

BEFORE THE STATE OF FLORIDA
HOUSING FINANCE CORPORATION

DUVAL PARK, LTD.

Petitioner,
vs.

APPLICATION NO. 2013-111C
CASE NO. _____

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.
_____ /

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**FORMAL WRITTEN PROTEST AND
PETITION FOR ADMINISTRATIVE HEARING**

Petitioner, DUVAL PARK, LTD. (“Duval Park”), pursuant to sections 120.57(3), Florida Statutes (“F.S.”), and Rule 28-110, Florida Administrative Code (“FAC”) hereby files this Formal Written Protest and Petition for Administrative Hearing regarding the decision of Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) to award funding to responsive bidders pursuant to RFP 2013-08 Special Needs High Priority Affordable Housing Developments (“RFP”). In support, Duval Park states as follows:

1. Duval Park is a Florida limited corporation in the business of providing affordable housing throughout the State of Florida. Duval Park is located at 5300 W. Cypress Street, Suite 200, Tampa, Florida 33607. For the purposes of this proceeding, Duval Park's phone number is that of its undersigned attorneys.

2. Florida Housing is the agency of the State of Florida that was granted the authority to issue RFP 2013-08 for the purpose of providing much needed affordable housing. Florida Housing's address is 227 North Bronough Street, Tallahassee, Florida 32301.

3. On April 15, 2013, Florida Housing issued the RFP to award an estimated \$1,720,000 in competitive Low Income Housing Tax Credits ("LIHTC's") to proposed Developments providing housing for Veterans and their families, and other special needs populations in communities throughout the State.

4. At Section One the RFP provides:

Out of two or more Applications expected to be funded through this RFP, the Corporation has a goal to fund at least one Development proposing to serve Veterans with Special Needs, particularly one which proposes to serve the needs of Veterans with Special Needs, as follows: 1) Veterans with a service-connected Disabling Condition(s) who have been determined eligible and choose to transition from nursing, rehabilitation or domiciliary care facilities within a designated VA Hospital and/or Medical Center development in Florida and who have been determined eligible for, need and chose Permanent Supportive Housing; or 2) Veterans with a Disabling Conditions who are in institutions or chronically homeless and have been identified as significant users of public resources including emergency care and shelter, judicial services, and institutions and who have been determined eligible for, need and choose Permanent Supportive Housing.

To meet the RFP funding goal, eligible Applications proposing to serve Veterans transitioning from nursing, rehabilitation or domiciliary care facilities within a designated VA Hospital and/or Medical Center will have preference.

5. To fund the RFP, Florida Housing was authorized by the legislature to use up to 10% of its annual allocation of LIHTC's to allocate to high priority affordable housing developments by a competitive solicitation process.

6. By issuing the RFP, Florida Housing sought to solicit proposals from qualified Applicants that would commit to construct and/or rehabilitate housing in accordance with the terms and conditions of the RFP, applicable laws, rules, and regulations.

7. On May 24, 2013, Duval Park submitted its Response to the RFP which included information concerning a 88-unit garden apartment complex in Pinellas County named Duval Park. Through the Response, Duval Park requested \$1,300,000 in LIHTC funding assistance for the project which has an overall development cost of \$17,485,503. Duval Park believed that it had satisfied all requirements of the RFP. In addition to Duval Park six other Applicants responded to the RFP as well to provide various projects throughout the State. The responses were as follows:

2013-107C	Patriot Village
2013-108C	Collins Park
2013-109C	Claude Pepper Villas
2013-110C	Martin Fine Villas
2013-111C	Duval Park
2013-112C	Heron Estates Veterans Housing
2013-113C	Liberty Village

8. Consistent with the primary mission and goal of the RFP, the Duval Park Development is proposed to provide much needed affordable housing to Veterans in Pinellas County. The proposed Development will provide apartments for rent at reduced and affordable rates. Without the RFP funds, Duval Park will be unable to offer the Development at the affordable prices proposed in the Response.

9. At Section Six the RFP lists the items which must be included. The total points available for the RFP were 133.

10. The RFP at Section Seven describes the evaluation process as follows:

SECTION SEVEN EVALUATION PROCESS

Individual Committee members shall independently evaluate and score their assigned portions of the submitted Applications, consulting with non-committee Corporation staff and legal counsel as necessary and appropriate.

As outlined in Section Three of the RFP, any of the following will cause the Application to fail threshold and be rejected: failure to submit the Application outline with the required number of hard copies, failure to submit the Application by the Application deadline, and/or failure to submit the required Application fee.

