

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PINNACLE RIO, LLC,

Petitioner,

vs.

DOAH NOS. 14-1398BID

14-1399BID

FLORIDA HOUSING FINANCE
CORPORATION,

14-1400BID

14-1425BID

14-1426BID

Respondent,

14-1427BID

14-1428BID

and

ALLAPATTAH TRACE APARTMENTS,
LTD.

Intervenor.

**TOWN CENTER'S RESPONSE TO
ALLAPATTAH'S FIRST SET OF INTERROGATORIES**

COMES NOW, TOWN CENTER PHASE TWO, LLC ("Town Center") hereby responds to Petitioner Allapattah Trace Apartments, Ltd ("Allapattah") First Set of Interrogatories as follows:

INSTRUCTIONS

1. In answering these interrogatories, furnish all information which is available to Town Center, including information in the possession of its agents, employees, representatives and all others from whom it may freely obtain said information, as well as from its attorneys in their investigation.

2. In answering each interrogatory, in addition to supplying the information requested and identifying any documents referred to specifically, identify all other documents which are or may be in existence and which relate to the subject of such interrogatory or to its answer.

3. If you cannot answer any one or any subpart of these interrogatories in full, after exercising due diligence to secure the information to do so, explicitly so state. Answer all interrogatories and subparts and give any information in Town Center's possession which may partially answer the interrogatory or subpart which you cannot answer in full, or which may lead to Sunshine discovering the answer thereto.

4. If you maintain that any document or record relevant to these Interrogatories has been destroyed or lost, set forth the content of said document, the date of such loss or destruction, and, in the case of destruction, the name of the person who ordered or authorized the destruction, and the reasons for the destruction.

DEFINITIONS

1. The terms "you" and "your" as used herein shall mean Town Center and any affiliated or related organization, and any person helping it answer these interrogatories, and any present or former employee, agent, partner, attorney, servant, representative, or other person acting or purporting to act on behalf of the person in question, or any related or affiliated organization.

2. The term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other person acting or purporting to act on behalf of the person in question.

3. The term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, or other units therein, and shall include but not be limited to a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau or department.

4. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order, form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer generated or maintained records, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer in your possession, custody or control.

5. As used herein, the terms "identification," "identity" or "identify," when used in reference to: (a) a natural individual, requires you to state his or her full name and residential and business address; (b) a corporation, requires you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices in Florida; (c) a business, requires you to state the full name or style under which the business is conducted, its business address or addresses, the types of business in which it is engaged, the geographic areas in which it conducts those businesses, and the identity of the person or persons who own, operate and control the business; (d) a document, requires you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication, requires you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication and to the extent that the communication was written, to identify the document or documents which refer to or evidence the communication and to the extent the communication was non-written, to identify the persons participating in the communication and

to state the date, manner, place and substance of the communication.

6. As used herein, "state the basis" of or for a particular claim, assertion, allegation or contention, means to:

a. Identify by date, title and description each and every document (and, where pertinent, the section, article and/or subparagraph thereof), which forms any part of the source of your information.

b. Identify by date, time, parties and subject matter each and every communication, which forms any part of the source of your information.

c. State separately the acts and/or omissions to act on the part of any person (identify the acts and/or omissions to act by stating their nature, time and place and identifying the persons involved), which form any part of the source of your information.

d. State separately any other fact, which forms the basis of your information.

7. The term "FHFC" or "Florida Housing" refers to the Florida Housing Finance Corporation.

8. The term "RFA" or "the RFA" refers to the Request for Applications 2013-003.

9. The term "ATA Application" refers to the application filed by ATA in response to the RFA.

General Objection

Town Center objects to the definitions and instructions to the extent they impose obligations and requirements beyond those actually permitted by the Florida Rules of Civil Procedure.

INTERROGATORIES

1. In the event you responded to any of the Requests for Admission served contemporaneously herewith by denying the Request either in whole or in part, please state the basis for the denial and identify the person(s) with the most knowledge regarding the reasons for the denial.

