RA Level?	N/A
What is the Applicant's RA Level?	6
Concrete	Y
Was there a properly compeleted and executed Surveyor form? (Attachment 7)	Y
Dev Location Point	N 26 10 21.5, W 80 8 36.9
If Elderly, providing Private Transportation (Y/N)	N
Public Bus Stop Distance	
Public Bus Stop Points	
Public Bus Transfer Stop Distance	1.64
Public Bus Transfer Stop Points	3
Public Bus Rapid Transit Stop Distance	
Public Bus Rapid Transit Stop Points	
MetroRail or TriRail Station Distance	
MetroRail or TriRail Station Points	
Transit Service Points	3
GS Distance on Form	0.22
Grocery Store Points	4
PS Distance on Form	0.58
Public School Points	3
SC Distance on Form	
Senior Center on List? (Y/N)	
Senior Center Points	0
MF Distance on Form	0.23
Medical Facility Points	4
PH Distance on Form	0.41
PH Points	3.5
Transit Service Points plus Community Service Points (without boost)	17.5
Qualifies for PHA Boost - per Applicant	N
Did Applicant provide letter from PHA with all of the following: (Attachment7)	N
Dated within 12 months of App Deadline	

App #	2014-241C
Development Name	Oakland Preserve
certify that all sites with units have a DOT between PHA and HUD	
Did the Applicant qualify for PHA Boost? (Y/N)	N
Total Points earned (with boost)	17.5
Minimum Service Points met?	Y
Required Transit Score met for Applicants that also qualified for the PHA Boost?	N/A
Required Transit Score met for Applicants that did not qualify for the PHA Boost?	Y
Qualifed for 22 points?	Y
Total Proximity Points	22
Mandatory Distance Requirement met automatically?	N
Applicant selected option 1 or option 2? (Y/N)	N
If no automatic qualifications, did the Applicant indicate there are properties on List that can be disregarded?	N
RA Level must be 1 or 2	N
% of Total Units that are RA Units	N
250 or less Total Units	Y
Applicant committed to 30% ELI	
If the Applicant does not qualify for the Mandatory Distance Requirement automatically, scorers must first determine if the property is an LDA Development.	
Is Dev in county with LDA area?	N
If yes, is the Demographic affected in county?	N/A
Does the property plot in LDA? If Yes, it is LDA Development.	N
If the Mandatory Distance Requirement was not met automatically, did the Applicant meet Mandatory Distance Requirement by meeting the applicable following requirements?	Y
If LDA Development in any county, is the Development at least 5.0 miles away from other developments on Proximity List that serve the same demographic group? (Y/N)	
If located in **Broward or Miami-Dade county and not an LDA Development,** is the Development at least 0.5 miles away from other developments on Proximity List that serve the same demographic group? (Y/N)	Y

App #	2014-241C
Development Name	Oakland Preserve
If located in **Palm Beach County and not an LDA Development,** is the Development at least 2 miles away from other developments on the proximity list consisting of 31 units or more that serve the same demographic group? (Y/N)	
If located in **Palm Beach county and not an LDA Development,** is the Development at least 1 mile away from other developments on the proximity list consisting of 30 units or less that serve the same demographic group? (Y/N)	
LDA Eligibility Requirements	
IF LDA, did the Applicant meet the following eligibility requirements?	N/A
RA Level must be 1 or 2	N/A
% of Total Units that are RA Units	N/A
250 or less Total Units	N/A
Applicant committed to 30% ELI	
Was Mandatory Distance Requirement Met?	Y
ELI Commitment	
What is the county ELI Level?	30
Did the Applicant commit at least 10% of the Units to this ELI Level, or, if LDA, did the Applicant commit at least 30%?	Y
Total Set-Aside Commitment	
Did the Applicant select 20@50, 40@60 or deep rent skewing?	Y
Is the Applicant an Elderly ALF?	N/A
If Elderly ALF, the Applicant must commit 50% of the total units at or below 60% AMI. Was requirement met?	
If not Elderly ALF, the Applicant must commit 80% of the total units at or below 60% AMI. Was requirement met?	Y
Was there anything affecting scoring of sections 3, 4 or 5 in the Addenda?	N
Were all pulled fields verified?	Y