As outlined below, an Applicant will be ineligible to be considered for funding if the Applicant or Developer or Principal, Affiliate or Financial Beneficiary of the Applicant or Developer is in Arrears to the Corporation or any agent or assignee of the Corporation.

Applications will be scored based on the following Threshold and Point items:

Threshold Items	Point Items	Maximum Points
Demographic Commitment	Outreach, Marketing and Tenant Selection	10
Name of Applicant	Contact Person for Application	5
Evidence Applicant is a legally formed entity	Developer Experience with Permanent Supportive Housing	25
Principals for Applicant and for each Developer	Management Company Experience with Permanent Supportive Housing	10
Name of Each Developer	Number of Buildings with Dwelling Units	3
Evidence that each Developer entity is a legally formed entity	Optional Construction Features and Amenities	25
Name of Proposed Development	Optional Resident Services	30
County identified	Access to Community-Based Services and Amenities	25
Address of Development Site		
Verification of QCT status (if applicable)		
Estimated qualified basis in Rehabilitation Expenses per set-aside unit (if applicable)		
Development Category		
Development Type		
Total Number of Units		
New construction units and/or rehabilitation units		
Status of proposed work (commenced/ completed)		
Minimum Set-Aside election		
Total Set-Aside Breakdown Chart		
Evidence of Site Control		
Housing Credit Request Amount		
Development Cost Pro Forma (listing expenses or uses) and Construction/Rehab. analysis and Permanent analysis (listing sources) — Sources must equal or exceed uses		
Executed Applicant Certification and Acknowledgement (original signature in "Original Hard Copy"		
Total Possible Points:		133

The Committee shall conduct at least one public meeting during which the Committee members may discuss their evaluations, select Applicants to be considered for award, and making any adjustments deemed necessary to best serve the interests of the Corporation's mission. The Committee will list the Applications deemed eligible for funding in order from highest total score to lowest total score, applying the funding selection criteria outlined in Item B of Section Six above, and develop a recommendation or series of recommendations to the Board. The Committee will deem an Application ineligible for funding if, at the time the Committee meets to make its recommendation to the Board, there are any financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation. The Board may use the Applications, the Committee's scoring, any other information or recommendation provided by the Committee or staff, and any other information the Board deems relevant in its selection of Applicants to whom to award funding. Notwithstanding an award by the Board pursuant to this RFP, funding will be subject to a positive recommendation from the Credit Underwriter based on criteria outlined in the credit underwriting provisions in Exhibit C of the RFP.

11. On June 10th and 19th, 2013, the designated Review Committee met and considered the RFP Responses. The Review Committee was made up of Florida Housing staff. The first meeting was an organizational meeting where the Review Committee discussed the scoring process. At the second meeting the Review Committee discussed each Application in detail. Review Committee members read into the record their scores. The Review Committee added up the scores and made their recommendation based on the procedure set forth above. In its consideration, the Committee determined that the Duval Park's Response should be awarded 119/133 points which was the highest scoring Application by two points. Five of the seven Applications failed threshold for various reasons or did not obtain the minimum number of points required by the RFP.

12. The Review Committee after its review recommended that Duval Park be allocated its requested funding. No other Responder was recommended for funding. Specifically the scoring was as follows:

2013-111C	Duval Park	119/133
2013-113C	Liberty Village	117/133
2013-108C	Collins Park	95/133
2013-112C	Herron Estates	87/133
2013-107C	Patriot Village	87/133
2013-109C	Claude Pepper Villas	67/133
2013-110C	Martin Fine Villas	67/133

13. On June 21, 2013, Florida Housing's Board of Directors accepted the Review Committee's ranking as presented by Attachment A. Also during the June 21, 2013, meeting the Board of Directors accepted the Review Committee's recommendation to reject five RFP Responses based on alleged failures to comply with the requirements of the RFP or obtaining the minimum amount of points required by the RFP.

14. On June 25, 2013, Duval Park timely filed its Notice of Intent to Protest. Also on June 25, 2013, the next highest ranked and unfunded Responder filed an Intent to Protest. This Formal Protest is being timely filed to gain maximum points so that Duval Park will remain the highest scoring and ranked Responder. Because of the closeness in scoring between Duval Park and the next highest ranked Responder who has also filed a Notice of Protest and will presumably attempt to become the highest ranked Responder, Duval Park's substantial interests will be impacted by Florida Housing actions. There are insufficient LIHTC funds in this RFP to approve more than one (1) Application. Accordingly, Duval Park has standing to file this challenge. Florida Housing has waived the Protest Bond requirement for this RFP.

