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BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING
FINANCE CORPORATION

ABILITY LONDONTOWNE, LLC

Petitioner,
vs.

FHFC Case No. 2017-050BP
RFA No. 2017-103
Application No. 2017-256CSN

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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

Petitioner, ABILITY LONDONTOWNE, LLC (“Ability”), pursuant to sections 120.57(3), Florida Statutes (“F.S.”), and Rules 28-110 and 67-60, Florida Administrative Code (“FAC”) hereby files this Formal Written Protest and Petition for Administrative Hearing regarding the review, ranking and scoring decision of Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) to award funding to responsive bidders pursuant to Request for Application 2017-103 Housing Credit and SAIL Financing for Homeless Households and Persons with a Disabling Condition (“the RFA 2017-103”). In support Ability provides as follows:

1. Ability is a Florida limited liability corporation in the business of providing affordable housing. Ability is located at 76 South Laura Street, Suite 303, Jacksonville, FL 32202.

2. Florida Housing is the allocating agency for the State of Florida that was granted the authority to issue RFA 2017-103 for the purpose of providing much needed permanent

housing. Florida Housing's address is 227 North Bronough Street, Suite 500, Tallahassee, Florida 32301.

3. On March 22, 2017, Florida Housing issued the RFA to offer funding as follows:

This Request for Applications (RFA) is open to Non-Profit Applicants proposing the development of Permanent Supportive Housing for Homeless individuals and families, that also include a portion of units for Persons with Special Needs as a result of a Disabling Condition ("Persons with a Disabling Condition") located in the Medium and Large Counties. Non-Profit Applicant entities may consist of either 100 percent Non-Profit entities or joint ventures between Non-Profit and For-Profit entities, if the Applicant meets the definitions of Non-Profit, as defined in Rule Chapter 67-48, F.A.C.

The intent of this RFA is to help communities address the significant need for Permanent Supportive Housing for some of their most vulnerable individuals that are chronically homeless or living in more restrictive settings due to the lack of stable housing and coordinated access to appropriate community-based healthcare and supportive services. This RFA proposes to utilize Competitive Housing Credits (HC) in conjunction with State Apartment Incentive Loan (SAIL) funding.

A. Competitive HC

Florida Housing Finance Corporation (the Corporation) is required by section 420.507(48), F.S., to reserve up to 5 percent of its annual allocation of low-income housing tax credits to allocate by competitive solicitation for high-priority affordable housing developments, such as housing for Persons with a Disabling Condition and their families, in communities throughout the state.

The Corporation expects to have an estimated \$6,075,000 of Competitive Housing Credits available for award to proposed Developments under this RFA.

B. SAIL:

The Corporation expects to offer an estimated \$11,500,000 of SAIL available for award to proposed Developments under this RFA.

C. National Housing Trust Fund (NHTF)

The Corporation expects to offer an estimated \$4,146,572 in National Housing Trust Funds (NHTF) to support NHTF Units that meet the requirements outlined in Exhibit E. NHTF funding will be awarded to proposed Developments selected for funding.

The Corporation's objective is to ensure that, to the extent possible, financing to develop housing to serve Homeless households is provided across the state. To this end, the Corporation has divided the state into four (4) regions with relatively equal Homeless

populations, based on the Homeless household counts outlined in the 2016 Statewide Rental Market Study, ensuring that all counties that are part of one regional Homeless Continuum of Care are located in the same region. The Corporation's approach is to target financing to each region over time. The regions are: the North Florida Region, the Central Florida Region, the Tampa Bay Region and the South Florida Region. This RFA includes a goal to fund at least one (1) Homeless Development in the North and South regions, with a preference to fund at least one (1) Homeless Development in a Large County and at least one (1) Homeless Development in a Medium County. The Large and Medium counties within each region are listed on the following chart. This goal and preference are further outlined in Section Five B of the RFA.

Homeless Development Regional Chart

Region	Large Counties	Medium Counties			
North Florida	Duval	Alachua Bay	Clay Escambia	Leon Okaloosa	St. Johns Santa Rosa
Central Florida	Orange	Brevard Flagler	Marion Osceola	Polk Seminole	Volusia
Tampa Bay	Hillsborough Pinellas	Citrus Hernando	Lake Manatee	Pasco Sarasota	Sumter
South Florida	Broward Miami-Dade Palm Beach	Charlotte Collier	Highlands Indian River	Lee Martin	St. Lucie

4. Through the issuance of the RFA, Florida Housing sought to solicit proposals from qualified Applicants that would provide housing consistent with the terms and conditions of the RFA, applicable laws, rules, and regulations.