RESPONSE:

At Request for Admission #1 – Town Center denied that the possibility of a future solution to the sewer moratorium "cures" the fact that the moratorium was in place as of the Application Deadline. Additionally at Request for Admissions #2 through #4 Town Center denied Requests concerning whether alternatives existed. Whether alternatives exist is an issue only Miami-Dade County can determine but is not relevant here as to whether sewer capacity was in place as of the Application Deadline. Exhibit 1 acknowledges the existence of the Initial Moratorium for the provision of sewer as of the Application Deadline of November 12, 2013. This Exhibit makes clear that as of the Application Deadline sewer capacity was not available to the proposed Development site. This fact is further confirmed by the letter attached to Town Center's Petition for Hearing dated February 4, 2014, authored by Frank Lezcano. The alternative suggested by Exhibit 1 and allegedly contemplated by ATA does not change the fact that sewer capacity, because of the Moratorium, was not available to serve the proposed Development site as of the Application Deadline and currently is not available. ATA when it submitted its Application certified that it could demonstrate that sewer capacity was available as of the Application Deadline. The person at Town Center with the most knowledge regarding this issue is Alberto Milo, Jr..

2. Please identify every non-expert witness who is expected to testify on behalf of or be called as a witness by Town Center at the final hearing in this matter.

- a. For each person identified, please identify the specific subject matter(s) about which the person is expected to testify, and provide a copy of the person's resume or curriculum vitae.

RESPONSE:

At this time a final decision has not been made concerning who Town Center expects to call as a non-expert witness. A tentative list would include:

1. Alberto Milo, Jr. Vice President, RUDG, LLC who may testify generally about the Town Center Application and the availability of infrastructure issue raised by Town Center.
2. Frank Lezcano, Engineer – 111 Environmental Plan Review Department of Regulatory and Economic Resources Miami-Dade County, 701 NW 1st Court, 2nd Floor, Miami, Florida 33136-3902 who may testify as to the availability of sewer capacity in Miami-Dade County and specifically for Allapattah Development Site.
3. Florida Housing Staff unknown at this time.

3. Please identify every expert witness who is expected to testify on behalf of or be called as a witness by Town Center at the final hearing in this matter.

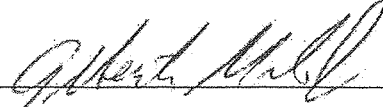
- a. For each person identified, please identify the specific subject matter(s) about which the person is expected to testify and provide a copy of the person's resume or curriculum vitae.
- b. For each person identified, please state the witness' qualifications as an expert.
- c. For each person identified, please state the substance of the facts and opinions to which the witness is expected to testify, and provide a summary of the grounds for each opinion.
- d. For each expert witness you identified in response to interrogatory number 4, please list all judicial and administrative cases in which such witness has testified (deposition or trial testimony) during the past five years, including sufficient information to identify the forum, the case number and the date(s) of such testimony.

RESPONSE:

At this time Town Center does not anticipate calling any expert witnesses; however should that determination change Town Center will notify all parties.

VERIFICATION

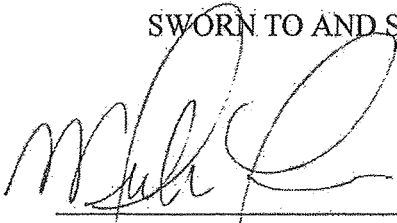
I hereby verify under oath that the foregoing Answers to Interrogatories and the statements contained therein are true and accurate.

By: 
Printed Name: Alberto Milo, Jr.
Applicant: Town Center Phase Two, LLC

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared: Alberto Milo Jr.
who is personally known to me, or who produced N/A as identification.

