

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FHFC CASE NO. 2019-075VW
Application No.: 2018-112C

CLERMONT RIDGE, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

RECEIVED
19 AUG 30 PM 3:13
FLORIDA HOUSING
FINANCE CORPORATION

**PETITION FOR WAIVER FROM THE
PROVISIONS OF FLORIDA ADMINISTRATIVE CODE
RULE 67-48.002(83) F.A.C (2017)**

Petitioner, Clermont Ridge, Ltd. (“Petitioner”), pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code, hereby petitions Florida Housing Finance Corporation (“Florida Housing”) for a waiver or variance of the provisions of Rule 67-48.002(83), Florida Administrative Code (2017) (the “Rule”) to allow Petitioner to insert another non-profit entity to satisfy the “Non-Profit” requirement that at least 25 percent of the developer fee be received by the non-profit entity with a 51 percent ownership of the general partner interest in the Petitioner. In connection with the request for a waiver of the Rule, Petitioner requests Florida Housing’s Board approve certain changes to the Petitioner’s ownership and developer structure pursuant to Rule 67-48.004(3)(b) F.A.C (2017) and the provisions of RFA 2017-111. In support of this Petition, Petitioner states as follows:

PETITIONER AND THE DEVELOPMENT

1. The name, address and telephone number for Petitioner and its qualified representative are:

Clermont Ridge, Ltd.
Attn: Shawn Wilson
5300 W. Cypress Street, Suite 200
Tampa, Florida 33607
Email: swilson@blueskycommunities.com
Telephone: 813-384-4825

2. For purposes of this Petition, the name, address, telephone and facsimile numbers of Petitioner's counsel is:

Samantha D'Angelo, Esq.
Nelson Mullins Broad and Cassel
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801-4961
Email: samantha.dangelo@nelsonmullins.com
Telephone: 407-839-4218
Fax: 407-650-0914

3. On December 12, 2017, Petitioner submitted an application in response to RFA 2017-111 (the "RFA") for Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties and was assigned Application No. 2018-112C (the "Application") seeking Housing Credits in the annual amount of \$1,250,000 to assist in the construction of a 70-unit development located in Lake County, Florida, known as Clermont Ridge Senior Villas (the "Development"). Petitioner selected the "non-profit set aside" under the RFA, thereby requiring as part of its ownership structure a non-profit which meets the definition found in the Rule. Petitioner received an invitation into credit underwriting from Florida Housing and is currently in credit underwriting with Seltzer Management Group. On August 14, 2019, the Petitioner made a separate request to change the ownership structure of the Petitioner and to add a

co-developer. That request is attached hereto as Exhibit A and to the extent necessary deemed part of this Petition.

TYPE OF WAIVER

4. The waiver being sought is permanent in nature.

RULE FOR WHICH WAIVER IS REQUESTED

5. Petitioner requests a waiver of the provisions of the Rule, which provide, in relevant part, as follows:

67-48.002(83)

“Non-Profit” means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under chapter 617, F.S., if a Florida Corporation, or organized under similar state law if organized in a jurisdiction other than Florida, to provide housing and other services on a not-for-profit basis, which owns at least 51 percent of the ownership interest in the Development held by the general partner or managing member entity, which shall receive at least 25 percent of the Developer Fee, and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing, as further described in rule 67-48.0075, F.A.C.

6. In connection with the request for a waiver of the provisions of the Rule, Petitioner requests Florida Housing’s Board approve the changes in Petitioner’s ownership and developer structure (as more fully described below) pursuant to Rule 67-48.004(3)(b) F.A.C and the provisions of the RFA, as set forth below.

67-48.004(3)(b) F.A.C. provides, in relevant part, as follows:

“Principals of each Developer, including all co-Developers; notwithstanding the foregoing, the Principals of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant’s request, inclusive of validity and consistency of Application documentation”

Section Four A.3.d.(3) RFA provides, in relevant part, as follows:

“The Applicant entity shall be the recipient of the Housing Credits and cannot be changed in any way (materially or non-materially) until after the Carryover Allocation Agreement is in effect. Once the Carryover Allocation Agreement has been executed by all parties, (a) replacement of the Applicant or a material change in the ownership structure of the named Applicant will require Board approval prior to the change.”