Questions and Answers for RFP 2013-003

AFFORDABLE HOUSING DEVELOPMENTS LOCATED IN BROWARD, MIAMI-DADE AND PALM BEACH COUNTIES

Question 1:

In light of the Government shut down, will Florida Housing issue a modification to allow the HUD and RD letters to be submitted during credit underwriting rather than in the Application?

Answer:

Since the federal government shutdown has been resolved, no modification will be made to RFA 2013-003. Applicants must provide any necessary HUD and RD letters with their Application submissions.

Question 2:

Please clarify whether the Phase I and Phase II Environmental Site Assessments (ESAs) must be completed as of the Application deadline in order for the FHFC Verification of Phase I and Phase II ESA forms to be submitted correctly at underwriting. Can the requirement that the ESAs be performed within 12 months of the submission deadline (the Application Deadline) be interpreted to permit the 12 month period to be prior to the submission deadline or after the deadline, as long as the form is submitted timely in credit underwriting.

Answer:

The date of the ESA may be after the submission deadline (Application Deadline) provided such date is at least as of the date the form is due to Florida Housing (the date that is 21 days after the date of the invitation to enter credit underwriting). For example, if the Application Deadline is November 12, 2013 and the due date for the ESA form is February 21, 2014, then the ESA must be dated within a 12 month period prior to November 12, 2013 or dated anywhere from November 12, 2013 through February 21, 2014.

Question 3:

The Surveyor's Certification Form posted on the website is changing the input of two digit numbers when the first digit is a "0". For instance, if one types in the degrees or minutes as "07", which would be the correct input of information and what we have always provided in the form of two digits, the cell is automatically eliminating the "0" and changing the input to just "7".

Answer:

The formatting of the cell (as a number rather than as text) on the interactive pdf Surveyor Certification form is causing the "0" to be dropped. Florida Housing has replaced the form on the Website with a corrected form which will allow the user to enter a two digit number which begins with "0". For Applications where the Surveyor Certification form has already been completed and signed, the Applicant may manually add the "0" without the need to complete the corrected form.

Questions and Answers for RFP 2013-003

AFFORDABLE HOUSING DEVELOPMENTS LOCATED IN BROWARD, MIAMI-DADE AND PALM BEACH COUNTIES

Question 4:

Are the following forms that are currently posted to the website the final version of the forms: 2013 Development Team forms, 2013 Ability to Proceed forms, 2013 Local Government Contribution forms, and 2013 Surveyor Certification form?

Answer:

Yes, the forms currently posted to the website http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0171 are the forms that should be used in conjunction with the RFA. It should be noted that only the Local Government Contribution forms and the Surveyor Certification form are included as a part of the RFA. As outlined in Item 10 of Exhibit A of the RFA, the Applicant is only required to submit the Development Team forms and the Ability to Proceed forms to the Corporation if the Application is selected for funding.

Question 5:

There is no Principal of Developer General Development Experience Certification form included with the other Development Team forms on the website. Does this form need to be submitted as a part of the RFA or during credit underwriting?

Answer:

Since the Applicant must demonstrate Developer experience as a part of the RFA, the Principal of Developer General Development Experience Certification form will not be required to be submitted to the Corporation at the time the other Development Team forms are submitted.

Question 6:

If an applicant has a properly filled out and executed Local Government Verification of Contribution – Loan form submitted as Attachment 9, must they also submit a commitment letter evidencing the loan behind an additional Attachment as part of the required non-corporation funding proposals required under 9.d.(1). If not, must they submit an additional copy of the Local Government Loan form as an additional funding proposal?