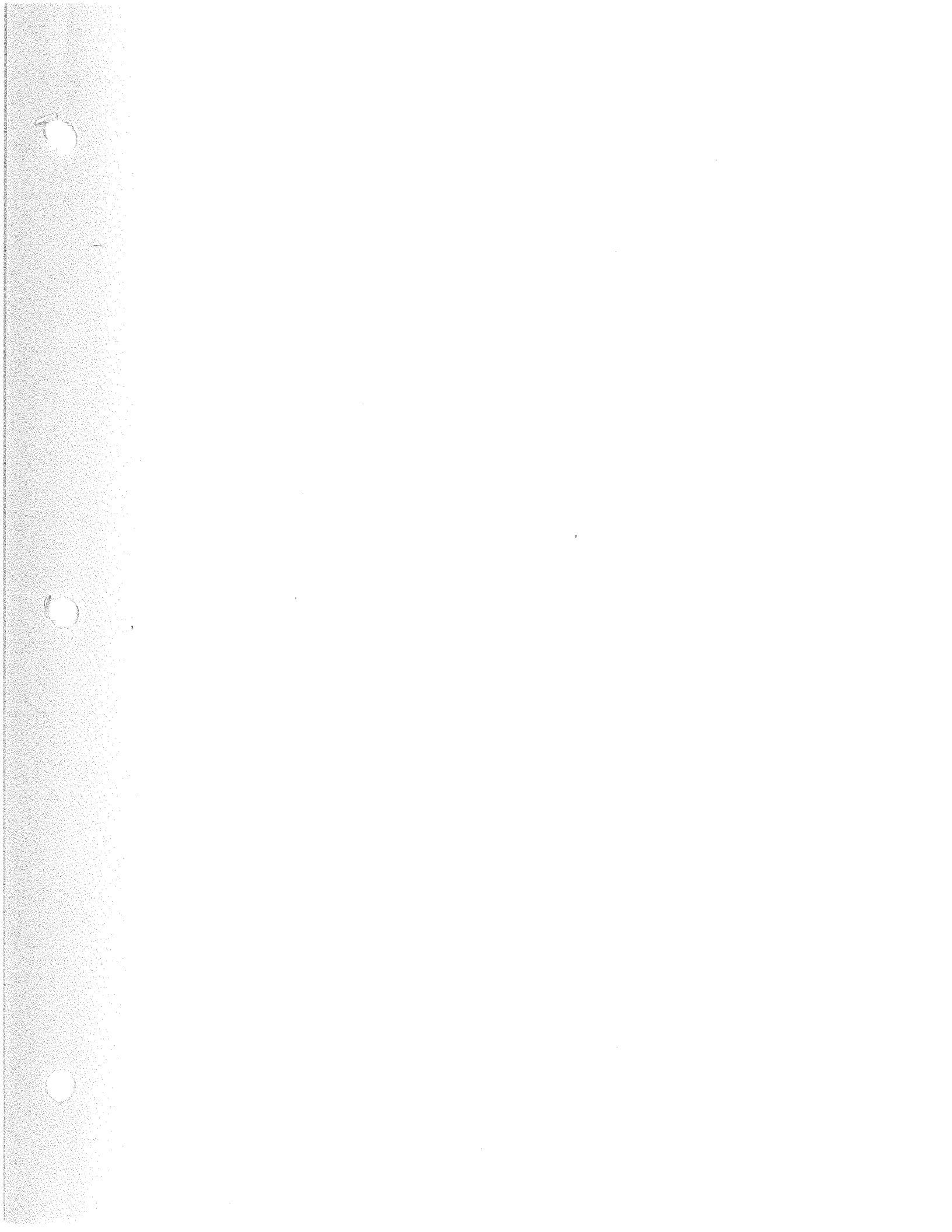
SWORN TO AND SUBSCRIBED before me this 11th day of April, 2014


(Signature)

Maria Juliana Londono
(Printed Name)



(AFFIX NOTARIAL SEAL)
(Commission Expiration Date)



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**TOWN CENTER RESPONSE TO
ALLAPATTAH'S SECOND SET OF INTERROGATORIES**

COMES NOW, TOWN CENTER PHASE TWO, LLC ("Town Center") hereby responds to Petitioner Allapattah Trace Apartments, Ltd ("Allapattah") Second Set of Interrogatories as follows:

INSTRUCTIONS

1. In answering these interrogatories, furnish all information which is available to Town Center, including information in the possession of its agents, employees, representatives and all others from whom it may freely obtain said information, as well as from its attorneys in their investigation.

2. In answering each interrogatory, in addition to supplying the information requested and identifying any documents referred to specifically, identify all other documents which are or may be in existence and which relate to the subject of such interrogatory or to its answer.

