Stone Soup Development, Inc.

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September 4, 2018

Harold L. "Trey" Price
Executive Director
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: August 21, 2018 Letter from Rural Neighborhoods and other recommendations

Dear Mr. Price and Staff:

As an affordable housing developer who works exclusively with nonprofit organizations, and as Co-Chair of the Policy Committee of the South Florida Community Development Coalition, I want to express my support and affirmation of the arguments presented by Mr. Steven Kirk, President of Rural Neighborhoods in his August 21, 2018 letter to you. While Mr. Kirk's comments were directed to RFA 2018-111 they also apply to 2018-110, and in fact we strongly urge you to make the recommendations below part of **all** future FHFC applications.

For many years I have advocated that FHFC needs to change its policies to make its funding process fairer to nonprofit developers. **Why should FHFC make its application process fairer to nonprofits developers, and give them preference over for-profit developers?** Quite simply, it is good public policy to do so: (1) Nonprofits developers do not flip their portfolio of affordable housing deals to market rate rents once the initial affordable housing mandates expire (which initially was only 15 years of affordability and even today's 50 mandate is too short). If early on FHFC had established a policy of requiring that all of its deals be owned either by nonprofits or Community Land Trusts, Florida would not have lost thousands of affordable units. (2) Nonprofit developers reinvest their "profits" back into their communities providing more and/or better services, where as for-profit developers put their profits into the hands of a few wealth owners. (3) Because nonprofits developers are governed by volunteer Boards of Directors they are much less likely to engage in gaming, nefarious or criminal activities which have been perpetrated by some for-profit developers and has plagued FHFC since it was established. (4) As Steven Kirk's sates in his August 21st letter, "Evidence suggests nonprofit developers often target harder-to-serve populations ranging from farmworkers to homeless to the disabled and locate projects in neighborhoods to promote economic revitalization.

What can and should FHFC do? (1) Begin with the elimination of the lottery system to determine winners of any application for FHFC funding. The lottery selection process is patently unfair to nonprofit developers who simply don't have the resources to flood FHFC with multiple applications. We urge you to develop a scoring system, similar to what many other states have, that scores applications with enough specificity to make a lottery unnecessary (please see attached initial draft for a proposed new scoring criteria). (2) Immediately increase the nonprofit set-aside for your tax credits from 15% to 30% for 2018, with a five year goal of 50% of your funding and deals going to nonprofits. (3) Require that to qualify for the nonprofit set-aside the ownership must be 100% nonprofit, or at minimum give first funding preference to 100% nonprofit deals over any for-profit/nonprofit partnerships. Economic benefits should be commensurate with the nonprofit ownership requirement, so for-profit/nonprofit partnerships at least 51% of the fee must go to the nonprofit). (4) FHFC must establish tighter rules making sure that applicants are real nonprofit organizations with a history and track record of serving their communities and are not established or controlled by a for-profit entities (please see attached article by Don Patterson). Finally, FHFC should modify its rules to assure that the nonprofit entity materially participates in the development, construction and management of these deals (Please note the bottom of page 3 of Mr. Kirk's August 21st letter provides examples of how the IRS defines "material participation").

Mr. Kirk's August 21st letter adroitly dismisses the spurious arguments often made to preserve the status quo. They are:

** Insufficient numbers of capable nonprofit developers exist to carry out FHFC's 15% set-aside requirement.*

There are a number of very capable nonprofit developers in Florida including: Ability Housing, Boley Centers, Carrfour Supportive Housing, New Urban Development, Neighborhood Renaissance, Opa-Locka Community Development Corporation, Orlando Neighborhood Improvement Corporation and Rural Neighborhoods. This is largely a chicken and egg argument - meaning we will have many more capable nonprofit developers as there is there is more set-aside funding to sustain them. "It is the scarcity of non-profit projects set-aside by FHFC and the inadequate accompanying rules that stymies greater non-profit participation."

** Joint ventures enable non-profit organizations to bring affordable housing developments to their target population or geographic area of interest through recruitment of for-profit partners.*

" If only it were so. FHFC's most recent RFA 2017-112 in Miami-Dade received a total of 29 LIHTC applications; twenty of these applications qualified as non-profit applicants – nearly 70% of all applications. Rural Neighborhood's review shows just two applications (10%) of the non-profit applications were from non-profits in which the non-profit was the sole Developer. More in-depth analysis shows the YWCA to be the sole non-profit applicant holding prior site control and who competitively solicited a potential for-profit partner to bring housing to its constituents and target neighborhood. Rural Neighborhood is troubled that the remainder appear to be no more than convenient partnerships that enable the for-profit partner to participate in the non-profit goal."