STATUTES IMPLEMENTED BY THE RULE

7. The Rule implements, among other sections of the Florida Housing Finance Corporation Act (the “Act”), the statutes relating to the allocation of Low-Income Housing Tax Credits contained in Section 420.5099 of the Florida Statutes.

8. Florida Housing has the authority pursuant to Section 120.542(1), Florida Statutes, and Chapter 28-104, F.A.C., to grant waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers shall be granted when the person subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship or violate principals of fairness (the “Hardship Condition”), and (2) the purpose of the underlying statute has been or will be achieved by other means by the person (the “Other Means Condition”). § 120.542(2), *Fla. Stat.*

REQUESTED WAIVER AND JUSTIFICATION FOR GRANTING WAIVER

9. Petitioner requests a waiver of the provisions of Rule requiring that the non-profit entity which owns 51 percent of the ownership interest in the Development held by the general partner to receive at least 25 percent of the Developer Fee.

10. At the time that Petitioner submitted its Application, Petitioner met the definition of Non-Profit through the entity New Beginnings Housing, Inc., which changed its name to Provident Housing Solutions, Inc. (“Provident Housing”). The partners of the Petitioner are currently as follows:

General Partner	Provident Housing Solutions, Inc.	.0051%
Administrative Limited Partner	Blue Sky Clermont ALP, LLC	.0049%
Limited Partner	Blue Sky Communities III, LLC	99.99%

11. The Petitioner requests Florida Housing's Board approval to (i) change Provident Housing from the general partner to a special limited partner with a .001% interest; (ii) decrease the ownership interest of Blue Sky Clermont ALP, LLC to .0039%; and (iii) replace the current general partner with TB Affordable Housing Inc. ("TB Affordable"), a qualified non-profit entity. TB Affordable is affiliated with Gulfcoast Housing Foundation, Inc. ("Gulfcoast"), a qualified nonprofit entity (with the same board members as TB Affordable), which will make a soft loan to the Petitioner. As a condition of the loan, Gulfcoast requires that an affiliated entity, TB Affordable, have rights in the ownership and management of the Petitioner. Petitioner has provided all items required by the RFA to qualify TB Affordable Housing as a Non-Profit to Florida Housing, including an IRS determination letter, a description/explanation of how it will substantially and materially participate in the management and operation of the Development, the names and addresses of the members of the governing board and the articles of incorporation demonstrating that one of the purposes of the Non-Profit entity is to foster low-income housing. The ownership structure of the Petitioner after the requested changes would be as follows:

General Partner	TB Affordable Housing Inc.	.0051%
Special Limited Partner	Provident Housing Solutions, Inc.	.0010%
Administrative Limited Partner	Blue Sky Clermont ALP, LLC	.0039%
Limited Partner	Blue Sky Communities III, LLC	99.99%

11. In addition, Petitioner requests Florida Housing's Board approve (i) the addition of CR GC Developer, LLC ("CR Developer"), an entity wholly owned by Gulfcoast (which has the same board members as TB Affordable), as a co-developer with a 15% interest in the developer fee; (ii) the reduction of Provident Housing's interest in the developer fee from 25% to 15%; and (iii) the reduction of Blue CR Developer, LLC's ("Blue Developer") interest in the developer fee from 75% to 70%. Shawn Wilson provided the Developer experience at the time of the Application and will remain a Principal of Blue Developer. With the requested change, the two non-profit entities would collectively receive 30% of the developer fee, and Blue Developer would reduce its share of developer fee to 70%. As Provident Housing and TB Affordable, through its affiliate CR Developer, will jointly receive 30% of the developer fee, in excess of the 25% required by the Rule, Petitioner seeks a waiver of the requirement in the Rule that TB Affordable, as the new general partner, receive at least 25% of the developer fee.

