RURAL NEIGHBORHOODS

Building Livable Places for Working Families

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MEMORANDUM

To: Ms. Nancy Muller
Fr: Steven Kirk
President and Executive Director
Re: Comments re SAIL Farmworker Housing RFA 2018-104
Da: January 10, 2018

I am concerned that Florida Housing Finance Corporation Requests for Applications in recent years has not fulfilled the spirit of the State Apartment Incentive Loan (SAIL) program goals in remediating housing conditions faced by farm workers throughout Florida. This is not attributable to the lack of good faith efforts; indeed, it is more attributable to market conditions and changes in agricultural practices.

Background: Beginning in 2014, FHFC moved from new construction of farm worker housing to the rehabilitation of existing farm worker housing in both the Rural Development and FHFC portfolios. This action was due in large part to an increase in the number of waivers requests to amend occupational set-asides. Increasing numbers of owners began to fail to meet 100%, 80% and, in limited instances, 40% FW set-aside requirements. This increase resulted from changes in agricultural acreage or yield (e.g. citrus greening) and immigration concerns over the legal status of such workers. The new rehabilitation program restricted rehab applications in areas in which no RD or FHFC waivers had been granted. Some fine-turning may have been permitted in certain instances in which waivers did not reduce FW set-asides to numbers below the current 40% standard. Unfortunately, the number of awards made under the rehabilitation initiative have been small. Rural Neighborhoods estimates that approximately ½ of the monies offered have been awarded or used. RN believes the result is half the monies intended to aid agricultural labor housing needs has been reprogrammed to other constituencies.

Concerns regarding Waivers. Certain premises regarding waivers may be misplaced. First, FW set-asides have been at a 40% for some-time. This has proved to be a workable percentage. Accordingly, past waiver requests for properties seeking to reduce set-aside commitments from 100% or 80% levels to 40% should not be a significant source of public policy concern. Most served the higher set-aside level for many years and, if at 40%, continue to meet the current SAIL goal. In addition, certain management companies aggressively sought and achieved RD and FHFC waivers. Properties in an identical market may have one or more properties with waivers and a similar number without. RN feels it inappropriate if successful properties cannot compete for rehabilitation funds under the current RFA format.

Demand for Agricultural Housing. Measuring demand for agricultural worker housing remains problematic. Shimberg studies – the basis for much FHFC program planning -- continue to evidence inadequate supply in numerous counties. RN acknowledges these estimates are subject to valid concern given that as much as 50% of the agricultural workforce could be undocumented and vulnerable to increased deportation. It is also arguable that reductions in citrus yield reduce employment in equivalent amounts. The latter crisis, however, impacts citrus-producing counties much more than those with nurseries and row crops. RN believes new construction is appropriate in certain markets led by Miami-Dade where nursery production remains quite high and general affordable housing supplies remain low.

Importantly, sources of labor supply for Florida growers have changed. In the face of immigration enforcement, there has been rapid growth in the use of H2a workers. H2A workers are a labor classification consisting of foreign workers that legally enter the United States and are employed for less than 12 months. Large percentages of the strawberry and citrus labor force now consist of H2a workers. Traditional row crop employers and nurseries look to expand such workers in the current immigration climate. Thousands of such workers also compete for housing. This is true despite current H2a requirements that housing rent be paid by the employer for whom such workers agree to work. RN and the Collier County Housing Authority (CCHA), for example, provide such housing in Ruskin and Immokalee respectively. The remainder is comprised of older motel and naturally-occurring affordable housing identified and leased by growers.

Non-traditional sources such as motels and single-family housing used for this purpose lead to undesirable circumstances in which tenants cannot cook meals (i.e. motels) or negatively impact traditional single-family neighborhoods. Employer-owned housing leads to problems historically associated with so-called company towns, e.g. geographic isolation, loss of housing with loss of employment and limited access to supportive services. RN and other farm labor advocates believe suitable SRO or dormitory housing constructed by non-profit corporations or public housing authorities provide a more suitable alternative: housing as a community asset available to the personnel of multiple growers. This is being successfully carried out by RN and CCHA in their Ruskin and Immokalee sites. In addition, RN is utilizing a similar model in its Casa Cesar Chavez (CCC) project financed in part through FHFC. In that instance, CCC serves unaccompanied workers who are not H2a workers. Each of the above projects achieve full occupancy at peak season and tend to operate on a 65% pro forma occupancy rate like hotel/motel business models.

RN has witnessed increasing demand for SRO or dormitory-style housing that leases “beds” in this manner. Typically, an unaccompanied worker leases a bed including all utilities, air conditioning and basic cable for a fixed monthly rent. In our experience, unaccompanied workers and employers seeking to reserve beds for their workforce are being turned away due to full occupancy. In recent months, RN has held active discussions with Miami-Dade growers and Mr. Charles LaPrad, Miami-Dade County’s Agricultural Manager to find means to alleviate this seasonal demand. Unfortunately, like in all affordable housing development, market-rate financing is not a feasible source to construct this product in the absence of significant subsidies.