* *For-profit/non-profit co-development enables inexperienced charitable organization to gain expertise and experience;*

"It is true many non-profit organizations do not have the requisite real estate development experience to go it alone and may need to partner with someone that does. Nonetheless, there are qualified and experienced non-profit Developers that inexperienced non-profits could call upon to partner. In addition, there are national housing organizations including NeighborWorks America, Enterprise Community Partners and the Local Initiative Support Corporation, that are available to provide seed capital, predevelopment loans, technical assistance and purchase credits. Surely there may also be well-qualified for-profit Developers that can help build the skills of non-profits. But the assumption commonly argued is that for-profit Developers are the preferred or sole source of skill-building expertise. Such reasoning is unfounded and belied by recent legal events that have bedeviled the for-profit tax credit community."

Thank you for the opportunity to comment and we hope this will be the year for significant change.

Sincerely,

Doug Mayer
President

South Florida Community Development Coalition
Supports Substantive JV Partnerships

By Don D. Patterson

GOVERNMENT POLICY MUST CHALLENGE JV PARTNERSHIP FOR LONG-TERM BENEFITS

In exchange for public land and taxpayer dollars, local and state government must require for-profit developers to establish substantive relationships with non-profit partners; offering more than the short-term benefit of a developer's fee by including true material participation. Governing policy for tax dollars for the creation of affordable housing must require creative for-profit/non-profit relationships that are good business models for both.

CONSIDER THIS

Further, consider the points below in reconciling the importance of supporting capacity growth for non-profit community developers:

Non-profit entities exist for the benefit of improving life qualities of underinvested neighborhoods with public tax dollars.	For-profit entities exist for the benefit of using public dollars to maximize their shareholders return on investment.
Non-profits developers have an immediate fiduciary responsibility to ensure public benefit in communities they serve.	For-profits developers have a fiduciary responsibility to create wealth for its private, institutional, and/or corporation investors.
Non-profits have an obligation to re-circulate earned income back into the local economy via community-based projects and programs. No shareholders or private inurement allowed.	For-profit earnings will be distributed to investors or shareholders. In the end, typically public dollars will not stay in the communities where they were given to build in.

In Miami Dade County, Surtax dollars are used heavily in partnership with the Low Income Housing Tax Credit (LIHTC) program that is administered by the State. Together these dollars are used to fill the financing gap in affordable housing development projects. Because completing a project requires high-level of technical experience and capital for the upfront cost, for-profit developers continue to lead the way in production. Additionally, because the desire to participate in this program is so great, securing LIHTC dollars is a risky and highly competitive venture.

To improve their odds of securing an award of tax credit financing from the State, in certain applications for-profit developers are required to Joint Venture (JV) with a non-profit participant. The objective being that the JV encourages the experienced for-profit developer to provide business and technical training to the lesser experienced non-profit. This becomes an opportunity for non-profits to learn the development process from start to finish, participate in operations once the housing project is completed, and possibly share in both management and developer's fees. As highlighted in the 2009 Affordable Housing Study Commission Report, the Florida Housing Finance Corporation (an administrator of LIHTC) current definition of a joint venture does not ensure that business training or "capacity building" will occur between the joint venture partners[1].

Most often, however, for-profit developers solicit a group of non-profit organizations for JV partnerships until they find an organization willing to simply supply signatures throughout the development process. In exchange, the non-profit is gifted the going rate of 10% of the developer's fee; completely foregoing the opportunity for true "Material Participation" in project development efforts.

There are several studies on best practices on the matter, to include the Affordable Housing Study Commission Report that cites the program used by Georgia Department of Community Affairs as a model worthy of consideration. The Georgia DCA program for ensuring material participation in a joint venture includes an application scoring formula as follows to ensure capacity building opportunities:

1) A training plan for the inexperienced partner including timetables, milestones and projected training hours per week.
2) All communication between County staff and the joint venture partner throughout the project development process must include the inexperienced Applicant.
3) Monitor completion of the training plan to ensure that the inexperienced non-profit developer is receiving the services agreed to in the partnership agreement.
4) Prohibit participation in future funding of experienced and/or inexperienced partners if the services agreed to in the Consultant/Partnership Agreement are not delivered.

Another approach to fostering non-profit developer capacity is to awards points on a sliding scale to applications in which the non-profit partner exercises control over the following project activities:

- Marketing/outreach;
- Property acquisition;
- Pre-development;
- Property management;
- Construction/rehabilitation;
- Qualifying borrowers for home mortgages; and
- Providing or arranging permanent mortgage financing.

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[1] Affordable Housing Study Commission Final Report 2009 - http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AHSC/AHSC_FinalReport2009.pdf

The Affordable Housing Study Commission recognized that either of these approaches would require monitoring and an investment of staff hours. However, enforcing training goals and ensuring revenue is appropriately allocated to non-profit affordable housing developers will support the local governments interest in growing the capacity of organizations to independently develop, own, and manage community-based real estate development. A strong program will also reduce failure and increase the production rates of affordable housing.

