

IN RE: CITY VIEW APARTMENTS AT HUGHES SQUARE

APPLICATION to FLORIDA HOUSING FINANCE

CORPORATION – APPLICATION #2004-086S

**PETITION**

City View Apartments at Hughes Square, by and through its undersigned counsel hereby submits this Petition and request an evidentiary proceeding and asserts as follows:

1. The name and address of the Agency affected and the Agency's file or identification number are as follows:

Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301-1329  
Agency's File or Identification Number: 2004-028-UC

2. Names, addresses and telephone numbers of Petitioner and Petitioner's representative and explanation of how interest will be affected:

a. Petitioner: City View Apartments at Hughes Square  
c/o Banc of America Community  
Development Corporation  
100 S.E. Second Street, 14<sup>th</sup> Floor  
Miami, FL 33131  
Telephone Number: (305) 533-2348  
Fax Number: (305) 533-2309

b. Petitioner's Representative: Holland & Knight LLP  
ATTN: Lynn C. Washington, Esq.  
701 Brickell Avenue, Suite 3000  
Miami, FL 33131  
Telephone Number: (305)789-7798  
Fax Number: (305)789-7799

c. The Petitioner applied for a SAIL Loan from the Florida Housing Finance Corporation (the "Agency") from the 2004 Universal Cycle. The Agency

found that the Petitioner's application did not meet the threshold requirements and did not award a SAIL Loan to the Petitioner.

3. Notification to Petitioner

The Petitioner received notification of the Agency's decision by mail on July 10, 2004.

4. Statement of Disputed Facts

- a. **The Agency's position is that the Verification of Infrastructure Electricity (Exhibit 28) is deficient because the form did not contain a reference that electricity was available to the site prior to March 31, 2004. Item 19T**

The Agency rejected Exhibit 28 of the Petitioner's Application because the Form did not provide a reference in the form that electricity was available to the site on or before the Application Deadline. The Petitioner's position is that there is no basis for the Agency position that the cure form has include a reference that pre-dates the cure form. We have attached a copy of the Cure Instructions as Exhibit "A" and we were unable to find a reference to the requirement suggested by the Agency in the Cure Instructions. We were also unable to find a basis for the Agency position in Agency Rule 67-48.004(6), which forms the basis for the cure procedure. Had Exhibit "A" provided that the requirement for the reference to the Application Deadline be stated in the cure, the Petitioner could have satisfied that requirement. Further, it only seems logical that the cure period is part of the Application period. Otherwise, there would be no reason to allow

cures to be accepted after March 31, 2004. Furthermore, the Agency could ascertain from the Application that this was a completed project.

- b. The Agency's position is Verification of Availability of Infrastructure Water (Exhibit 29) submitted by the Petitioner to verify the availability of water is deficiency because the form did not contain a reference that water was available to the site placed prior to March 31, 2004. Item 19T**

The Petitioner's position is that the same facts and legal arguments made in reference to Item 18T above are applicable to Item 19T and are hereby restated and incorporated herein by reference.

- c. The Agency's position is that the Applicant Verification of Availability of Environmental Safety is deficient because the Applicant did not provide evidence that a Phase I update was prepared.**


The Agency rejected the Petitioner's Application because the Application did not include evidence that an update Phase I had been performed. In this case no updated Phase I was required because an Phase II was performed and the requirements of the Phase II was satisfied. It is unreasonable to perform an updated Phase I when a Phase II

is required. The Petitioner complied with the reasonable requirements of the Agency's form.

5. The Petitioner requests that the Petitioner's Application be treated as meeting threshold and that the Applicant be eligible to participate in the FHFC 2004 Universal Application Cycle for a SAIL Loan and the Petitioner be awarded the appropriate points that are associated with the reversal of the items set forth in this Petition. If this request is denied, the Petitioner requests a hearing.

Respectfully submitted:

HOLLAND & KNIGHT LLP  
701 Brickell Avenue, Suite 3000  
Miami, Fl 33131  
Tel: (305) 789-7798  
Direct Fax: (305) 789-7799

By:   
Lynn C. Washington

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## INSTRUCTIONS FOR FILING CURES

Additional documentation, revised pages and other information (“Cures”) must be submitted in accordance with the following instructions required by the Rule:

- Do not submit pages of the Application that are not revised or otherwise changed. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety even if only a portion of the original document was revised.
- Where revised or additional information creates an inconsistency with another item in that Application, the Applicant must make such other changes as necessary to keep the Application consistent as revised.
- Submit an original labeled “Original” and three photocopies of the original Cures.

To better facilitate the processing of Cures, Florida Housing requests Applicants to follow these additional instructions:

- Provide all documentation in three-ring binders.
- Label the front of the binders with the Development Name.
- Label the spine of the binders with the assigned Application Number.
- Complete and submit a Cure Form for each revision or additional documentation. Insert each Cure Form immediately preceding the applicable revised form, additional documentation or other information.
- Provide a brief statement explaining each revision or additional documentation so that Florida Housing will understand the reason the Cure is being submitted. Place the statement behind the applicable completed Cure Form for that Cure.
- Separate each part for which you are providing revisions or additional documentation with divider tabs labeled for that part. For example, insert a divider tab labeled “Part V” in front of the Cure Form and accompanying revisions submitted concerning Part V.
- Organize your submission by grouping all revisions and additional documentation for each part together in the same order the parts and exhibits appear in the most recent Application Summary Report.
- Complete and submit a Cure Summary Form. Insert the Cure Summary Form in the front of the Original and each photocopy.