Answer:

As stated in the "Note" at Section Four A.9.d.(1)(a) of the RFA, a properly completed and executed Local Government Verification of Contribution – Grant form and Local Government Verification of Contribution – Loan form may be used to demonstrate a source of financing in the RFA. The location of the applicable Local Government Contribution form (the applicable "Attachment No.") should be stated at the applicable line item on the Construction or Rehab Analysis and/or the Permanent Analysis.

Questions and Answers for RFP 2013-003

AFFORDABLE HOUSING DEVELOPMENTS LOCATED IN BROWARD, MIAMI-DADE AND PALM BEACH COUNTIES

Question 7:

Please clarify how the "Per Unit Construction Funding Preference" is calculated and subsequently used in the sorting order.

Answer:

As stated in Section Four A.9.e. and Section Four B of the RFA, the Corporation will calculate the per unit construction amount by dividing the Actual Construction Cost line item A1.1 on the Pro Forma by the total number of units in the proposed Development. During the funding selection process, the eligible Applications with a per unit construction amount that is $40,000 per unit or greater will be listed above the eligible Applications with a per unit construction amount that is less than $40,000 per unit.

Question 8:

Is it acceptable to have the Chair of the local HFA sign the Verification of Local Government Contribution form?

Answer:

In order for the Local Government Contribution forms to be considered to be properly executed, the form "must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners".

Question 9:

If a local government chooses to defer a specific amount of fees for "X" period of time as their local contribution and this deferral meets the required contribution amount after NPV is calculated and applied, can the total sum of the deferred fees be placed into an interest bearing escrow account for the required "X" period of time? We have found that local governments want a secure method to ensure the fees will eventually be paid as agreed upon.

Answer:

A deferral of the payment of government fees beyond their normal due date will count towards a local government contribution; however, the placement of these same funds into an escrow account, whether for the direct or indirect benefit of the local government, does not constitute a deferral. It is the time value of money that is the source of this contribution and the placement of these funds into an escrow account at a period in time prior to the deferred payment due date will shorten the benefit period of the present valuation of said deferral. Any value contributed to the deferral of the payment of a fee should be based upon when the funds have been utilized.

Questions and Answers for RFP 2013-003

AFFORDABLE HOUSING DEVELOPMENTS LOCATED IN BROWARD, MIAMI-DADE AND PALM BEACH COUNTIES

Question 10:

Is the Deferred Developer Fee Form or some version thereof required to be included in the Application?

Answer:

The Deferred Developer Fee form is no longer required and the Applicant is not required to demonstrate its commitment or ability to defer the Developer fee within the Application. As stated at Section Four A.9.c. of RFA 2013-003, the Corporation will allow up to 100 percent of the eligible Developer fee to be deferred and used as a source on the Development Cost Pro Forma without the requirement to show evidence of ability to fund.

Question 11:

Does the Per Unit Construction Funding Preference question 9.e., on page 35 of RFA 2013-003 apply to new construction only developments? It seems to me it has to do with Rehabilitation per unit cost, but wanted to be clear. If it doesn't apply, and there's no NA button, should it be left unanswered?

Answer:

In order to be considered for the funding preference, this question should be answered by all Applicants. The question at 9.e. of Exhibit A, "Does the proposed Development qualify for the Per Unit Construction Funding Preference, as outlined at Section Four A.9.e. of the RFA?", has a "yes" or "no" response. The instructions at Section Four A.9.e. of the RFA state that the following Applications will qualify for the Per Unit Construction Funding Preference: (a) Applications with a Development Category of New Construction, Redevelopment, or Acquisition and Redevelopment (at question 4.c.(1) of Exhibit A), and (b) Applications with a Development Category of Rehabilitation or Acquisition and Rehabilitation (at question 4.c.(1) of Exhibit A) that reflect an amount of at least $40,000 per unit when the amount listed in the Total column of the Development Cost Pro Forma for the Development Cost line item A1.1 Actual Construction Cost is divided by the number of total units in the Development.

