

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

HTG CASALUNA, LLC.,

FHFC Case No.: 2017-012BP

Petitioner,

vs.

**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 March 24, 2017. On March 13, 2017, the parties executed the attached Stipulation for Dismissal in the above-captioned case.

IT IS HEREBY ORDERED that the Stipulation for Dismissal is adopted and incorporated by reference as though fully set out in this Order.

DONE and ORDERED this 24th day of March, 2017.

FLORIDA HOUSING FINANCE
CORPORATION

By: _____


Chair

Copies to:

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Tallahassee, FL 32301

Ken Reecy, Interim Executive Director
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Tallahassee, Florida 32308

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**

HTG CASALUNA, LLC.,

**FHFC Case No.: 2017-012BP
App. No.: 2017-159C**

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION

Respondent.

STIPULATION FOR DISMISSAL

Pursuant to Section 120.57(4), Fla. Stat., Petitioner HTG Casaluna, LLC (“Casaluna”) and Respondent, Florida Housing Finance Corporation (“Florida Housing”), by and through undersigned counsel, hereby enter the following Stipulation for Dismissal (hereinafter “Stipulation”).

Factual Background

1. Petitioner submitted an application for funding for a proposed multifamily affordable housing development in Miami-Dade County in response to Request for Application 2016-114 (the “RFA”). Casaluna submitted Application number 2017-159C. Casaluna’s Application was deemed ineligible due to a funding shortfall which resulted from Florida Housing’s failure to consider the non-corporation funding detailed in correspondence from Greystone & Co., Inc. (hereinafter the “Greystone Letter”).

2. Petitioner timely filed a Formal Written Protest as to the determination of ineligibility as to its Application. On March 3, 2017, Florida Housing sent a Notice to All Bidders on RFA 2016-114 (“Notice”), including those bidders who had been preliminarily selected for

funding. The Notice informed all bidders that their substantial interests might be affected by the disposition of Petitioners' Petition and advised the bidders of their opportunity to intervene. No bidders sought to intervene.

3. RFA 2016-114 required Applicants to include documentation of non-corporation funding proposals as Attachment 18 to the Application. If the funding proposal is not from a Regulated Mortgage Lender as defined in the RFA on pages 2 and 3, then Applicants are required to submit evidence of the ability of the lending entity to fund the proposal such as current, audited financial statements.

4. The definition of a "Regulated Mortgage Lender" pursuant to RFA 2016-114 includes:

...(b) A Fannie Mae-approved lender whose name appears on the Fannie Mae list of Delegated Underwriting and Servicing (DUS®) Lenders (list available by clicking [here](#)); (c) A HUD-approved lender whose name appears on the U.S. Department of Housing and Urban Development (HUD) list of Multifamily Accelerated Processing (MAP) Approved Lenders (list available by clicking [here](#)); ... (e) A Freddie Mac-approved multifamily lender whose name appears on Freddie Mac's lists of Program Plus (Florida region) lenders, Targeted Affordable Housing lenders or Seniors Housing lenders (lists available by clicking [here](#))...

5. In response to the RFA requirement to submit non-corporation funding proposals, Casaluna submitted the Greystone Letter as Attachment 18, which provided in pertinent part:

This is a proposal to provide construction and permanent financing via the FHA Section 221(d)(4) program for Casaluna in Miami-Dade County, Florida (the "**Property**"). *Greystone & Co., Inc. or one or more of its nominees* (collectively, the **Lender**) is pleased to offer this proposal to HTG Casaluna, LLC, a Florida Limited Liability Company as (the "**Borrower**") to finance in conjunction with other available funds, for the construction of the Property (the "**Financing**").

(Italic emphasis supplied.)

6. The decision not to consider the Greystone Letter resulted from the omission of “Greystone & Co., Inc.,” from any of the lists in the definition of Regulated Mortgage Lender. The U.S. Department of Housing and Urban Development (HUD) list of Multifamily Accelerated Processing (MAP) Approved Lenders (hereinafter “HUD Approved List”) included Greystone Funding Corporation and Greystone Servicing, Inc., both related entities of Greystone & Co., Inc. Further, Greystone Servicing Corporation appears on the Fannie Mae list and the Freddie Mac list. As of the date of this Stipulation, when clicking on the link provided for Greystone Servicing Corporation in the Fannie Mae and Freddie Mac lists, it directs to www.greystone.com which has “Copyright © 2017 Greystone & Co., Inc. All rights reserved.” at the bottom of the internet page.

7. Similar correspondence from Greystone & Co. Inc., with the exact same operative language as used in Casaluna’s letter, has been accepted by Florida Housing previously without the need for any additional financial documentation. By way of example, but not limitation, Greystone & Co. Inc., funding letters were accepted by Florida Housing from the following Applicants, in the referenced Request For Applications:

- RFA 2015-107
 - o HTG Anderson, LLC- App. No. 2016-114C
 - o HTG Arbor View, LLC-App. No. 2016-161C
- RFA 2015-106
 - o HTG River Terrace, LLC- App. No. 2016-062C
- RFA 2014-114
 - o HTG Woodland Manor, LLC- App. No. 2015-038C
 - o HTG River Terrace, LLC- App. No. 2015-040C
- RFA 2014-115

- HTG Villa Vinalia, LLC – App. No. 2015-130C.¹

8. In addition to this consistent pattern of consideration of the Greystone Letter by Florida Housing, there is also precedent for waiving, as a minor irregularity, under narrow circumstances, an Applicant's failure to provide certain audited financials if the Applicant submits a financing proposal from a non-Regulated Mortgage Lender. In National Development Foundation v. FHFC, DOAH Case No. 16-3099BID, the failure of the applicant to submit audited financial statements for National Lending Partners Inc. ("NLPI"), as required for non-regulated mortgage lenders, was determined an immaterial and waivable defect, due to Florida Housing's long standing and favorable experience with NLPI which provided sufficient assurance that NLPI would be able to perform.

9. Florida Housing has had significant past favorable experience with Greystone & Co., Inc., and its nominees Greystone Funding Corporation and Greystone Servicing Corporation.

Agreement to Resolve Dispute

10. Petitioner and Respondent have resolved certain of the issues in this litigation, and agree in the interest of avoiding the time, expense and uncertainty of litigation, to the following terms:

(a) Florida Housing agrees that the determination of ineligibility of Casaluna in RFA 2016-114 based on the Greystone Letter was erroneous.

(b) The Parties agree that this *Stipulation for Dismissal* does not include any determination as to the standing of Casaluna to challenge the determination of ineligibility by Florida Housing in RFA 2016-114.

¹ In each case, the entity Greystone & Co., Inc. did not appear on the HUD Approved List but the related nominees, Greystone Funding Corporation and Greystone Servicing Corporation, Inc. did appear on the list.

(c) The Parties agree that the determination of ineligibility of Casaluna by Florida Housing in RFA 2016-114 shall not be modified by this Stipulation.

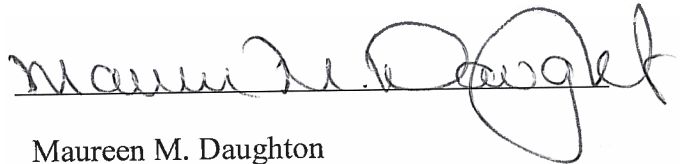
(d) Casaluna will voluntarily dismiss its Formal Written Protest and Petition for Formal Administrative Hearing filed in this matter on February 20, 2017.

(e) All parties shall bear their own costs and attorneys' fees incurred in this matter.

DATED this 13th day of March, 2017.



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