

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

LANDINGS ON MILLENIA BLVD.
PARTNERS, LTD,

Petitioner,

vs.

Case No. 2021-029GA

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

BRENTWOOD ON MILLENIA BLVD.
PARTNERS, LTD,

Petitioner,

vs.

Case No. 2021-030GA

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

REGATTA BAY PARTNERS, LTD,

Petitioner,

vs.

Case No. 2021-031GA

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Amc Ramoey ATTL: 12/14/2021

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (the “Board”) for consideration and final agency action on December 10, 2021. On December 1, 2021, Landings on Millenia Blvd. Partners, Ltd. (“Landings”), Brentwood on Millenia Blvd. Partners, Ltd (“Brentwood”), Regatta Bay Partners, Ltd. College Preservation, LP (“Regatta Bay”), and Florida Housing Finance Corporation (“Florida Housing”) executed a Settlement Agreement, attached as Exhibit “A.”

IT IS HEREBY ORDERED that the Settlement Agreement is adopted and incorporated by reference as though fully set forth in this Order.

DONE and ORDERED this 10th day of December, 2021.



FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chair

Copies to:

Hugh R. Brown, General Counsel
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Betty Zachem, Esq.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

LANDINGS ON MILLENIA BLVD.
PARTNERS, LTD,

Petitioner,

DOAH Case No. 21-2423

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

BRENTWOOD ON MILLENIA BLVD.
PARTNERS, LTD,

Petitioner,

DOAH CASE NO. 21-2424

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

REGATTA BAY PARTNERS, LTD.

Petitioner,

DOAH CASE NO. 21-2425

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

SETTLEMENT AGREEMENT

Regatta Bay Partners, Ltd., (“Regatta Bay”) Brentwood Club on Millenia Blvd. Partners,
Ltd. (“Brentwood Club”) and Landings on Millenia Blvd. Partners, Ltd. (“Landings”)

(collectively “Petitioners”), and Respondent Florida Housing Finance Corporation (“Florida Housing”) jointly stipulate to the matters set forth in this Agreement and further agree to a resolution of the matters set forth herein.

Preliminary Statement

In 2002 Petitioners, Regatta Bay and Brentwood Club, submitted Applications for funding to Florida Housing and were ultimately awarded low income housing tax credit funding (“tax credits”) through the Universal Application Cycle process for the construction of affordable housing developments. Similarly, Petitioner Landings in 2003 submitted an Application to Florida Housing that was ultimately awarded tax credit funding. Petitioners have constructed and operated their respective Developments consistent with the tax credit program as laid out in the Universal Application, applicable rules and regulations.

Pursuant to IRC Section 42, tax credit properties are subject to a minimum 30 year affordability commitment: A 15 year initial compliance period, plus a minimum 15 year extended use period. The commitment, through an Extended Low Income Housing Agreement (“ELIHA”) placed on the property, puts restrictions on tenants’ income and limits the amount of rents that can be charged. The ELIHA is executed by the owner of the property and Florida Housing and is recorded in the public record. IRC Section 42 includes a provision that allows affordable housing property owners to be released from the extended 30 year affordability restrictions through a Qualified Contract option. The Qualified Contract option involves the submittal of an application to the appropriate state housing finance agency in this case Florida Housing any time after the 14th year of the initial 15 year compliance period. Once the application is submitted, Florida Housing has one year to provide a “Qualified Contract” from a buyer who will maintain the affordability restrictions on the property for the 15 year extended

use period. Pursuant to the Qualified Contract option if Florida Housing is unable to provide the owner with a purchaser and a bona-fide contract during the one year period, then the owner is relieved of the 15 year extended affordability restrictions and the ELIHA on the property is terminated.

On April 22, 2020, Petitioner Regatta Bay submitted to Florida Housing a Qualified Contract Package Application initiating the Qualified Contract process. Accordingly, Florida Housing had until April 23, 2021, to provide a bona-fide contract to Petitioner Regatta Bay. On June 12, 2020, both Petitioner Landings and Petitioner Brentwood Club likewise submitted Qualified Contract Package Applications initiating the Qualified Contract process. Accordingly, Florida Housing had until June 12, 2021, to provide a bona-fide contract to Petitioners Landings and Brentwood Club.

In response to Petitioners' Applications, Florida Housing provided Petitioners with certain agreements for purchase and sale for each Development. Florida Housing takes the position that the agreements for purchase and sale for each Development constitute bona-fide contracts pursuant to Rule 67-48-031, F.A.C. Petitioners timely challenged Florida Housing's decision by filing a Formal Written Protest and Petition for Administrative Hearing. For the reasons included in the Petition, Petitioners contend that the agreements do not constitute bona-fide contracts. The Petition is currently pending before the Division of Administrative Hearings or DOAH.

Agreement

Subsequent to initiating this proceeding the Parties have held extensive settlement discussions and in order to avoid the time, expense, and uncertainty of litigation, and with

neither Party confessing error, the Parties agree to the following resolution of litigation:

1. Existing ELIHA's for Brentwood, Landings, and Regatta will be amended as follows:

- a. On the dates set out in Exhibit 1, the set-asides for each Development will be amended to 25% of the total units @ 80% AMI with income and rent restrictions.
- b. The Parties by December 17, 2021, will agree upon the documentation needed to reflect the amendment and record such documentation as necessary.