5. On April 19, 2017, Ability submitted an Application in response to the RFA that included information concerning an 80-unit apartment complex in Duval County, Florida, named Londontowne Lane Project ("Londontowne"). Through the Application, Ability was requesting \$1,780,000 in tax credits, \$4,000,000 in SAIL funding and \$1,414,400 in NHTF funding. Ability satisfied all requirements of the RFA. Florida Housing received five (5) applications in response to the RFA. (See Attachment A)

6. As the owner of a project seeking funding through the RFA, Ability is substantially affected by the review, scoring, and ranking of the responses to the RFA. The results of this and related proceedings may affect Ability's ability to obtain funding through the RFA.

7. Consistent with the primary mission and goal of the RFA, Londontowne will provide much needed permanent housing in Duval County. Without the funds provided by the RFA, Ability will be unable to provide this much needed housing. Accordingly, Ability's substantial interests are affected by the decisions made by Florida Housing.

8. On June 7, 2017, consistent with the RFA instructions, the Florida Housing designated Review Committee met and considered the Applications responding to the RFA. At the meeting, the Review Committee orally listed and manually input the scores for each section of each RFA response and ultimately made recommendations to Florida Housing's Board of Directors for their consideration. The Review Committee consisted of Florida Housing staff and awarded Ability 127 total points. Ability achieved the second highest point total of all applicants.

9. During the meeting, the Review Committee determined the eligibility of each Application. The Review Committee determined that the Ability Application was eligible for funding and a recommendation was made to award Ability its requested funding. At the conclusion of the meeting, the Review Committee voted to send a funding recommendation to Florida Housing's Board of Directors for approval. (See Attachment B)

10. On June 16, 2017, Florida Housing's Board of Directors accepted the Review Committee's ranking and funding recommendations, which included finding Ability eligible. (See Attachment B)

11. On June 21, 2017, Ability in an abundance of caution timely filed its Notice of Intent to Protest the determination that its Application was eligible and tentatively awarded funding. This Formal Written Protest is being timely filed and Florida Housing has waived the bid protest bond requirement for the RFA. As a provider of permanent supportive housing in need of supplemental funding, Ability's substantial interests are affected by Florida Housing's decision to award the necessary funding pursuant to the RFA. Without the funding, Ability will not be able to develop Londontowne. (See Attachment C)

12. Ability reserves the right to amend this petition as additional documents and facts are discovered.

13. Ability takes the position that Florida Housing's scoring of its Application was neither erroneous, arbitrary, capricious or contrary to competition.

14. Several other notices of intent to protest however have been filed and Florida Housing's scoring actions may be changed. The results of the other challenge may impact Ability's funding and Ability believes that any change to the current scoring would be arbitrary and capricious. (See Attachment D)

15. Material issues to be resolved:

- a. Whether the review of Ability's Application in response to the RFA was consistent with the RFA requirements, or Florida Housing policies.
- b. Whether Florida Housing's review and actions taken concerning Ability's Applications were arbitrary, capricious, clearly erroneous or contrary to competition.
- c. Whether Florida Housing's review of all Applications submitted in response to the RFA was arbitrary, capricious, clearly erroneous or contrary to competition.

WHEREFORE, Ability requests that a settlement meeting be scheduled and if settlement is not reached, a hearing be scheduled and ultimately an order be entered determining that Florida Housing's review and scoring of Ability's Application was consistent with the RFA specifications and to Florida Housing's governing statutes, rules and policies to such an extent as to not be arbitrary, capricious, contrary to competition, and clearly erroneous.

Respectfully submitted,

CARLTON, FIELDS, JORDEN BURT, P.A.

/s/ Michael P. Donaldson

MICHAEL P. DONALDSON

Florida Bar No. 0802761

Post Office Drawer 190

215 S. Monroe St., Suite 500

Tallahassee, Florida 32302

Telephone: 850/224-1585

Facsimile: 850/222-0398

Email: mdonaldson@carltonfields.com

Attorneys for Ability Londontowne, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a copy of the foregoing has been filed by E-Mail and Hand Delivery to Kate Flemming, Corporation Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301, this 3rd day of July 2017.

