

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

M. Dyson /DATE: 1/27/03

CAMDEN CLUB, LTD.,  
Petitioner,

v.

FHFC CASE NO.: 2002-0049

FLORIDA HOUSING FINANCE  
CORPORATION,

APPLICATION NO.: 2002-101S

Respondent.

\_\_\_\_\_ /

**FINAL ORDER**

This cause came before the Board of Directors of the Florida Housing Finance Corporation ("Board") for consideration and final agency action on January 24, 2003. On or before April 15, 2002, Petitioner submitted its Application to Florida Housing Finance Corporation ("Florida Housing") to compete for a SAIL loan to finance rehabilitation of an existing elderly facility. Petitioner timely filed a Petition on August 13, 2002, pursuant to Sections 120.569 and 120.57(1), Florida Statutes, (the "Petition") challenging Florida Housing's scoring on parts of the Application. Florida Housing reviewed the Petition pursuant to Section 120.569(c), Florida Statutes, and determined that there were no disputed issues of material fact. An informal hearing was held in this case on December 18, 2002, in Tallahassee, Florida, before Florida Housing appointed Hearing Officer, Diane D. Tremor. Petitioner and Respondent timely filed a Joint Proposed Recommended Order.

After consideration of the evidence, arguments, testimony presented at hearing, and the Joint Proposed Recommended Order, the Hearing Officer issued a Recommended Order. A true

and correct copy of the Joint Recommended Order is attached hereto as "Exhibit A." The Hearing Officer recommended Florida Housing enter a Final Order awarding Petitioner 5 points for an Elderly designation as its demographic or area of commitment, is entitled to an award of 6 points for providing qualified resident programs for the Elderly, and is entitled to an award of 1.0 tie-breaker points for proximity to a medical facility, resulting in a score of 71 total points and 7.25 proximity tie-breaker points..

In accordance with the foregoing, it is hereby **ORDERED**:

1. The findings of fact of the Recommended Order are adopted in full as Florida Housing's findings of fact and incorporated by reference as though fully set forth in this Final Order.

2. The conclusions of law of the Recommended Order are adopted in full as Florida Housing's conclusions of law and incorporated by reference as though fully set forth in this Final Order.

The Hearing Officer's recommendation that a Final Order be entered granting Petitioner 5 points for an Elderly designation as its demographic or area of commitment, is entitled to an award of 6 points for providing qualified resident programs for the Elderly, and is entitled to an award of 1.0 tie-breaker points for proximity to a medical facility, resulting in a score of 71 total points and 7.25 proximity tie-breaker points is approved and accepted as the appropriate disposition of this case.

DONE and ORDERED this 21<sup>st</sup> day of January, 2003.

FLORIDA HOUSING FINANCE  
CORPORATION

By: \_\_\_\_\_

  
Chairperson

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

**A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.**

Copies to:

Wellington H. Meffert II  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Michael G. Maida, Esq.  
Rutledge, Ecenia, et al.  
PO Box 551  
Tallahassee, Florida 32302

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**CAMDEN CLUB, LTD.,  
(PROJECT NAME: CAMDEN  
CLUB APARTMENTS),**

**Petitioner,**

v.

**FHFC CASE NO. 2002-0049  
Application No. 2002-101S**

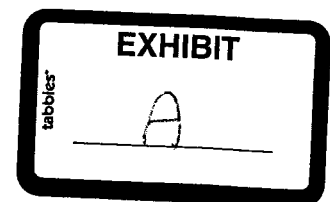
**FLORIDA HOUSING FINANCE  
CORPORATION,**

**Respondent.**

---

**ORDER**

Pursuant to notice and Sections 120.569 and 120.57(2), Florida Statutes, an informal hearing was scheduled before the undersigned Hearing Officer on December 18, 2002. Prior to the hearing, the parties reached an agreement resolving the issues in dispute, and submitted to the undersigned Hearing Officer a Joint Proposed Recommended Order, which is attached hereto as Exhibit A. In essence, the parties agreed that Petitioner is entitled to an award of 5 points for an Elderly designation as its demographic or area of commitment, is entitled to an award of 6 points for providing qualified resident programs for the Elderly, and is entitled to an award of 1.0 tie-breaker points for proximity to a medical facility, resulting in a score of 71 total points and 7.25 proximity tie-breaker points.



Based upon this agreement and the Joint Proposed Recommended Order, there is no need for additional Findings of Fact and/or Conclusions of Law, and the issues raised in the Petition are moot. Accordingly, no Findings of Fact or Conclusions of Law are made herein. The parties' jointly executed Joint Proposed Recommended Order is attached as Exhibit A.

Respectfully submitted and entered this 8<sup>th</sup> day of January, 2003.