15. As disclosed in the notes of the Review Committee and as disclosed orally during the Review Committee meeting, Duval Park did not achieve maximum score for several RFP scoring items. Duval Park is entitled to additional points for these sections as explained more fully below.

Accessibility and Universal Design

16. At Section Six(A)(6)(b)(2) each Responder was asked to provide information concerning proposed project features designed to promote accessible and adaptable design elements that benefit the population of major focus (Veterans transitioning from VA facilities) and people of all ages, sizes and abilities throughout the life of the property. Based on its features a Responder could earn up to 15 points.

17. In its Response Duval Park specifically described the features it proposed to satisfy this Section but was only awarded 10 out of the possible 15 points. It is clear that Duval Park's features which were specifically selected by Service Source, a Duval Park Partner with vast experience in serving the Veteran household focused on in this RFP, were not adequately considered by Florida Housings Review Committee.

18. For example the Review Committee awarded 11 out of a possible 15 points for Response 2013-113C which contains the general statement that "all 65 units will be 100% [ADA] Compliant." Even the list of features listed at Response 2013-113C indicates only a generic intent to be ADA compliant rather than a thoughtful and experience driven approach to address Veterans households. Duval Park is entitled to at least one more point for its response at this Section.

Outreach, Marketing and Tenant Selection

19. The RFP at Section Six (A)(1)(c)(2) provides for Responders to receive up to 10 points for proposed outreach and other activities that will be conducted to market the proposed Development to the major focus households and general public. The highest scoring application for this section, Response 2013-113C, scored a perfect 10 out of 10 and sets the benchmark for this section. By comparison Duval Park describes two key Outreach/Marketing tools that are not

mentioned at all in Response 2013-113C and apparently not considered by the Review Committee. The first is the several hundred Housing Choice Vouchers ("HCV's") that are controlled by Boley Centers, Inc. (a Duval Park Partner). The second is the VASH Program. HCV's and VASH both provide a substantial federal subsidy to the tenant in the form of assistance with the monthly rent. This is key to ensuring the long-term tenancy of the Disabled Veteran and thus key to the economic viability of the property during the decades-long operational phase. Outreach through the HCV/VASH programs appears to not have been adequately considered by the Review Committee and Duval Park was only awarded 8 out of a possible 10 points. Based on its Response Duval Park should have been awarded 2 additional points.

Construction Features and Amenities: Other Features and Amenities

20. At Section Six (A)(6)(b)(3) the RFP allows a Responder to receive up to 5 points for any other Innovative and Best Practices for other features and amenities (as opposed to services) that will be included in the proposed Development.

21. The highest scoring Response for this section was a tie between Duval Park and Response 2013-113C. Both scored 4 out of 5. Response 2013-113C briefly described three services and only one Feature/Amenity. This RFP Section was clearly designed to provide an Responder an opportunity to describe actual physical features that would be constructed or installed in either the unit or on the site. This is the distinction between a Feature/Amenity as opposed to a Service. Services are to be described in Section 7 of the Application.

22. The Review Committee awarded Response 2013-113C 4 points even though that Application described only one true Feature/Amenity namely: "game tables for chess and dominos." Duval Park, on the other hand, provided a list of more than twenty separate Features

and Amenities that it will construct, install, and maintain for the benefit of the residents. Accordingly, Duval Park should have been awarded 1 additional point for this section. A further distinction is that Response 2013-113C proposed 65 units in a single mid-rise building. In this section, Response 2013-113C references the difficulty getting residents to "regularly leave the building." This is because the type of building they propose (mid-rise with minimal outdoor space) is not suited to inspiring Disabled Veterans' reintegration into society. Duval Park proposed 88 units spread over almost 10 acres, which includes outdoor space where it has committed to provide among other things a large green space. This target population needs a campus-like setting with outdoor areas as proposed by Duval Park.

Supported Employment Services

23. The RFP at Section Six (A)(7)(b)(1) allows a Responder to obtain up to 15 points for supported Employment Services and programs provided at no cost to residents. The highest scoring Response for this section was a tie between Duval Park and Response 2013-113C. Both scored 14 out of 15. The descriptions of both Duval Park's and Response 2013-113C's programs were comparable in most respects. However Response 2013-113C scored 14 out of 15 despite mostly disregarding the unique needs of wounded Veterans, its population of major focus. Their focus seems to be veterans with mental health conditions, drug/alcohol issues, or other disabling conditions. Duval Park specifically described its intent and processes for assisting wounded Veterans including finding employment. This distinction is significant and was apparently identified by one Review Committee member who initially scored Duval Park with a perfect 15. Accordingly Duval Park should have been awarded one additional point for its Response at this Section.