/s/ Michael P. Donaldson

MICHAEL P. DONALDSON

RFA 2017-103 All Applications

Application Number	Name of Development	County	County Size	Region	Name of Contact Person	Name of Developers	HC Request Amount	SAIL Request Amount	NIFF Funding Amount	Eligible For Funding?	Total Points	Managing Permanent Supportive Housing Experience Points	Total Corp Funding Per Set-Aside	Leveraging Classification	Qualifying Financial Assistance Preference	Florida Job Creation Preference	Lottery Number
2017-254CSN	Northside Commons	Miami-Dade	L	South Florida	Stephanie Berman	Centfour Supportive Housing, Inc.; GM Northside Commons Dev, LLC	2,110,000	4,000,000	1,545,600	Y	128	38	287,375.00	B	\$ -	Y	2
2017-255CSN	Arbor Village	Sarasota	M	Tampa Bay	Shawn Wilson	Blue Sky Communities III, LLC; CASI Developer, LLC	1,510,000	3,500,000	1,350,400	Y	114	32	215,625.00	A	\$ -	Y	1
2017-256CSN	LONDONTOWNE LANE PROJECT	Duval	L	North Florida	EMMA L. EMMONS	ABILITY HOUSING, INC.;	1,780,000	4,000,000	1,414,400	Y	127	38	250,250.00	A	\$ -	Y	3
2017-257CSN	Jersey Gardens	Polk	M	Central Florida	Oscar A. Sol	Jersey Gardens Dev, LLC; ACTS Jersey Gardens, LLC	1,510,000	3,500,000	1,145,600	Y	110	28	203,452.38	A	\$ -	Y	4
2017-258CSN	Warley Park	Seminole	M	Central Florida	Jonathan L Wolf	Warley Park Developer, LLC; Step Up Developer, LLC	1,510,000	2,825,000	1,273,600	Y	112	35	205,187.50	A	\$ -	Y	5

On June 16, 2017, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to adopt the scoring results above.

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.

RFA 2017-103 Recommendations

Total HC Available for RFA	6,075,000
Total HC Allocated	5,400,000
Total HC Remaining	675,000
Total SAIL Available for RFA	11,500,000
Total SAIL Allocated	11,500,000
Total SAIL Remaining	

NHTF Funding will be 100% allocated in accordance with Exhibit E

Application Number	Name of Development	County	County Size	Region	Name of Contact Person	Name of Developers	HC Request Amount	SAIL Request Amount	NHTF Funding Amount	Eligible For Funding?	Total Points	Managing Permanent Supportive Housing Experience Points	Leveraging Classification	Qualifying Financial Assistance Preference	Florida Job Creation Preference	Lottery Number
North Florida Region Funding Goal																
2017-256CSN	LONDONTOWNE LANE PROJECT	Duval	L	North Florida	JENNA L. EMMONS	ABILITY HOUSING, INC.	1,780,000	4,000,000	1,414,400	Y	127	38	A	\$ -	Y	3
South Florida Region Funding Goal																
2017-254CSN	Northside Commons	Miami-Dade	L	South Florida	Stephanie Berman	Carfour Supportive Housing, Inc. dba Northside Commons Dev, LLC	2,110,000	4,000,000	1,545,600	Y	128	38	B	\$ -	Y	2
Remaining Funding																
2017-255CSN	Arbor Village	Sarasota	M	Tampa Bay	Shawn Wilson	Blue Sky Communities III, LLC, OASL Developer, LLC	1,510,000	3,500,000	1,350,400	Y	114	32	A	\$ -	Y	1

On June 16, 2017, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above Applications for funding and invite the Applicant 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.



ATTORNEYS AT LAW

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Atlanta
Hartford
Los Angeles
Miami
New York
Orlando
Tallahassee
Tampa
Washington, DC
West Palm Beach

June 21, 2017

Kate A. Flemming
Legal Analyst/Corporation Clerk
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

VIA HAND DELIVERY AND EMAIL
Kate.flemming@floridahousing.org

NOTICE OF INTENT TO PROTEST

Re: RFA 2017-103

Dear Ms. Flemming:

On behalf of Ability Londontowne, LLC (2017-256CSN), we hereby give notice of intent to protest the Award Notice and scoring and ranking of RFA 2017-103, issued by Florida Housing on June 16, 2017, at 11:15 a.m., concerning Homeless Households and Persons with a Disabling Condition. (See Attached) While Ability Londontowne, LLC is tentatively funded, we nonetheless out of an abundance of caution file this notice of intent to protect our substantial interests.