2. Petitioners Acknowledge the waiver of QC Rights:

- a. Petitioners acknowledge the waiver of the right to participate in the qualified contract process for the Developments shown in Exhibit 2.
- b. Petitioners also acknowledge the waiver of the right to any further legal rights and process, if any, regarding the qualified contract process set forth in Rule 67-48-031, F.A.C. for the Developments listed in Exhibit 2.
- c. Petitioners have the authority to acknowledge the waiver of the QC rights for the listed Partnerships.
- d. After the Board issues a Final Order in this matter, the parties by year end will agree upon documentation needed to reflect any acknowledged waiver and record amendments to the existing ELIHA's as necessary.

3. Petitioners agree to repay SAIL loans:

- a. All outstanding SAIL loan principal amounts for the projects listed in Exhibit 3 will be repaid but not later than July 31, 2022.

- b. Prior to the repayment date in 3.a., Petitioners may for the amount of the principal still outstanding place the SAIL loan repayments into escrow, at which time interest on the SAIL loans will cease to accrue.
- i. Florida Housing will break escrow no later than July 31, 2022.
 - ii. At that time, if all accrued interest has been repaid, the loans will be discharged.
 - iii. If accrued interest has not been repaid by that date, the accrued interest will remain a non-interest bearing liability secured by the mortgage and repaid monthly out of the Developments cash flow.
 - iv. The compliance monitoring fees associated with these SAIL loans will continue to be assessed on an annual basis unless the developments are sold or ownership is otherwise transferred. If the development is sold or ownership is transferred, then the compliance monitoring fees will be required to be prepaid for the remainder of the compliance period.
 - v. Petitioners have the authority to agree to repayment of the SAIL loans by the Developments listed at Exhibit 3.

4. The parties understand and agree that each side shall be responsible for the payment of its own attorney's fees and costs and, subject to the terms of this agreement, additionally agree to waive any right to further action on the matters addressed herein, unless necessary to enforce the terms of a Final Order adopting the terms of this Settlement Agreement.

5. Upon issuance of a Final Order adopting the terms of this Settlement Agreement, Petitioners agree to timely dismiss with prejudice their Formal Written Protest and Petition for Administrative Hearing in DOAH Case Nos. 21-2423, 21-2424, and 21-

2425 respectively.

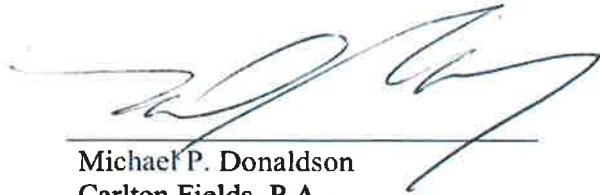
6. This Settlement Agreement is subject to approval of Florida Housing's Board of Directors. If the Board does not approve this Settlement Agreement, no Final Order will be issued, and this Settlement Agreement shall be null and void as if it were never executed.

7. The undersigned attorneys represent that they have the authority to execute this Settlement Agreement on behalf of their respective clients.

Executed this 15th day of December, 2021.



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EXHIBIT 1

EXHIBIT 1

ELIHA Amendments

Property	Original QC Date	Amendment Date
Regatta Bay Partners, Ltd.	4/23/2021	10/31/2023
Brentwood Club on Millenia Blvd. Partners, Ltd.	6/15/2021	12/31/2023
The Landings on Millenia Blvd. Partners, Ltd.	6/15/2021	5/20/2024

EXHIBIT 2

EXHIBIT 2

Waiver Acknowledgement of QC Rights For:

*Waterford East Partners, Ltd.
Berkshire Club Partners, Ltd.
Newport Sound Partners, Ltd.
Hunters Run Partners II, Ltd.
The Cove at St. Andrews Partners, Ltd.
Belle Isle Apartments Partners, Ltd.
Heritage Pointe Partners, Ltd.
University Club Partners, Ltd.
Millenia Club Partners, Ltd.
Fox Chase Partners, Ltd.
Lake Harris Cove Partners, Ltd.

*Is currently in litigation. Owner will agree to acknowledge the waiving of any remaining QC Rights once litigation is completed and the recordation of any necessary document.

EXHIBIT 3

EXHIBIT 3

SAIL Loan Repayment

#	Name
2115	Charleston Club*
2161	Brookside*
2145	Cambridge Cove*
2208	Nassau Club*
2236	Brookwood Forest*
2067	Lakewood Shores
2111	University Club
2148	Glen on Millenia Blvd
2153	Landings on Millenia Blvd.
2164	Hunters Run
2172	Mystic Cove
2181	Hunters Run II
2186	Cove at St. Andrews
2207	Lee Vista Club
2227	Wickham Club
2232	The Cove @ Lady Lake
2237	Harris Cove (Lakeside Pt)
2244	Lake Harris Cove

*SAIL loan repayment completed November 15, 2021.