Recommendations. Rural Neighborhoods recommends FHFC consider issuing substantial changes to rules governing prospective RFA 2018-104. In the alternative, FHFC should use funds not awarded in the RFA to a subsequent competition. These substantial changes or secondary round could include one or more of the following options:

- Promote a *H2a/Unaccompanied Agricultural Worker Demonstration Project*.

  Based on an estimated $6,000,000 FY18 allocation, RN suggests a program goal of one (1) H2A/UAW. Such a project should set aside not less than 65% of its units to FWs, the SAIL definition of which may require redefinition. Functional income limits could include set-asides at 40%, 50% and 60%. Employers should be permitted to contribute toward tenant rents.

  Eligible applicants should include public housing and non-profit developers. Prior Development and Management Company should be documented be it by chart or narrative response. Similar marketing, operations and resident access concerns should be addressed in narrative form as in other special needs applications. FHFC required construction and green building feature requirements are reasonable.

- Permit Farmworker new construction in areas where the applicant can demonstrate need at time of application and, subsequently, to the satisfaction of credit underwriting.

  RN believes such markets include Miami-Dade, Desoto and Hendry counties in south and southwest Florida. Hurricane Irma impact in other locations may expand new construction opportunities. New construction should prioritize USDA RD-financed rental projects and permit a commitment of such funds to be obtained within a reasonable period as was past practice. RD properties offer project-based rental assistance, in most instances, justifying a preferred status. Similarly, project-based RA offers FHFC some *protection* since such properties are more likely to be successful in meeting the FW 40% set-aside over a long affordability period. Lower tenant-paid rents resulting from RA are beneficial to project marketing.

- Use Farmworker Rehabilitation monies to reposition FHFC properties.

  RN has pursued the acquisition of several FHFC FW properties, but has found numerous portfolio properties to not be feasible using standard underwriting criteria such as debt -to-value measures. FHFC should consider use of RFA 2018-104 funds in a manner like a *workout*. For example, several properties eligible under past FW RFAs (and having continuing eligibility) have total debt that exceeds market value. This overage is often non-amortized FHFC SAIL or HOME funds and deferred FHFC interest. In other circumstances, soft local government loans remain or accrue continuing interest. To the best of our knowledge, one recent award under this RFA may only have become feasible after local government and other soft lenders forgave debt and/or deferred interest. Just as it was in those lenders' interest to reduce debt, e.g. funds were never likely collectible, physical deterioration of the property and no means to remediate its condition, it would be in FHFC's interest to finance needed rehabilitation and reposition project economics to a realistic pro forma.

FHFC may wish to exact some demands on past ownership that the public could consider having performed poorly. For example, concessions could be grounded on sale of the subject property to another owner – again, perhaps a non-profit or PHA which would have the added operational benefit of a reduction in ad valoram taxes. RN's experience is current owners seek exit strategies, but purchasers such as ourselves are unwilling to take on properties that are significantly upside-down. RN and others can be interested in preserving FW housing if there is an economic incentive to do so and adequate capital to carry out substantial rehabilitation. RN believes such projects can be found in locales such as Hillsborough, Hendy and Okeechobee counties.

Under such a program, FHFC should not set intermediate limits on total funds requested. It is possible the full allocation could be required. It is also not simple to construct repositioning in an RFA since applicants have limited knowledge of terms and conditions that FHFC might accept. Structured as a *demonstration* project, perhaps FHFC could request an applicant to provide a narrative plan on how repositioning might be accomplished, non-FHFC funds that might leverage funds awarded, concessions to which the seller or other lender might agree. FHFC might select a proposal and parties such as special assets, underwriters, seller and purchaser collaborate on appropriately-sized investment and concessions.

Conclusions. Rural Neighborhoods concerns are based on a continuing loss of promulgated funds to the intended FW constituency. Other suggestions to those made herein could have equal or greater promise. I simply urge FHFC to postpone its intended workshop timeline and issuance of RFP 2018-104 until consideration be given to other approaches. If RFP 2018-104 proceeds as planned, I urge FHFC to recapture unawarded funds towards a FW demonstration program later in 2018. There are smaller changes to RFP 2018-104 that could make it more effective: permit owners of properties in Limited Development Areas to make application if their property has not waived set-asides (regardless of whether others in the county have done so); do not designate as LDA areas places in which properties have received waivers if those waivers still require 40% or more units to be set aside for FWs; in addition to reducing deferred interest per past RFAs, permit reductions in the principal of existing FHFC financing such that total debt subsequent award is not more than 100% of appraised value or in some way make such debt forgivable .

Thank you for your consideration.