3. If you cannot answer any one or any subpart of these interrogatories in full, after exercising due diligence to secure the information to do so, explicitly so state. Answer all interrogatories and subparts and give any information in Town Center's possession which may partially answer the interrogatory or subpart which you cannot answer in full, or which may lead to Sunshine discovering the answer thereto.

4. If you maintain that any document or record relevant to these Interrogatories has been destroyed or lost, set forth the content of said document, the date of such loss or destruction, and, in the case of destruction, the name of the person who ordered or authorized the destruction, and the reasons for the destruction.

DEFINITIONS

1. The terms "you" and "your" as used herein shall mean Town Center and any affiliated or related organization, and any person helping it answer these interrogatories, and any present or former employee, agent, partner, attorney, servant, representative, or other person acting or purporting to act on behalf of the person in question, or any related or affiliated organization.

2. The term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other person acting or purporting to act on behalf of the person in question.

3. The term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, or other units therein, and shall include but not be limited to a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau or department.

4. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order, form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer generated or maintained records, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer in your possession, custody or control.

5. As used herein, the terms "identification," "identity" or "identify," when used in reference to: (a) a natural individual, requires you to state his or her full name and residential and business address; (b) a corporation, requires you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices in Florida; (c) a business, requires you to state the full name or style under which the business is conducted, its business address or addresses, the types of business in which it is engaged, the geographic areas in which it conducts those businesses, and the identity of the person or persons who own, operate and control the business; (d) a document, requires you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication, requires you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication and to the extent that the communication was written, to identify the document or documents which refer to or evidence the communication and to the extent the communication was non-written, to identify the persons participating in the communication and

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7. The term "FHFC" or "Florida Housing" refers to the Florida Housing Finance Corporation.

8. The term "RFA" or "the RFA" refers to the Request for Applications 2013-003.

9. The term "ATA Application" refers to the application filed by ATA in response to the RFA.

General Objection

Town Center objects to the definitions and instructions to the extent they impose obligations and requirements beyond those actually permitted by the Florida Rules of Civil Procedure.

INTERROGATORIES

1. Paragraph 18 of your Formal Written Protest begins with the following sentence: "Historically, Florida Housing has found that if a moratorium is in place as of the Application Deadline for a required service, then infrastructure is not available for that service." Please identify every application that Town Center is referencing in that sentence and identify those documents that evidence such a finding by Florida Housing.

RESPONSE:

Town Center objects to this interrogatory as being overbroad. Town Center cannot know every application where Florida Housing has found that if a moratorium is in place then infrastructure is not available. Notwithstanding this objection a review of the 2011 Universal Application and specifically the provisions concerning the availability of infrastructure to a proposed Development make clear that if a moratorium is in place then no infrastructure is available. This is the latest quantification of Florida Housing's position. Similarly the certification form which is required by the RFA asks the local government to confirm that no moratorium exists as of the Application Deadline. This again requires an affirmative statement by the service provider that no Moratorium exists. Additionally reference to several Final Orders during the 2011 Universal Cycle further supports this conclusion and the historical view taken by Florida Housing. *Jack Orr Plaza Preservation One, LLC v. Florida Housing*, Case No. 2012-045UC (Final Order November 2, 2012) . *Collins Park Apartments, LLC v. Florida Housing*, Case No. 2012-043UC (Final Order November 2, 2012). Other Final Orders may be available and all Final Orders and the previous years Universal Application can be found at Florida Housing's website.

VERIFICATION

I hereby verify under oath that the foregoing Answers to Interrogatories and the statements contained therein are true and accurate.

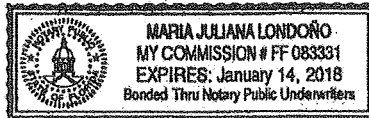
By: Alberto Milo, Jr.
Printed Name: Alberto Milo, Jr
Title: Vice President

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared Alberto Milo, Jr.
who is personally known to me, or who produced N/A. as
identification.

SWORN TO AND SUBSCRIBED before me this 15th day of April, 2014

Maria Juliana Londono
(Signature)
Maria Juliana Londono
(Printed Name)



(AFFIX NOTARIAL SEAL)
(Commission Expiration Date)