12. The planned change of the Petitioner would allow TB Affordable to satisfy the Non-Profit definition and would not adversely affect the Petitioner, Florida Housing or any other applicant seeking funds pursuant to the RFA. If the waiver is granted, Gulfcoast, a qualified nonprofit corporation that is the sole member of CR Developer and has the same principals (directors) as TB Affordable, will make a soft loan to Petitioner to help Petitioner build the Development. Due to extenuating site challenges and rising construction costs, the hard cost budget has increased substantially since the Petitioner submitted its Application. Without this loan, there will be a funding shortfall and it will be extremely difficult for Petitioner to move forward with the Development. A waiver of the Rule is required to avoid the economic hardship of limited sources to build the Development. Therefore, the Petition satisfies the Hardship Condition.

13. The purpose of the Rule can be achieved by allowing the Petitioner to have two non-profit entities in its ownership structure. Each non-profit will materially and substantially participate in the development, management and operation of the Development. The granting of this waiver would allow Petitioner to receive sufficient funds to build the Development and increase the supply of affordable housing to achieve the purpose of the underlying statute. Therefore, this Petition satisfies the Other Means Condition.

14. In this instance, Florida Housing has jurisdiction to grant a waiver of the provisions of the Rule and Petitioner meets the standards for a waiver of such Rule.

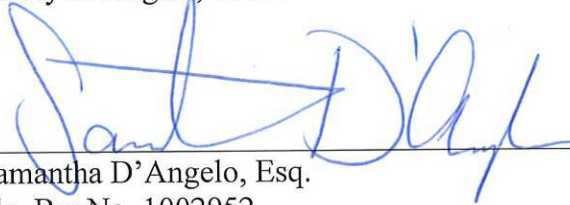
[INTENTIONALLY LEFT BLANK]

ACTION REQUESTED

WHEREFORE, Petitioner respectfully requests that Florida Housing:

- (i) Grant this Petition and all relief requested therein; and
- (ii) Grant such further relief as may be deemed appropriate.

Respectfully submitted this 30th day of August, 2019.



Samantha D'Angelo, Esq.
Fla. Bar No. 1002952
Nelson Mullins Broad and Cassel
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801
Telephone: (407) 839-4218
Facsimile: (407) 425-8377
Email: samantha.dangelo@nelsonmullins.com
COUNSEL FOR PETITIONER

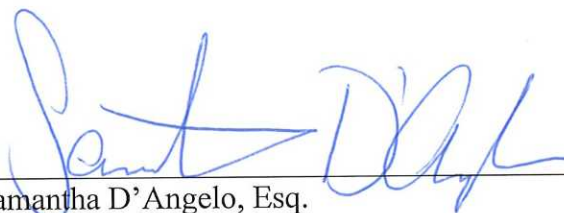
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by electronic delivery to:

Florida Housing Finance Corporation,
Attn: Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
CorporationClerk@floridahousing.org,

Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399
Joint.admin.procedures@leg.state.fl.us

This 30th day of August, 2019.



Samantha D'Angelo, Esq.
Fla. Bar No. 1002952

Exhibit A

[See attached]



Blue Sky Communities
5300 West Cypress Street
Suite 200
Tampa, Florida 33607

August 14, 2019

Mr. Tim Kennedy
Assistant Director of Multifamily Programs
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301

RE: Clermont Ridge Senior Villas, 2018-112C
Request to change ownership structure of General Partner and to add a Co-Developer

We are requesting to change the ownership structure of the General Partner and to add a Co-Developer in accordance with RFA 2017-111 requirements.

- Applicant Entity:
 - TB Affordable Housing, Inc., a qualified nonprofit corporation, admitted as the .51% General Partner.
 - Provident Housing Solutions, Inc., a qualified nonprofit corporation, change from .51% General Partner to Special Limited Partner with a .10% ownership.
 - Blue Sky Clermont ALP, LLC reducing ownership to .39% to allow for addition of the new General Partner.

- Developer Entity:
 - CR GC Developer, LLC, adding as a Co-Developer with 15% interest in the total fee..
 - Provident Housing Solutions, Inc. reducing interest in the total fee to 15%.
 - Blue CR Developer, LLC reducing interest in the total fee to 70%.

The changes are requested to improve the financial feasibility of the development with a loan from Gulfcoast Housing Foundation, Inc., a qualified nonprofit corporation and the sole member of the new Co-Developer and same principals as the new General Partner.