Innovative or Best Practices Related to Development

24. The RFP at Section Six(A)(8)(c) allows a Responder to earn up to 5 points for proposed Innovative or Best Practices Related to the Development or Development location as well as amenities and services to be provided by the Development itself or in partnership with a public or private entity. For its Response Duval Park was only awarded 4 out of 5 points.

25. In its Response Duval Park distinguishes itself from other Responders due to the uniqueness of its Development Site. Being contiguous to a 33-acre County park and less than 1,000 feet from a tuition-free K-8 Charter School offers superior features that no other Responder matched. Additionally Duval Park is the only low-rise campus-style site layout of all the highest scoring Responders. This is another enormous enhancement to the overall livability of the Development Site for the focus population. Duval Park was only awarded four out of five points despite providing these superior features. Duval Park is entitled to one more for this section.

Approaches to Assist Household with Problem Credit

26. At Section Six(A)(7)(b)(2) the RFP awards up to 10 points for Responders who provide approaches which assist households with problem credit and or other problems affecting housing.

27. The highest scoring Response for this section was Response 2013-113C, which scored a perfect 10 out of 10. Using Response 2013-113C as benchmark, it is clear that Duval Park was equal if not better in all respects. First Response 2013-113C did not focus its description on Disabled Veterans or Wounded Warriors, but more generically focused on "special needs" residents and preventing "homelessness." Duval Park on the other hand focused its description on the unique issues facing the population of disabled Veterans. Secondly, the

Review Committee improperly lauded Response 2013-113C for agreeing to "not conduct credit checks" on persons who apply to live at the proposed Development. The instructions for this section read in relevant part:

"The Applicant may propose innovative and best Practices that enable households with problem credit histories...to live in the proposed Development."

By not conducting credit checks prior to allowing a person to move in, 2013-113C asserts that its innovation or Best Practice is to ignore any potential problem at the initial phase but deal with them later, after the person has moved in. Not only does this not address the requirements of this Section, but it is on its face a bad policy.

28. By not conducting credit checks at the outset, Response 2013-113C is not taking advantage of a simple tool that might allow for greater knowledge about the potential resident. At Section Six A.1.c.(2), Response 2013-113C provides a detailed narrative about the several steps and comprehensive investigations that occurs prior to allowing a household to move in. It even states that "Tenant selection for any supportive housing community is of paramount importance." It goes on to specify the "protocol for selecting and screening tenants..." To willfully forego a credit check as part of this process does not seem sensible. A better method for dealing with this issue, and a method that more closely matches the RFP requirements, is to do what Duval Park has proposed. Duval Park proposes to work closely with the applicant household to try to "override" a denial due to Credit. This is a more comprehensive and nuanced process that makes Credit a part of the selection process, but also provides a tool and protocol for eliminating it as a barrier to Housing. Accordingly Duval Park is entitled to one additional point.

Access to Community Based Resources

29. At Section Six (A)(1)(8)(b), the RFP allows a Responder to score up to 10 points for providing information as to Access to Community-Based Resources to address specific healthcare and/or supportive service needs. This is the section where an application could be evaluated based upon how close it is to one of the VA Facilities named at Section 6 A.1.b.(1) of the RFP. Duval Park was only awarded 8 out of 10 points for this section.

30. The highest scoring Response for this section was Response 2013-108C, which scored 9 out of 10. Using Response 2013-108C as a benchmark, it is clear that Duval Park was equal if not better in all respects. The major distinguishing factor for this section was access to private transportation. While Response 2013-108C stated that it would provide private transportation in a van, Duval Park provided a more detailed description of its private transportation system. Secondly, the superiority and appropriateness of the Duval Park site again should have been more heavily weighted. Duval Park is approximately 5 miles from the nearest VA facility (Bay Pines VA Healthcare System in St. Petersburg). Whereas Response 2013-108C is approximately 14 miles from James A. Haley Veteran's Hospital in Tampa. Accordingly Duval Park is entitled to an additional 2 points.