MATERIAL PARTICIPATION REQUIREMENT REMAINS UNCHALLENGED

Without a material participation requirement the for-profit developers remain unchallenged to support non-profit community developer. The non-profit developer is left at the end of the development program with a small fee (when compared to the for-profit's take) little or no experience gained for capacity to grow an affordable housing business and/or revenue for future other community related programs and operating expenses. As a result, with little or no opportunity for revenue generation, the organization is forced to continue to compete for grants and foundation dollars to sustain its existence.

If not the Federal government, local and state government have an opportunity to take the lead on this issue, as many have yet to address this ongoing concern. The effort could be limited to simply crafting a definition for "material participation" for non-profit /for-profit joint ventures. In doing so, agencies have an opportunity to support capacity building of non-profit affordable housing developers by ensure their long-term viability without spending additional tax-payer dollars.

The South Florida Community Development Coalition seeks the opportunity to work closely with local government in restructuring policy to support substantive JV partnerships. We are confident that our combined efforts to resolve this issue will add great value to the affordable housing by building long-term capacity for community partners and provide for greater sustainability for those non-profit entities and their respective neighborhoods well beyond a single development project.

Scoring Items for all FHFC Applications

***100% Nonprofit Developer - 20 points**
***Nonprofit + For-Profit Developer - 10 points**
***For-profit only – 0 points**
***Commitment to 99 years of affordability - 10 points**
***Developers who commit to putting up to 15% of their allowable developer fee in a reserve fund for social services, recreation and other activities for the residents - 20 points**
***Site control: Projects owned by nonprofits or when the land is owned by a Community Land Trust would receive preference over projects owned by for profit companies. – 5 points**
***Cost per unit (max of 20 points) - After submission to FHFC will arrange applications from the lowest to highest cost per unit and the lowest will be given max points with lower points for each successfully higher cost.**

Proximity points will be awarded by how close a project is to any of the list of items below, with 1/4 point deduction for each 1/4 mile away: 1/4 mile or less full points, 1/4 to 1/2 mile , 1/2 to 3/4 mile, 3/4 to 1 mile, 1 to 1 1/4 miles, 1 1/4 to 1 1/2 miles, 1 1/2 to 1 3/4 miles, 1 3/4 to 2 miles, - and so on, continuing out to a maximum of 5 miles. For most of the items listed below the project would receive a maximum of 5 proximity points (unless stated differently):

- **Transportation - rapid bus, Metro-Rail, People-Mover, Tri-Rail or All Aboard Florida or similar mass transit (max of 10 points)**
- **Transportation – regular bus**
- **Public School - points are awarded for <u>each</u> type of public school: grade, middle school and high school**
- **Nonprofit Daycare for Kids - for family deals**
- **For-profit Daycare for Kids - for family deals (max of 2 points)**
- **Community Center - including those established public owned <u>and</u> nonprofit run centers, i.e. YMCA, YWCA, Boys & Girls Clubs, etc.**
- **Public Park – with at least one of these recreational activities: a swimming pool, or baseball field, basketball court (must be at least one full-size court), full size soccer field, well equipped indoor public exercise gymnasium, out-door running path with exercise stations**
- **Pubic Park – small or passive parks (maximum of 2 points)**
- **Privately run (for-profit) gymnasium, or exercise facility (max 2 points)**
- **Grocery Store – with produce, meat and bakery departments**
- **Convenience Store or small strip mall – (max of 2 points)**
- **Smaller clothing store (max of 2 points)**

* Large department store (at least 15,000 sq.ft.)
* Pharmacy (if grocery store has pharmacy award points for both)
* Accredited Full Service Hospital
* Medical Center or Urgent Care (max of 3 points)
* Doctor's Office (max of 2 points)
* Public Library
* Privately run library (max of 2 points)
* Accredited College or University (10 points)
* Accredited Vocational or Trade School (5 points)
* Unaccredited College, University, Vocational or Trade School (2 points)
* Social Security Office
* U.S. Post Office
* Movie Theater with three or more screens
* Movie Theater with one to two screens (2 points)
* Restaurant – sit-down family restaurants
* Restaurant – fast food such as: pizza parlor, McDonalds, Burger King, Taco Bell, Wendy's, Dunkin Donuts, KFC, etc. (max of 2 points).
* Healthy, Health Food or Organic Restaurant – Panera Bread, (max of 10 points)
* Senior Center/Day Care for Seniors for elderly developments (max of 10 points)

With enough items on the list there would be no need for a lottery system and no one site could achieve a perfect score.