We are currently in credit underwriting with Seltzer Management Group and expect to close by the end of the year. Please see attached organization charts with current versus proposed structure. Thank you for your consideration, if you have any questions, please contact Scott Macdonald at 813-514-2108.

Sincerely,

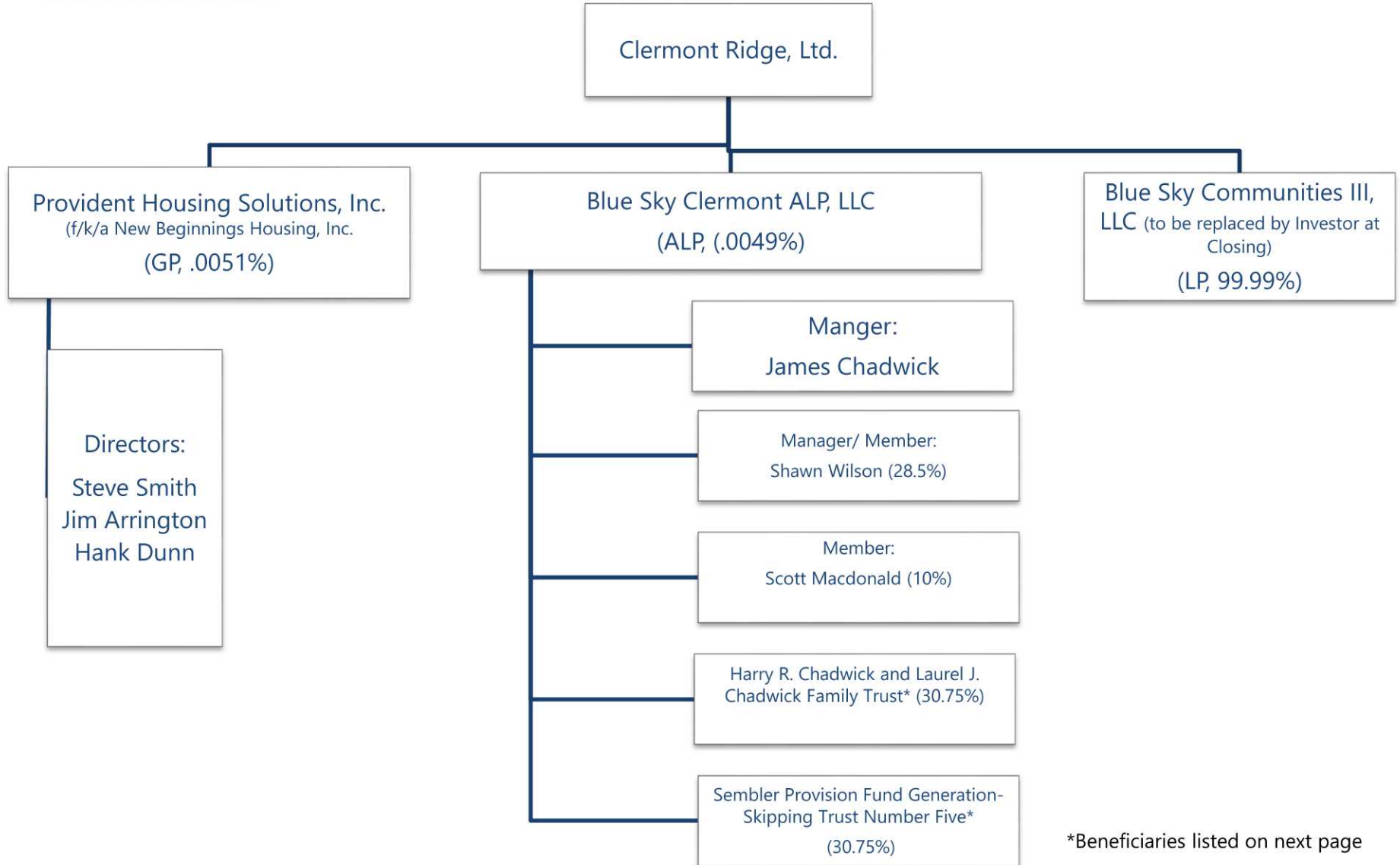
CLERMONT RIDGE, LTD.