Question 12:

In the past, application rules required a Market Study to be provided with the completed application. We could not find a requirement this year in the RFA to submit the market study. Please advise if the market study is required to be submitted with the application, after notice of funding or not at all.

Answer:

If the question is referring to a market analysis demonstrating the need for elderly housing, which used to be required in the Universal Application Cycle, the answer is that no market analysis is required in any of the Geographic RFAs. If the question is referring to a market study demonstrating the need for the affordable housing proposed in the Applicant's Application, the answer is that a market study will be required, but only after the Applicant is invited to enter credit underwriting.

Questions and Answers for RFP 2013-003

AFFORDABLE HOUSING DEVELOPMENTS LOCATED IN BROWARD, MIAMI-DADE AND PALM BEACH COUNTIES

Question 13:

The final senior center list identifies a senior center that has recently relocated to another address. On the surveyor form, should the address identified on the final senior center list be used or should the actual location where the senior center is now located be used?

Answer:

The current physical location of the senior center should be reflected on the Surveyor Certification form, provided that the senior center listed on the Surveyor Certification form is the same senior center that is included on the senior center list. The Senior Center List currently posted to the FHFC website is final and no additional Centers will be added at this time.

Question 14:

Does the Corporation intend to issue an Applications Submitted List and a Ranking List as was the case in previous Universal Application Cycles? If so, when does FHFC plan to release those lists?

Answer:

The Corporation expects to make an Applications Submitted Report available on our website shortly after the Application Deadline. After Board approval of the Review Committee's recommendations, the Corporation will post a listing of the Applications deemed ineligible for funding and the Applications deemed eligible for funding, sorted in order from highest total score to lowest total score, applying the selection criteria.

Question 15:

In the Operating Pro forma section of the Application, the contingency reserve line item has now been moved to below the Development Cost summation. This change makes it appear that you can no longer use the contingency reserve amount when calculating maximum developer fee as you could in years past. However, the language under the rules 67-68 FAC has remained the same and states that you only subtract out land and developer fee when calculating maximum developer fee and then references back to the Development Cost line item in the application. Other areas of the RFA also reference using total development cost and simply subtracting out the developer fee and land when making the maximum developer fee calculation. Based on this ambiguity, which is the correct method to calculate the maximum developer fee?

Answer:

The maximum Developer fee for completing the Development Cost Pro Forma in a submission to this RFA is limited to 16 percent of Development Cost (Development Cost line item C. in the RFA 2013-003 Development Cost Pro Forma). For the purposes of the Application, Contingency Reserves (Development Cost line item E.) should not be included in calculating the maximum Developer fee.

Questions and Answers for RFP 2013-003

AFFORDABLE HOUSING DEVELOPMENTS LOCATED IN BROWARD, MIAMI-DADE AND PALM BEACH COUNTIES

Question 16:

What are the requirements for the Applicant to qualify for the Non-Profit administrative fee?

Answer:

The Non-Profit administrative fee is available only to Applicants that apply and qualify as a Non-Profit.

Question 17:

Is a 4 percent Housing Credit Application with a 2011 Florida Housing identification number considered funded in the 2011 Universal Application Cycle for the Multi-Phase questions in Section 9.a.(2) of the RFA?

Answer:

Yes, provided either of the following occurred: (i) the box at question 4.e.(3) of the 4 Percent HC County HFA Bonds Application Form, Rev. 2-11, was selected by the 4 Percent HC Applicant, or (ii) the answer "Yes" was selected at Part III.A.2.k.(1)(c) of the 2011 Supplemental MMRB Application submittal.

Question 18:

If sending multiple applications via FedEx for submission in response to RFA 2013-003, can a box contain multiple applications? Or does each individual application need to be in its individual delivery package?

Answer:

Each Application must be in its own sealed package.

