

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

PALAFIX LANDING, LTD.,

FHFC CASE NO.: 2006-021UC
APPLICATION NO. 2006-035S

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

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 July 28, 2006. On or before February 1, 2006, Palafox Landing, Ltd. ("Petitioner"), submitted its 2006 Universal Cycle Application ("Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for funding from the State Apartment Incentive Loan Program. Petitioner timely filed its Petition Requesting Informal Hearing and Grant of the Relief Requested, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, (the "Petition") challenging Florida Housing's scoring on parts of the Application. An informal hearing was held in this case on June 21, 2006, in Tallahassee, Florida, before Florida Housing's designated Hearing Officer, Chris H. Bentley. Petitioner and Respondent timely filed a Joint Proposed Recommended Order.

After consideration of the Joint Proposed Recommended Order, the Hearing Officer issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as "Exhibit A." The Hearing Officer recommended Florida Housing enter a Final Order finding that:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

A. Green

/DATE: 7-31-06

1. Petitioner's 2006 Universal Application should be deemed to have met all threshold requirements.

RULING ON THE RECOMMENDED ORDER

The findings and conclusions of the Recommended Order are supported by competent substantial evidence.

ORDER

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

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

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

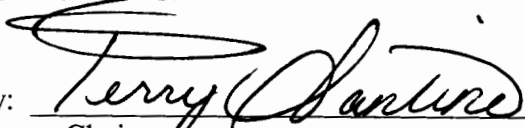
Accordingly, it is found and ordered that Petitioner's Application is scored as follows:

1. Petitioner's Application is deemed to have met all threshold requirements.

IT IS HEREBY ORDERED that Petitioner's Application is scored as having met all threshold requirements.

DONE and ORDERED this 28th day of July, 2006.

FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chairperson



Copies to:

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

Vicki Robinson
Deputy Development Officer
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Gary J. Cohen
Shutts & Bowen
201 S. Biscayne Blvd.
Suite 1508
Miami, FL 33131

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.

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

PALAFIX LANDING, LTD.,

Petitioner,

v.

**FHFC CASE NO. 2006-021UC
Application No. 2006-035C**

**FLORIDA HOUSING FINANCE
CORPORATION,**

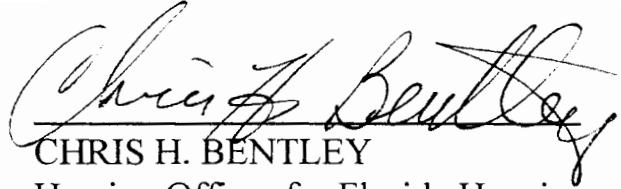
Respondent.

RECOMMENDED ORDER

The parties have agreed to a Joint Proposed Recommended Order which they request the Hearing Officer enter as his recommended Order. The parties in effect have stipulated and agreed that Petitioner meets all threshold requirements.

Therefore, the Hearing Officer hereby enters the Joint Proposed Recommended Order attached hereto as the Recommended Order in this matter.

Respectfully submitted and entered this 14th day of July, 2006.



CHRIS H. BENTLEY

Hearing Officer for Florida Housing
Finance Corporation

Rose, Sundstrom & Bentley, LLP

2548 Blirstone Pines Drive

Tallahassee, Florida 32301

(850) 877-6555

Copies furnished to:

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Wellington H. Meffert II
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**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

PALAFIX LANDING, LTD.,

Petitioner,

FHFC CASE NO.: 2006-021UC
APPLICATION NO. 2006-035C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

JOINT PROPOSED RECOMMENDED ORDER

Petitioner, PALAFIX LANDING, LTD., and Respondent, FLORIDA HOUSING FINANCE CORPORATION, hereby present the following Joint Proposed Recommended Order.

APPEARANCES

For Petitioner:

Gary J. Cohen, Esquire
Shutts & Bowen LLP
201 South Biscayne Boulevard
1500 Miami Center
Miami, FL 33131

For Respondent:

Wellington H. Meffert II
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Florida Housing Finance Corporation
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Joint Ex 1

PRELIMINARY STATEMENT

Palafox Landing, Ltd., (“Palafox Landing”) applied for funding during the 2006 Universal Cycle, seeking an allocation of Low Income Housing Tax Credits. Palafox Landing was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final scores on or about May 4, 2006. On or about May 26, 2006, Palafox Landing timely filed a Petition for an Informal Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, disputing the Florida Housing Finance Corporation’s (“Florida Housing”) final scoring of its 2006 Universal Cycle Application for the proposed Palafox Landing apartment complex. After review of the Petition, Florida Housing granted Palafox Landing an informal hearing in this matter. Palafox Landing sought a determination that the Petitioner had demonstrated the validity of an equity commitment to the project, submitted as part of its application. The parties now agree that Palafox Landing demonstrated the validity of this equity commitment.