By: Blue Sky Clermont ALP, LLC, its ALP

By: 
Shawn Wilson, Manager

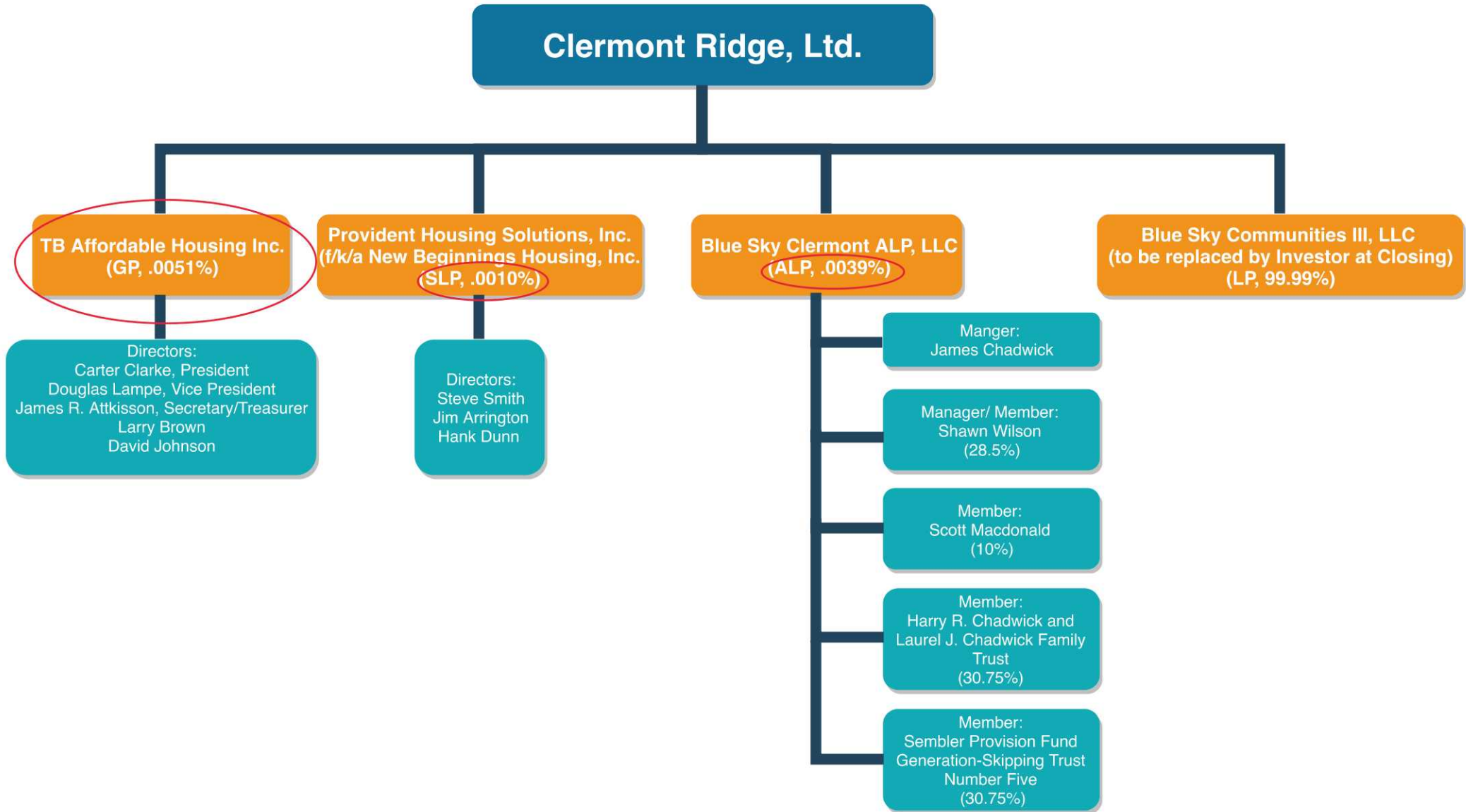


Owner – Clermont Ridge, Ltd.
Org Chart
Current



*Beneficiaries listed on next page