****

Please Note: **The Q&A process for RFA 2013-003 is concluded and no further Q&As will be issued regarding RFA 2013-003.**

Submitted by:

Ken Reecy
Director of Multifamily Programs
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301
850-488-4197 or Ken.Reecy@floridahousing.org

QUIT-CLAIM DEED — RAMCO FORM 8

Return to: (enclose self-addressed stamped envelope)

Name: Benjamin A. and Jean R. Bollinger

Address: 2805 N. E. Center Avenue
Fort Lauderdale, Fl. 33308

88223674

This Instrument Prepared by:
Ben A. Bollinger
Address: 2805 N. E. Center Avenue
Fort Lauderdale, Fl. 33308

$ .55 has been Paid in Broward County for Documentary Stamp Tax as required by law.
Donna Hennaby Deputy

88 JUN 7 P1:22

SPACE ABOVE THIS LINE FOR PROCESSING DATA — SPACE ABOVE THIS LINE FOR RECORDING DATA

This Quit-Claim Deed, *Executed this* 6th *day of* June *, A. D.* 19 88 *, by*
Benjamin A. Bollinger, of 2805 N.E. Center Avenue Fort Lauderdale, Fl 33308

first party, to Benjamin A. and Jean Rupp Bollinger, (joint ownership)
2805 N. E. Center Avenue, Fort Lauderdale, Fl. 33308

whose postoffice address is

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, That the said first party, for and in consideration of the sum of $ in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Broward State of Florida, to-wit:

Lots Five (5), Six (6), Seven (7) and Eight (8) of AUSHERMAN'S SUBDIVISION of an unnumbered trianglar block marked "Factory" on the map of Progresso, lying East of the R.E.C. Ry, and North of Avenue "A", according to the Plat of said land recorded in Plat Book 2, page 4, Broward County, Florida, Records.

Also those parts of Lots Nine (9), Ten (10) and Eleven (11) of same Plat Book and Block according to said Plat which lie North of the South line of said Lot Six (6) extended Westward to the Westerly boundry line of said Lot Eleven(11);
Except for that portion of Lots Nine (9), Ten (10) and Eleven (11) described as Commencing at the Southest corner of said Lot 9, thence due West, assumed bearing, along the South line of said Lot 9, a distance of 39.75 feet, thence North a distance of 13.5 feet to the Point of beginning; thenceWest a distance of 127.58 feet to a point on the East Right of Way Line of the Florida East Coast Railroad and a point on a curve; thence Northeasterly along the said East Right of Way line and along a curve to the right, whose tangent bears North 25° 18' 03", having a radius of 2814.93 feet and a central angle of 2° 32' 48", an arc distance of 125.12 feet to a point; thence South 89° 51'42" East, a distance of 67.12 feet; thence South a distance of 50.43 feet; thence East, a distance of 3.90 feet, thence South, a distance of 61.00 feet to the Point of Beginning. (Per survey by McLaughlin Engineering Co, Job order No. 2958)

To Have and to Hold *the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.*

In Witness Whereof, *The said first party has signed and sealed these presents the day and year first above written.*
Signed, sealed and delivered in presence of:

Benjamin A Bollinger L.S.

Margaret Hurley

RECORDED IN THE OFFICIAL RECORDS BOOK OF BROWARD COUNTY, FLORIDA L.S.
L. A. HESTER
COUNTY ADMINISTRATOR

BK15498PG477

STATE OF FLORIDA,
COUNTY OF Broward }

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared

Benjamin A Bollinger

to me well known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 6th day of June, A. D. 1988.

Notary Public

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. AUG 19,1988
BONDED THRU GENERAL INS. UND.

