

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANGEL HOUSE ASSISTED LIVING,
INC.,

Petitioner,

vs.

Case No. 26-4378RU

FLORIDA HOUSING FINANCE
CORPORATION AND AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

_____ /

FINAL ORDER OF DISMISSAL WITHOUT PREJUDICE

On September 3, 2026, Petitioner, Angel House Assisted Living, Inc., filed a Petition Challenging an Unadopted Rule Pursuant to Section 120.56(4), Florida Statutes, against Respondent, Florida Housing Finance Corporation (FHFC), with the Division of Administrative Hearings (DOAH). The Petition was assigned to the undersigned administrative law judge the next day.

On September 8, 2026, Petitioner filed an Amended Complaint, this time adding the Agency for Healthcare Administration (AHCA) as a respondent. Petitioner also filed several documents in support of the Amended Complaint. Some of these documents Petitioner appeared to author, some are emails with various lending institutions, and others are correspondence with entities other than either Respondent. Although there is one email from AHCA, it does not contain the “agency statement” about which Petitioner complains.

On September 9, 2026, FHFC moved to strike the Amended Complaint, based upon Petitioner’s failure to seek leave to file it with DOAH after an administrative law judge was assigned. That same day, an Order was issued that noted not only Petitioner’s failure to seek leave to file the Amended Complaint, but FHFC’s failure to confer with Petitioner and state its position regarding the Motion to Strike, as required by Florida Administrative Code Rule 28-206.204. The Order stated that, given that no leave was sought to file the Amended Complaint, the operative charging document remained the original Petition filed September 3, 2026.

On September 9, 2026, a Notice of Zoom Scheduling Conference was issued, noticing the Scheduling Conference for September 10, 2026. At this point, the only

respondent identified by Petitioner in this proceeding was the Florida Housing Finance Corporation.

By the time the Zoom conference commenced, Petitioner had filed a Motion for Leave to File Amended Complaint. While the conference was noticed as a scheduling conference, the Motion for Leave to File Amended Complaint was also discussed. The undersigned noted that the Motion did not include a certificate of service, and advised Petitioner that a certificate of service was required on *all* documents filed at DOAH in this proceeding, and directed Petitioner's representative that she needed to read the Uniform Rules of Procedure, which are available on DOAH's website, and adhere to the requirements outlined in the rules. Based on the discussion during the scheduling conference, the final hearing in this was scheduled for September 30, 2026.¹ An Order Granting Petitioner's Motion for Leave to File Amended Complaint was issued September 11, 2026.

On September 14 and 15, 2026, Respondents each filed Motions to Dismiss the Amended Complaint. The primary assertion in the Motions to Dismiss was Petitioner's failure to identify an agency statement made by either agency.

The Amended Complaint states at paragraph four that "Respondent's *enforcement* of an unadopted underwriting rule automatically disqualifies Petitioner's corporate deed from standard residential financing pools, locking up Petitioner's land equity, imposing predatory commercial lending terms, and threatening the operational survival of a 17-year compliant footprint." (emphasis added). The Amended Petition does not identify which agency it is referencing, and more importantly, does not identify whose agency statement is at issue or what that statement is.

At paragraph eight, the alleged agency statement is identified as "Any 1-4-family residential property that holds an active state health care license or whose deed is titled directly to an operating LLC, S-Corp or Non-Profit care entity must be summarily reclassified as a commercial property risk." The Amended Petition references a May 2026 RFP by the Florida Housing Finance Corporation, but does not include the RFP in its filing. Petitioner alleges that the capital requirement in

¹ The undersigned is mindful of the dilemma this scheduling imposes on the Agency for Healthcare Administration, as at that time, it had not been served and presumably did not know Petitioner was seeking to add it as a party to this case. It was explained to Petitioner that the Agency must be served in order for it to know it was a respondent in this case. Apparently, the message was not received, because the response to the Motions to Dismiss once again do not contain a certificate of service, despite the requirement in rule 28-106.104 that one be included. Nonetheless, section 120.56(1)(c), Florida Statutes, requires that a hearing be held within 30 days of assignment of the administrative law judge, unless the parties agree to extend the timeline or good cause is shown. Florida Housing Finance Corporation was not willing to extend the timeline. Had this case gone forward on September 30, 2026, a motion to continue based on inadequate notice would have been entertained.

the RFP requires the proof of millions of dollars in commercial development experience, and by doing so, “enforces” an unadopted rule that “systematically capital-starves independent local providers and funnels public funds exclusively to high-density corporate warehouses.” Once again, however, the “unadopted rule” or agency statement is not identified.

Petitioner filed an Omnibus Response to Respondents’ Motions to Dismiss. The Response states in part:

2. When viewed side-by-side, the Respondents’ arguments reveal a circular shell game designed to hide institutional regulatory capture. Respondent AHCA argues it must be dismissed because the Amended Complaint targets mortgage reclassifications enforced through FHFC’s certified lending networks. Concurrently, Respondent FHFC argues it must be dismissed because those identical underwriting freezes are executed by automated third-party proprietary systems and underwriting filters.

Neither Motion to Dismiss contains the statements attributed to them by Petitioner. Most importantly, nothing in the Amended Petition or the Omnibus Response identifies the author of the statement that Petitioner claims is an unadopted rule.²

Section 120.56(4) requires the statement at issue be an *agency* statement. While arguably a statement has been identified, its author has not. If, as originally pleaded, the statement reflects a federal guideline, then it is not authored by a state agency. If it is not a federal guideline but is some other sort of policy to which lending entities adhere, it is not necessarily an agency statement, even if a state agency is aware of it. *See Fla. Ass’n for Child Care Mgmt., Inc. v. Early Learning Coalition of Duval, Inc.* Case No. 08-1717RU (Fla. DOAH Aug. 26, 2008) (although school readiness program developed by an early learning coalition was reviewed by state agency, that review did not transform the program into an agency statement).

The Amended Complaint does not allege an agency statement, as required by section 120.56(4) in order to challenge an unadopted rule.

² It is noted that the original Petition stated that “by blindly allowing automated processing software to use *federal* ‘individual borrower’ and lease structure limitations as a blanket exclusion against corporate deeds, Respondent is permitting an unadopted, uncodified rule to dictate state housing finance policy.” (emphasis added).

Section 120.569(2)(c) provides in pertinent part:

Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.545(5)(b). Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be amended without prejudice to petitioner's filing of a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

Petitioner has amended the original Petition, but the amendments in the Amended Complaint do not cure the omission of allegations that the alleged rule is an agency statement. Further, at the time the Amended Complaint was filed, the Motions to Dismiss had not been filed and Petitioner was not on notice that failure to identify the source of the alleged agency statement could be a fatal defect. Accordingly, it is

ORDERED:

1. The Amended Complaint is dismissed.
2. Dismissal of the Amended Complaint is without prejudice to Petitioner filing a Second Amended Petition no later than September 30, 2026, that addresses the infirmities discussed in this Order.
3. Failure to timely file a Second Amended Petition will result in a Final Order of Dismissal with prejudice.
4. The hearing scheduled for September 30, 2026, is canceled.

DONE AND ORDERED this 17th day of September, 2026, in Tallahassee, Leon County, Florida.


LISA SHEARER NELSON
Administrative Law Judge
DOAH Tallahassee Office

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