STIPULATED FINDINGS OF FACT

1. Petitioner, Palafox Landing, Ltd., is a Florida limited partnership engaged in the business of developing affordable housing in State of Florida.
2. Respondent, Florida Housing Finance Corporation, 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.

3. 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.

4. The 2006 Universal Cycle Application, adopted as Form UA1016 (Rev. 2-06) by Rules 67-21.003((1)(a) and 67-48.004(1)(a), Fla. Admin. Code, consists of Parts I through V 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 as well as “tie-breaker points”; however, the failure to provide complete, consistent and accurate information as prescribed by the instructions may reduce the Applicant’s overall score.

5. On or before February 1, 2006, Palafox Landing submitted an application to Florida Housing in which it sought an allocation of competitive 9% tax credits under the Low-Income housing Tax Credit (LIHTC) program in the 2006 Universal Cycle, seeking funding to assist in the development of a 96 unit apartment complex in Escambia County, Florida.

6. After Palafox Landing submitted its 2006 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 March 1, 2006.

7. After completing preliminary scoring, Florida Housing's staff, via a letter dated March 2, 2006, notified Palafox Landing that its preliminary score was 66 out of a possible 66 total points, with 7.0 proximity tie-breaker points, however, the application had failed to meet the threshold requirements regarding firm financial commitments and financial shortfalls, as Palafox Landing had included no evidence of firm debt or equity financing commitments.

8. On or about April 10, 2006, Palafox Landing submitted "cure" documentation to Florida Housing to address the alleged defects previously identified. Palafox Landing submitted materials intended to cure the threshold failure regarding firm financial commitments and financial shortfalls.

11. On or about May 4, 2006, Florida Housing advised Palafox Landing that as a result of its "cures", its application's score was unchanged, and that Palafox Landing's financial commitments were not acceptable, as its "syndicator reference letter," provided as a cure, referred to "Enterprise Social Investment Corporation (ESIC)," but its firm equity commitment was provided by "Enterprise

Social Investment, Inc.,” a different entity. Florida Housing also determined that Palafox Landing continued to fail threshold due to the permanent financing shortfall resulting from this disqualification.

13. Florida Housing has since determined that “Enterprise Social Investment Corporation (ESIC),” and “Enterprise Social Investment, Inc.,” are in fact the same entity. Copies of documents filed with the Florida Department of State verifying the name change are attached hereto as Exhibit “A.”

14. The Parties now agree that “Enterprise Social Investment Corporation (ESIC),” and “Enterprise Social Investment, Inc.,” are in fact the same entity, and that the syndicator reference letter and firm equity commitment are from the same entity, and it should be counted as a firm commitment, that the Palafox Landing application should be deemed to have satisfied all threshold requirements.

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 (Rev. 2-06), by Rules 67-21.003((1)(a) and 67-48.004(1)(a), Fla. Admin. Code, Rule 67-48.002(111), Fla. Admin. Code.

4. Page 66 of the UA1016 (Rev. 2-06) instructions provides, at Part V, Section D, in pertinent part:

Applicants using a syndicator must provide at least one signed statement from a general partner of the ownership entity of a completed development which confirms that the syndicator (purchaser of the credits) has performed its obligations under the partnership agreement and is not currently in default with that agreement. Failure to provide such statement(s) will cause an equity commitment not to be scored firm.

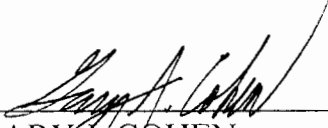
5. In accordance with the above provision, Palafox Landing has complied with the instructions for Part V Section D by providing a syndicator reference letter for Enterprise Social Investment Corporation, which is the same entity as Enterprise Community Investment, Inc., thus Petitioner has met the threshold requirement of firm financing commitments, and does not have either a construction/permanent financing shortfall or an excess of uses over financing sources.

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's 2006 Universal Application should be deemed to have met all threshold requirements.

Respectfully submitted this 16TH day of June, 2006.




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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via hand delivery to Chris Bentley, Hearing Officer, this 21st of June, 2006.



Wellington H. Meffert II, General Counsel
Florida Housing Finance Corporation