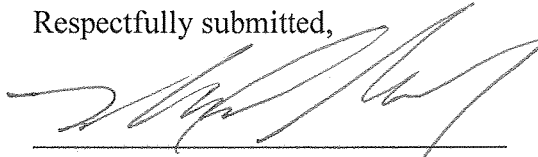
31. Material issues to be resolved:

- a) Whether Duval Park's Response has been appropriately reviewed and scored.
- b) Whether Florida Housing's scoring Decision under the RFP was arbitrary or capricious clearly erroneous and contrary to competition.
- c) Whether Duval Park is entitled to additional points for its RFP Response.

WHEREFORE, Duval Park requests a hearing involving any disputed issues of material fact and entry of an order determining that Florida Housing's determination that Duval Park's Response should be only awarded 119 points under the RFP is contrary to the RFP specifications and to Florida Housing's governing statutes, rules and policies to such an extent as to be

arbitrary, capricious, contrary to competition, and clearly erroneous. Duval Park's Response should receive at least 7 additional points.

Respectfully submitted,

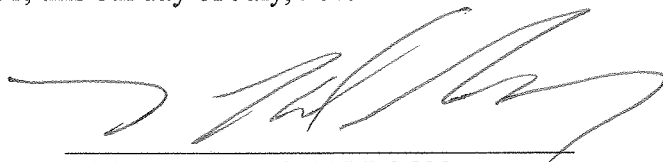


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and two copies of the foregoing has been filed by Hand Delivery to the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301, this 8th day of July, 2013



MICHAEL P. DONALDSON

2013-08 Special Needs High-Priority Affordable Housing Developments Recommendations for the Board

Applications Recommended by Committee to be Funded

Application Number	Name of Contact Person	Name of Developers	Name of Development	County	Population Served	Major Focus	Competitive HC Request Amount	Passed Threshold	Total Score	Financial Arrears	Eligible for Funding	HC request per Set-Aside	Florida Job Creation Preference	Lottery Number
2013-111C	Shawn I. Wilson	Duval Park Developer LLC	Duval Park	Pinellas	V	VT	\$1,300,000.00	Yes	119	N	Y	\$14,772.73	Y	7

Eligible Unfunded Applications

Application Number	Name of Contact Person	Name of Developers	Name of Development	County	Population Served	Major Focus	Competitive HC Request Amount	Passed Threshold	Total Score	Financial Arrears	Eligible for Funding	HC request per Set-Aside	Florida Job Creation Preference	Lottery Number
2013-113C	Stephanie Berman	Carfour Supportive Housing, Inc.	Liberty Village	Miami-Dade	V	VT	\$1,000,000.00	Yes	117	N	Y	\$15,384.62	Y	1

Ineligible Applications listed in Application Number Order

Application Number	Name of Contact Person	Name of Developers	Name of Development	County	Population Served	Major Focus	Competitive HC Request Amount	Passed Threshold	Total Score	Financial Arrears	Eligible for Funding	HC request per Set-Aside	Florida Job Creation Preference	Lottery Number
2013-107C	Jonathan L. Wolf	Patriot Village Developer Inc.	Patriot Village	Pinellas	V	VDC	\$1,300,000.00	No	87	Y	N	\$14,444.44	Y	5
2013-108C	Bowen A. Arnold	DDA Development Company, Inc.; TLB Consulting of Central Florida, LLC	Collins Landing	Hillsborough	V	VT	\$1,300,000.00	No	95	N	N	\$18,055.56	Y	2
2013-109C	Alberto Milo, Jr.	Pepper Veterans Housing Developer, LLC; (RUDG, LLC & Hebrew Homes Housing, Inc.) - See Attachment 5	Claude Pepper Villas	Miami-Dade	P		\$667,808.00	No	67	Y	N	\$13,356.16	Y	6
2013-110C	Alberto Milo, Jr.	Developer Entity: Martin Fine Special Needs Developer, LLC; (RUDG, LLC & Hebrew Homes Housing, Inc.) - See Attachment 5	Martin Fine Villas	Miami-Dade	P		\$697,811.00	No	67	Y	N	\$13,956.22	Y	3
2013-112C	Alberto Milo, Jr.	by Green Veterans Housing Developer, LLC; RUDG, LLC; Volunteers of America of Florida, Inc.; Mosnar Group, LLC	Heron Estates Veterans Housing	Palm Beach	V	VT	\$893,915.00	No	89	Y	N	\$11,918.87	Y	4

Please note, any unsuccessful applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., and Rule Chapter 28-110, F. A. C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., et. al. or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.