

**From:** Sween, Mark [<mailto:msween@Dominiuminc.com>]

**Sent:** Friday, March 2, 2018 1:46 PM

**To:** Trey Price <[Trey.Price@floridahousing.org](mailto:Trey.Price@floridahousing.org)>; Marisa Button <[Marisa.Button@floridahousing.org](mailto:Marisa.Button@floridahousing.org)>

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**Subject:** Comments Regarding Definition of Developer Fee in Rule 67-21

Dear Executive Director Price and Director Button,

I am attaching a letter and our Equity Subsidy Loss Analysis on our properties Crane Creek and Seven Palms regarding the proposed rule change to the Developer Fee definition in Rule 67-21.

We appreciate the opportunity to provide our perspective.

Regards,

Mark

Mark Sween

VP & Project Partner

Development

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To: Florida Housing Finance Corporation

From: Mark Sween

Date: March 2, 2018

Re: Developer Fee / Proposed Rule Change

Significant Preservation LIHTC **subsidy will be lost** if Florida Housing adopts the proposed rule change reducing the Developer Fee on bond financed tax credit Preservation properties. This memo strongly urges that Florida Housing not adopt the proposed change.

We closed 2 bond financed Preservation properties in 2018 – Crane Creek and Seven Palms. The lost LIHTC subsidy had the proposed rule been in effect would have been:

	LIHTC Lost as a %	LIHTC Lost Per Affordable Units
Crane Creek	9.28%	\$4,137.23
Seven Palms	6.44%	\$2,964.31

The lost LIHTC subsidy results from the proposed rule change that reduces the Developer Fee LIHTC Basis on rehab from 18% to 16% and the Developer Fee LIHTC Basis on acquisition from 18% to 4%. The calculations are based on the amounts in the final underwriting reports prepared by First Housing. Copies of the calculations are attached to this memo.

1. **Developer Fees creates LIHTC Subsidy.** – The Developer Fee is tax credit basisable and creates LIHTC equity subsidy. When the LIHTC equity subsidy comes from bonds it is an extra subsidy that reduces demand for other extremely scarce Florida Housing subsidies like 9% LIHTC or soft loans.
2. **Only Cash Developer Fee is paid by LIHTC Subsidy** – Developer Fees have 2 components – cash and deferred. Cash developer fee is paid out of the Sources & Uses of Funds which includes all fund sources including the LIHTC subsidy. But deferred developer fee is paid out of long term operating cash flow and this cash flow is paid to the Developer owner whether it is deferred Developer Fee or not. **In effect, deferred Developer Fee is a soft loan that allows greater LIHTC Subsidy and if Developer Fees are reduced Florida Housing will lose that LIHTC Subsidy.**
3. **Excess Developer Payments are Controlled by 8609 Process** – The 8609 and Cost Certification process provides for reducing LIHTC if the property is over sourced and has too much subsidy. If there is deferred Developer Fee by definition the property is not oversourced.
4. **Florida Housing Could Limit Cash Developer Fee** – If there is a concern that Developer Fees are excessive the focus should be on the amount of cash Developer Fee that is allowed and not on the total cash and deferred Developer Fee. Cash developer fee is more important than total developer fee because deferred developer is paid from available cash flow. Available cash flow is available to the partnership independent of the size of the total developer fee and so larger total developer fees does not make the owner richer.

Our company has owned and operated affordable housing for more than 40 years and Preservation is at the core of what we do. We try to do Preservation using bonds and no or little additional subsidy. Because the LIHTC subsidy that comes with bonds is an additional subsidy resource that eases demand for Florida Housing’s very scarce 9% LIHTC and soft loans we strongly urge that the proposed changes to the Developer Fee not be adopted.



**Crane Creek**  
Low Income Housing Tax Credit Equity Analysis

	Credit Underwriting Report	Proposed	Reduction in Tax Credit Basis
Developer Fee on Acquisition	18% \$ 1,828,800.00	4% \$ 406,400.00	\$ (1,422,400.00)
Developer Fee on Rehab	18% 965,229.00	16% 857,981.33	(107,247.67)
<b>Total</b>	<b>\$ 2,794,029.00</b>	<b>\$ 1,264,381.33</b>	<b>\$ (1,529,647.67)</b>
			Total Loss in developer Fee \$ (1,529,647.67)
			Annual credit % 3.24%
			Annual LIHTC (49,560.58)
			10 Year LIHTC (495,605.84)
			Equity Pricing 0.96
<b>Total loss of Equity</b>			<b>\$ (475,781.61)</b>
			Original Equity \$ 5,126,274.00
			Reduction in Equity (475,781.61)
<b>Percent Loss</b>			<b>-9.28%</b>
			Reduction in Equity (475,781.61)
			Number of Apartments 115
<b>Reduction per Apartment</b>			<b>\$ (4,137.23)</b>



**Seven Palms**  
Low Income Housing Tax Credit Equity Analysis

	Credit Underwriting Report		Proposed	Reduction in Tax Credit Basis	
Developer Fee on Acquisition	18%	\$ 3,690,979.00	4% \$ 820,217.56	\$	(2,870,761.44)
Developer Fee on Rehab	18%	2,894,127.00	16% 2,572,557.33		(321,569.67)
<b>Total</b>		<b>\$ 6,585,106.00</b>	<b>\$ 3,392,774.89</b>	<b>\$</b>	<b>(3,192,331.11)</b>

Total Loss in developer Fee	\$	(3,192,331.11)
Annual credit %		3.25%
Annual LIHTC	\$	(103,750.76)
10 Year LIHTC		(1,037,507.61)
Equity Pricing	\$	0.96
<b>Total loss of Equity</b>	<b>\$</b>	<b>(996,007.31)</b>

Original Equity	\$	15,475,019.00
Reduction in Equity		(996,007.31)
<b>Percent Loss</b>		<b>-6.44%</b>

Reduction in Equity	\$	(996,007.31)
Number of Apartments		336
<b>Reduction per Apartment</b>	<b>\$</b>	<b>(2,964.31)</b>

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