DIANE D. TREMOR  
Hearing Officer for Florida Housing  
Finance Corporation  
Rose, Sundstrom & Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877-6555

Copies furnished to:

Wellington H. Meffert II  
General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301-1329

Michael G. Maida, Esq.  
Rutledge, Ecenia, Purnell & Hoffman  
215 S. Monroe Street, Ste. 420  
Tallahassee, FL 32301

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**CAMDEN CLUB, LTD. (2002-101S)  
(PROJECT NAME: CAMDEN CLUB APARTMENTS)**

**Petitioner,**

vs.

Case No.: 2002-0049

**FLORIDA HOUSING FINANCE CORPORATION,**

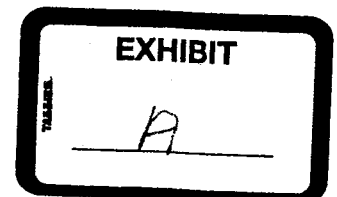
**Respondent.**

---

**JOINT PROPOSED RECOMMENDED ORDER**

The parties jointly submit the following proposed findings of fact, conclusions of law, and recommendations.

1. Respondent, Florida Housing Finance Corporation, ("Florida Housing"), is a public corporation under Chapter 420, Fla. Stat., to administer the financing and refinancing of projects which provide housing affordable to persons and families of low, moderate and middle income in Florida.
2. Florida Housing has established by rule a process (the "Universal Cycle") in which applicants for any of the above-referenced Florida Housing multi-family rental program submits a single application (the "Universal Cycle Application") by which projects are evaluated, scored and competitively ranked.
3. The 2002 Universal Cycle Application, adopted as Form UA1016 by Rules 67-21.002(97) and 67-48.002(116), Fla. Admin. Code, consists of Parts I through VI and instructions, some of which are not applicable to every Applicant. Some of the parts include "threshold" items. Failure to properly include a threshold item or satisfy a threshold requirement results in rejection of



the application. Other parts allow applicants to earn points; however, the failure to provide complete, consistent and accurate information as prescribed by the instructions may reduce the Applicant's overall score.

4. On or before April 15, 2002, Petitioner, Camden Club, Ltd. ("Camden Club") submitted an application to Florida Housing for the award of funds from the State Apartment Incentive Loan ("SAIL") program in the 2002 Universal Cycle. Camden Club's ability to obtain funding was predicated upon the development qualifying as an "Elderly" development.

5. In order for a development to be classified as "Elderly," the "development cannot consist of more than 160 total units, unless the proposed Development is a rehabilitation of an existing elderly housing facility." (See page 20 of the Universal Application Instructions). As the Camden Club development is comprised of 215 units, the development would have to be identified as a "rehabilitation of an existing elderly housing facility" in order to qualify as an Elderly development.

6. After Petitioner submitted its 2002 Universal Cycle Application, Florida Housing's staff undertook preliminary scoring of the Application pursuant to Part V, Chapter 420, Florida Statutes, and Rule Chapter 67-48, Florida Administrative Code, completing the scoring process on May 13, 2002.

7. After completing preliminary scoring, Florida Housing's staff notified Petitioner of the results. Camden Club scored 60 out of a possible 71 total points, in addition to 6.25 out of a possible 7.50 proximity tie-breaker points. In scoring Camden Club's Application, Florida Housing did not award 5 points for "demographic or area commitment" under Part III, Section D of the Application. In addition, Florida Housing did not award 6 points for "resident programs" under Part

III, Section F of the Application. Finally, Florida Housing did not award 1 proximity tie-breaker point under Part III, Section A of the Application<sup>1</sup>. The Corporation's preliminary score of Camden Club's application was based on the conclusion that the Application did not qualify as an Elderly development.

8. Petitioner could submit additional documentation, revised forms, and other information that it deemed appropriate to address any issue raised in any NOPSE, Florida Housing's position on each NOPSE and preliminary scoring. These documents, revised forms and other information were known as "cures" and were due on or before June 26, 2002 (the "cure period").

9. As part of its cure, Camden Club submitted information which demonstrated that in 2001, Camden Club submitted an application seeking an allocation of housing credits from the 2001 Combined Cycle. The 2001 application was identical in all material respects to the 2002 Universal Cycle application in which Camden Club sought an allocation of SAIL funding. The same development is the subject of both the 2001 and 2002 applications. That development is an existing 215-unit apartment complex in need of rehabilitation. The number of units and unit mix has remained constant for the 2001 and 2002 cycles.

10. Relevant portions of the 2001 application reflected that Camden Club committed to treat this development as a rehabilitation of an existing Elderly facility. (See Form 7 of the 2001 application). In addition, Camden Club committed in its 2001 application to target 100% of the units

---

<sup>1</sup>Camden Club was seeking one proximity tie-breaker point based on the development's proximity to a medical facility. Under the applicable rules, a development must be a qualifying elderly development in order to be eligible for medical facility tie-breaker points. As Florida Housing preliminary determined that Camden Club's development was not a qualifying Elderly development, it did not award tie-breaker points under this category.



for “Elderly” residents. (See Form 2 of the 2001 application). Florida Housing awarded Camden Club full points for these portions of its 2001 application.