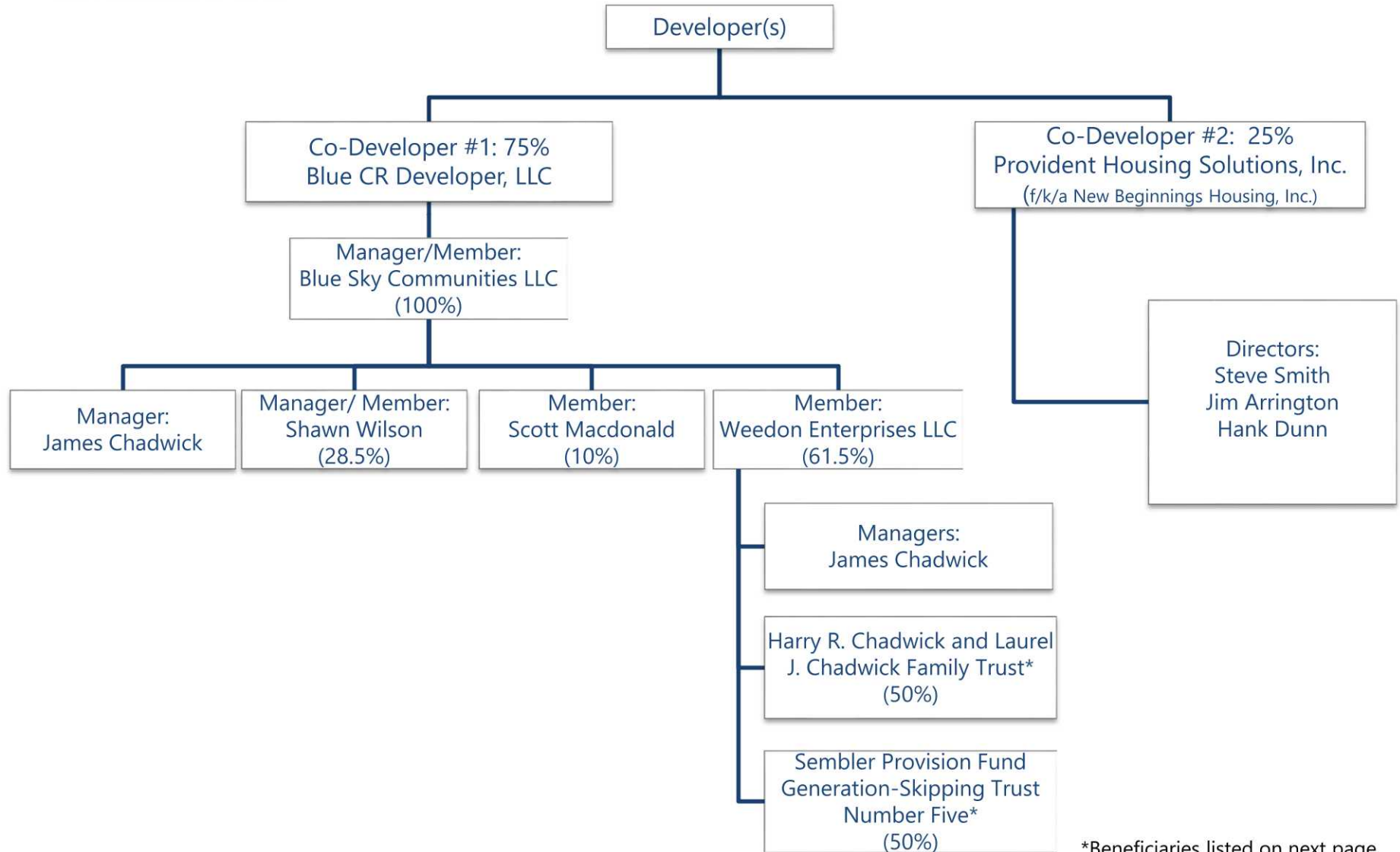
Owner – Clermont Ridge, Ltd.
Org Chart
Proposed





Clermont Ridge Senior Villas

Current



*Beneficiaries listed on next page

**Developer
Org Chart
Proposed**

