

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

ELMWOOD TERRACE LIMITED
PARTNERSHIP,

Petitioner,

v.

FHFC CASE NO.: 2010-020GA
DOAH CASE NO.: 10-1975

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 December 10, 2010. The matter for consideration before this Board is a recommended order pursuant to Section 120.57(1), Florida Statutes, and Rule 28-106, Florida Administrative Code.

Petitioner timely filed its Petition for Administrative Hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, (the “Petition”) challenging Florida Housing’s rescission of Exchange funding. Florida Housing reviewed the Petition pursuant to Section 120.569(2)(c), Florida Statutes, and determined that the Petition raised disputed issues of material fact. Pursuant to Section 120.57(1), Florida Statutes, a formal hearing was held in this case on June 14 through 16 and

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Russell / DATE: 12/13/2010

22, 2010, in Tallahassee, Florida, before Administrative Law Judge William F. Quattlebaum of the Division of Administrative Hearings (DOAH). Petitioner and Florida Housing timely filed Proposed Recommended Orders.

After consideration of the evidence and arguments presented at hearing, and the Proposed Recommended Orders, the Administrative Law Judge (ALJ) issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as “Exhibit A.” The ALJ recommended that Florida Housing issue a Final Order denying Petitioner’s application for Exchange funding.

Pursuant to Section 120.57(1)(k), Florida Statutes, Petitioner timely filed “Petitioners Exceptions to the Recommended Order” (hereinafter “Exceptions”), a copy of which is attached hereto as “Exhibit B” and made a part hereof by reference. Florida Housing subsequently filed its “Response to Petitioners Exceptions to Recommended Order” (hereinafter “Response”), a copy of which is attached hereto as “Exhibit C.”

After a review of the entire record in this proceeding, the Board makes the following findings and rulings:

RULING ON PETITIONER’S EXCEPTIONS

1. The section of the Exceptions entitled “Background”, which includes argument against the Recommended Order, does not specifically address enumerated findings of fact or conclusions of law, and cannot be considered by

this Board as exceptions under Section 120.57(1)(k), Florida Statutes. Accordingly, this Board specifically rejects the assertions and arguments presented in this section.

2. The section of the Exceptions entitled “General Objections”, which includes argument against the Recommended Order, does not specifically address enumerated findings of fact or conclusions of law, and cannot be considered by this Board as exceptions under Section 120.57(1)(k), Florida Statutes. Accordingly, this Board specifically rejects the assertions and arguments presented in this section.

3. Petitioner takes exception to the finding of fact in paragraph 10 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner’s exceptions thereto based on the testimony and evidence in the record and Florida Housing’s Response.

4. Petitioner takes exception to the finding of fact in paragraph 17 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner’s exceptions thereto based on the testimony and evidence in the record and Florida Housing’s Response.

5. Petitioner takes exception to the finding of fact in paragraph 21 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

6. Petitioner takes exception to the finding of fact in paragraph 24 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

7. Petitioner takes exception to the finding of fact in paragraph 50 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

8. Petitioner takes exception to the finding of fact in paragraph 64 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

9. Petitioner takes exception to the finding of fact in paragraph 66 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

10. Petitioner takes exception to the finding of fact in paragraph 68 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

11. Petitioner takes exception to the finding of fact in paragraph 74 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

12. Petitioner takes exception to the finding of fact in paragraph 81 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

13. Petitioner takes exception to the finding of fact in paragraph 83 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

14. Petitioner takes exception to the finding of fact in paragraph 85 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

15. Petitioner takes exception to the finding of fact in paragraph 87 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

16. Petitioner takes exception to the finding of fact in paragraph 88 of the Recommended Order. The Board finds that this finding of fact is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

17. Petitioner takes exception to the conclusion of law (misidentified in the Exceptions as a finding of fact) in paragraph 97 of the Recommended Order. The Board finds that this conclusion of law is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

18. Petitioner takes exception to the conclusion of law in paragraph 98 of the Recommended Order. The Board finds that this conclusion of law is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

19. Petitioner takes exception to the conclusion of law in paragraph 101 of the Recommended Order. The Board finds that this conclusion of law is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

20. Petitioner takes exception to the conclusion of law in paragraph 103 of the Recommended Order. The Board finds that this conclusion of law is based on competent, substantial evidence and specifically rejects Petitioner's exceptions thereto based on the testimony and evidence in the record and Florida Housing's Response.

RULING ON THE RECOMMENDED ORDER

21. The findings of fact set out in the Recommended Order are supported by competent substantial evidence.

22. The conclusions of law in the Recommended Order are supported by competent substantial evidence.

ORDER

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

23. 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.


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

IT IS HEREBY ORDERED that Florida Housing's rescission of funding to Petitioner is **AFFIRMED** and the relief requested in the Petition is **DENIED**.

DONE and ORDERED this *10th* day of December, 2010.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chair

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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.