Sincerely,

Michael P. Donaldson

MPD/rb

Enclosure

Michael G. Maida, P.A.

Attorney at Law
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www.maidalawpa.com

Michael G. Maida
Civil Circuit Mediator

TELEPHONE (850)425-8124
TELECOPIER (850)681-0879

June 20, 2017

Via Hand Delivery
Via Electronic Mail: CorporationClerk@floridahousing.org

Ms. Kate Flemming
Corporation Clerk
Florida Housing Finance Corporation
227 N. Bronough St., Ste. 5000
Tallahassee, FL 32301

RECEIVED
17 JUN 20 PM 12:32
FLORIDA HOUSING
FINANCE CORPORATION

RE: RFA 2017-103 Housing Credit and SAIL Financing
To Develop Housing in Medium and Large Counties .
For Homeless Households and Persons with a Disabling Condition

Dear Ms. Flemming:

On behalf of Applicant Warley Park, Ltd, Application No. 2017-258CSN ("Warley Park") and developers Warley Park Developer, LLC and Step Up Developer, LLC, (collectively referred to as "Warley Park Developer"), this letter constitutes a Notice of Protest ("Notice") filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, Rules 28-110 and 67-60.009, Florida Administrative Code and the RFA. Warley Park and Warley Park Developer protest Florida Housing Finance Corporation's ("Corporation") intended decision with respect to the scoring, ranking and selection of applications in the RFA, including but not limited to those applications selected for funding as identified in the notice of intended decision attached as Exhibit "A."

This Notice is being filed within 72 hours (not including weekends) of the posting of the notice of intended decision on the Corporation's website on Friday June 16, 2017 at 11:15 a.m. Warley Park and Warley Park Developer reserve the right to file a formal written protest within (10) days of the filing of this Notice pursuant to section 120.57(3), Florida Statutes. This Notice is being filed to, among other matters, preserve their ability to initiate or intervene in proceedings that may impact that scoring, ranking and funding determination.

Please acknowledge receipt of this filing by stamping the date and time on the enclosed copy of this letter.

Sincerely,



Michael G. Maida
Michael G. Maida, P.A.

MGM/sem
Attachment

ATTACHMENT D

RFA 2017-103 Recommendations

Total HC Available for RFA	6,075,000
Total HC Allocated	5,400,000
Total HC Remaining	675,000
Total SAIL Available for RFA	11,500,000
Total SAIL Allocated	11,900,000
Total SAIL Remaining	-

NHTF Funding will be 100% allocated in accordance with Exhibit E

Application Number	Name of Development	County	County Sec	Region	Name of Contact Person	Name of Developers	HC Request Amount	SAIL Request Amount	NHTF Funding Amount	Eligible For Funding?	Total Points	Municipal Permit Supporting Housing Experience Points	Licensing Classification	Qualifying Financial Assistance Preference	Florida Job Creation Preference	Lottery Number	
North Florida Region Funding Goal																	
2017-2562CN	LONDONTOWNE LANE PROJECT	Duval	L	North Florida	JENNA L EMMONS	ABILITY HOUSING, INC.	1,780,000	4,000,000	1,424,400	Y	127	38	A	\$ -	Y	3	
South Florida Region Funding Goal																	
2017-2564CN	Northside Commons	Miami-Dade	L	South Florida	Stephanie Barman	Carfor Supportive Housing, Inc. (d/b/a Northside Commons Dev, LLC	2,110,000	4,000,000	1,545,500	Y	128	38	B	\$ -	Y	2	
Remaining Funding																	
2017-2553CN	Akbor Village	Sarasota	M	Tampa Bay	Shawn Wilson	Blue Sky Communities III, LLC (d/b/a Developer, LLC	1,510,000	3,500,000	1,950,400	Y	114	32	A	\$ -	Y	1	

On June 16, 2017, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above applications for funding and invite the Applicant to enter credit underwriting. Any unsuccessful Applicant may file a motion of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., 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.

Exhibit A