EXHIBIT F

Blumberg No. 5208

2nd Review Committee Findings	
Applications that didn't:	
for discussion	Redevelopment letters in 227C, 254C and 256C Redevelopment letters were provided, but all 3 letters provided a number of rental assistance units that exceeded the total number of units stated in the Application. As stated on page 9, "the total number of units that will receive rental assistance . . . as stated in the Development category qualification letter, will be considered to be the proposed Development's RA units and will be the basis of the Applicant's RA Level Classification." The true number of RA units for the proposed Development was not provided and the calculation could not be performed. RA Levels themselves are not a required element. They come into play for LDA eligibility and automatic mandatory distance qualifications which require a Development to be RA 1 or 2. They were all deemed RA 6. If this caused them to not meet LDA Development requirements or Mandatory Distance requirements, I'll address that when I report scores.
if Rehabilation, answer the $20,000 question	All Met
if Rehabilitation, answer the occupied question	All Met
Qualify for the Development Category Funding Preference	All but 236C, 268C, and 285C The Applicants all reflected an answer of "Yes" at question 4.c.(2)(c) of Exhibit A. Per pg 8 of the Instructions, "Rehabilitation Applications (with or without Acqusition) that reflect an answer of "No" at question 4.c.(2)(c) of Exhibit A . . . will be eligible to be considered for the Development Category Funding Preference."
Get Full Proximity Points	All but: 174C had 14.5, 180C had 13.5, 237C had 0, 260C had 13.5 174C, 237C and 260C failed to reflect a Senior Center that was on the 2013 FHFC Senior Center List 225C and 237C have identical Development Location Points. I was able to determine that the DLP is plotting on Tuscany Cove I, and is not on Tuscany Cove II. 237C got zero points.
Meet Minimum Proximity Point Requirement	All but 174C, 237C and 260C for reasons stated above
Meet Minimum Transit Requirement	All but 237C for reasons stated above.

Mandatory Distance Requirement	All but 222C, 227C, 237C, 254C **222C:** Malibu Bay is within 2.0 miles of the proposed Development and serves the same demographic group. **227C:** Application stated that it qualified for the Mandatory Distance Requirement automatically, but because the RA Level could not be calculated, the Applicant did not qualify automatically. It did not qualify for the Mandatory Distance Requirement based on its distance away from other Developments on the Proximity List because City Heights, West Brickell View Apts, Vista Grande Apts, and West Brickell Tower Apts are all within 0.50 miles of the Development Location Point and serve the same demographic group. **237C** - REASONS STATED ABOVE **254C:** Application stated that it qualified for the Mandatory Distance Requirement automatically, but because the RA Level could not be calculated, the Applicant did not qualify automatically. It did not qualify for the Mandatory Distance Requirement based on its distance away from other Developments on the Proximity List because Collins Park and The Pearl are within 0.50 miles of the Development Location Point and serve the same demographic group.
Choose Minimum Set-asides	All met
Correctly Complete Total Set-Aside chart	All met
LDA Development Requirement	All met

Certificate of Limited Partnership

A13000000454
FILED
August 26, 2013
Sec. Of State
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Name of Limited Partnership:

HERITAGE AT POMPANO HOUSING PARTNERS, LP

Street Address of Limited Partnership:

800 NORTH POINT PARKWAY
SUITE 125
ALPHARETTA, GA. US 30005

Mailing Address of Limited Partnership:

800 NORTH POINT PARKWAY
SUITE 125
ALPHARETTA, GA. US 30005

The name and Florida street address of the registered agent is:

NUROCK ACQUISITIONS FLORIDA, LLC
8461 LAKE WORTH ROAD
SUITE 1-127
LAKE WORTH, FL. 33467

I certify that I am familiar with and accept the responsibilities of registered agent.

Registered Agent Signature: ROBERT HOSKINS

The name and address of all general partners are:

Title: G
NDG HERITAGE POMPANY, LLC
800 NORTH POINT PARKWAY, SUITE 125
ALPHARETTA, GA. 30005 US

The effective date for this Limited Partnership shall be:

08/26/2013

Signed this Twenty Sixth day of August, 2013

I (we) declare the I (we) have read the foregoing and know the contents thereof and that the facts stated herein are true and correct.

General Partner Signature: ROBERT HOSKINS

The individual(s) signing this document affirm(s) that the facts stated herein are true and the individual(s) is/are aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S.