11. Camden Club was ultimately awarded housing credits from the 2001 Cycle. At the time it submitted its 2002 Application, Camden Club was unconditionally obligated to target 100% of its units to the Elderly. This requirement was imposed by the Corporation when it agreed to allocate housing credits to Camden Club from the 2001 Cycle.

12. Florida Housing did not accept the cure material submitted by Camden Club with respect to whether the development qualified as an existing elderly facility. As a result, Florida Housing did not increase Camden Club’s total points or award any additional proximity tie-breaker points.

13. Following this process, on July 22, 2002 Florida Housing sent Pre-Appeal Scores and a Notice of Rights to Petitioner. The Notice of Rights notified Petitioner that it could contest Florida Housing’s actions by requesting an informal hearing before a contracted hearing officer.

14. Petitioner timely requested a hearing by filing its Petition for Formal Administrative Hearing on August 13, 2002.

15. After review of Camden Club’s Petition, Florida Housing agreed that the Camden Club development is a rehabilitation of an existing elderly facility within the meaning and intent of Florida Housing’s criteria. As a result, Florida Housing agreed that the Camden Club development qualifies as an Elderly development within the meaning and intent of Florida Housing’s criteria.

## CONCLUSIONS OF LAW


1. Pursuant to Sections 120.569 and 120.57(2), Fla. Stat. and Rule 67-47, Fla. Admin. Code, the Hearing Officer has jurisdiction over the parties to this proceeding.
2. Pursuant to Section 420.507(22)(f), Fla. Stat., Florida Housing is authorized to institute a competitive application process, and has done so in accordance with Rule 67-48.004, Fla. Admin. Code.
3. Florida Housing's application form and instructions are adopted as Form UA1016, Rule 67-48.002(116), Fla. Admin. Code.
4. Camden Club submitted an application for the 2002 Universal Cycle seeking an allocation of SAIL funding.
5. The Camden Club development is a rehabilitation of an existing elderly facility within the meaning and intent of Florida Housing's criteria. As a result, the Camden Club development qualifies as an Elderly development within the meaning and intent of Florida Housing's criteria.
6. Part III, Section D, provides that a qualifying Elderly development is entitled to 5 points as a result of designating the Elderly as its demographic or area of commitment.
7. Part III, Section F, provides that a qualifying Elderly development is entitled to 6 points as a result of providing qualified resident programs for the Elderly.
8. Part III, Section A, subsection 11, paragraph (1), subparagraph (b), provides that a qualifying Elderly development located between 1.1 and 2.0 miles of a medical facility will receive 1.00 tie-breaker point.


**RECOMMENDATION**

Based on the Findings of Fact and Conclusions of Law stated above, the parties recommend the Hearing Officer enter a Recommended Order finding that:

1. Petitioner, Camden Club Apartments, is a rehabilitation of an existing elderly facility and therefore qualifies as an Elderly development within the meaning and intent of Florida Housing's criteria.
2. Camden Club is entitled to an award of 5 points under Part III, Section D, as a result of Camden Club designating Elderly as its demographic or area of commitment.
3. Camden Club is entitled to an award of 6 points under Part III, Section F, as a result of Camden Club providing qualified resident programs for the Elderly.
4. As Camden Club's development is located between 1.1 and 2.0 miles of a medical facility, it is entitled to an award of 1.0 proximity tie-breaker point under Part III, Section A, subsection 11, paragraph (1), subparagraph (b).
5. In light of the point increases described herein, Camden Club's score should be increased to 71 total points and 7.25 proximity tie-breaker points.

Respectfully submitted this 25<sup>th</sup> day of November 2002.

  
\_\_\_\_\_  
MICHAEL G. MAIDA  
FL BAR No.: 0435945  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
215 S. Monroe Street, Ste. 420  
P.O. Box 551  
Tallahassee, FL 32302  
850/681-6788 (Telephone)  
850/681-6515 (Telecopier)

  
\_\_\_\_\_  
WELLINGTON H. MEFFERT, II  
FL BAR No.: 0765554  
Florida Housing Finance Corporation  
227 North Bronough Street, Ste. 5000  
Tallahassee, FL 32301-1329  
850/488-4197 (Telephone)  
850/414-6548 (Telecopier)

## **NOTICE OF RIGHT TO SUBMIT WRITTEN ARGUMENT**

All parties have the right to submit written arguments in response to a Recommended Order for consideration by the Board. Any written argument should be typed, double-spaced with margins no less than one (1) inch, in either Times New Roman 14-point or Courier New 12-point font, and may not exceed five (5) pages. Written arguments must be filed with Florida Housing's Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301-1329, no later than 5:00 p.m. on Wednesday, January 15, 2003. Submission by facsimile will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to Recommended Orders.