

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

SP PINELLAS III LLC,

DOAH Case No. 24-0961BID

FHFC Case No. 2024-003BP

Petitioner,

and

LIBERTY SQUARE ELDERLY, LLC, AND
ECG FLORIDA 2023, LP,

Intervenors,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent,

and

RESIDENCES AT MARINA VILLAGE,
LLC; AND ECG FLORIDA 2023 IV, LP,

Intervenors.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on May 10, 2024. Petitioner SP Pinellas III LLC (“SP Pinellas” or “Petitioner”) and Intervenors Liberty Square Elderly, LLC (“Liberty Square”), ECG Florida 2023, LP (“ECG”),

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

AMC:Blamory DATE: 5/13/2024

Residences at Merina Village, LLC (“Residences”) and ECG Florida 2023 IV, LP (“ECG IV”) (collectively the “Intervenors”) were applicants under RFA 2023-213, SAIL Funding for Live Local Mixed Income, Mixed-Use, and Urban Infill Developments (the “RFA”).

1. At the February 2, 2024 Board meeting, ten applicants were preliminarily selected for funding, including the applications submitted by Residences, and ECG IV. Applications submitted by SP Pinellas, Liberty Square, and ECG were deemed eligible for funding but, according to the funding selection process outlined in the RFA, were not selected for funding.

2. SP Pinellas timely filed a Formal Written Protest and Petition for Administrative Hearing (the “Petition”) challenging Florida’s Housing scoring and ranking of three RFA applicants. Specifically, SP Pinellas challenged the eligibility of the applications submitted by 350 Overtown LLC, Village of Valor Ltd., and Avery Place Apartments, LLC.

3. A Notice to Bidders was issued by Florida Housing informing all bidders that their substantial interests might be affected by the Petition. The intervenors timely filed Notices of Appearance and intervened in the matter. The Petition was referred to the Division of Administrative Hearings (“DOAH”).

4. Based upon the evidence provided during the litigation process, on March 26, 2024, SP Pinellas, Florida Housing Finance Corporation, Liberty

Square, ECG, Residences, and ECG IV entered a Settlement Agreement whereby all parties to the proceedings agreed that SP Pinellas had met its burden to show the applications of 350 Overtown LLC and Village of Valor Ltd. had failed to meet certain eligibility requirements of the RFA and were therefore ineligible under the terms of the RFA. A copy of the Settlement Agreement is attached as **Exhibit A**.

ORDER

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

A. Application number 2024-289S, submitted by 350 Overtown LLC, is ineligible for funding.

B. Application number 2024-287S, submitted by Village of Valor Ltd., is ineligible for funding.

DONE and ORDERED this 10th day of May, 2024.



FLORIDA HOUSING FINANCE CORPORATION

By:


Chairperson

Copies to:

Laura Cox, on Behalf of the Office of the General Counsel
Ethan Katz, Esq., Assistant General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Laura.Cox@floridahousing.org
Ethan.Katz@floridahousing.org
Melissa.Levy@floridahousing.org

Lawrence E. Sellers, Jr.
Tiffany A. Roddenberry
Holland & Knight LLP
Counsel for SP Pinellas III LLC
larry.sellers@hkllaw.com
tiffany.roddenberry@hkllaw.com

Michael P. Donaldson
Carlton Fields, PA
Counsel for Liberty Square Elderly, LLC; Residences at Marina Village, LLC;
ECG Florida 2023, LP; and ECG Florida 2023 IV, LP
mcdonaldson@carltonfields.com

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, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, 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
DIVISION OF ADMINISTRATIVE HEARINGS

SP PINELLAS III LLC,

DOAH Case No. 24-0961BID
FHFC Case No. 2024-003BP

Petitioner,

and

LIBERTY SQUARE ELDERLY, LLC, AND
ECG FLORIDA 2023, LP,

Intervenors,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent,

and

SOUTHWARD VILLAGE PHASE 2, LP;¹
RESIDENCES AT MARINA VILLAGE,
LLC; METRO GRANDE II ASSOCIATES,
LTD.; AND ECG FLORIDA 2023 IV, LP,

Intervenors.

SETTLEMENT AGREEMENT

Petitioner, SP Pinellas III LLC ("SP Pinellas"), Intervenors, Liberty Square Elderly, LLC, ECG Florida 2023, LP, Residences at Marina Village LLC, and ECG Florida 2023 IV LP (collectively, "Intervenors"), and Respondent, Florida Housing Finance Corporation ("Florida Housing") (collectively, the "Parties"), by and through undersigned counsel, hereby present the following Settlement Agreement in accordance with Section 120.57(4), Florida Statutes.

¹ Southward Village Phase 2, LP and Metro Grande II Associates, Ltd. have filed notices of voluntary dismissal. As such, they are not parties to this Settlement Agreement. All remaining parties are signatories to this Settlement Agreement.

PRELIMINARY STATEMENT

1. On November 20, 2023, Florida Housing issued RFA 2023-213, *SAIL Funding for Live Local Mixed Income, Mixed-Use, and Urban Infill Developments* (the "RFA").

2. SP Pinellas submitted an application for the Oakhurst Trace development, Application No. 2024-255S, in response to the RFA. All of the Intervenors also submitted applications in response to the RFA.

3. Florida Housing received 71 applications in response to the RFA.

4. The designated Review Committee recommended that Florida Housing's Board of Directors (the "Board") find certain applications eligible including those submitted by Petitioner SP Pinellas and all of the Intervenors. The Review Committee further recommended that the Board select certain applications for funding, including those applications submitted by Southward Village Phase 2, LP, Residences at Marina Village LLC, Metro Grande II Associates, Ltd., and ECG Florida 2023 IV LP.

5. At the February 2, 2024, Board meeting, the Board approved the preliminarily funding recommendations from the Review Committee.

6. SP Pinellas timely filed its Notice of Intent to Protest followed by a Formal Written Protest and Petition for Administrative Hearing (the "Petition") challenging the eligibility of the applications submitted by: 350 Overtown LLC (App. No. 2024-255S), Village of Valor Ltd. (App. No. 2024-287S), and Avery Place Apartments LLC (App. No. 2024-274S). None of these applications were selected for funding. The Petition was forwarded to the Division of Administrative Hearings ("DOAH") and a formal administrative hearing is scheduled to commence on March 28, 2024.

7. On February 22, 2024, Florida Housing issued a Notice to All Bidders on RFA 2023-213, including the applicants for each of the challenged applications listed in Paragraph 6. The Notice informed all bidders that their substantial interests might be affected by the disposition of SP Pinellas' Petition and advised bidders of their opportunity to intervene. On March 12, 2024, Florida Housing also distributed to all bidders a copy of the Petition, the Notice of Hearing and the Order of Pre-Hearing Instructions.

8. Each of the Intervenors filed a motion to intervene or notice of intent to participate as a specifically-named party. None of the challenged applicants listed in Paragraph 6 sought to intervene or to participate in these proceedings.

STIPULATED FINDINGS

9. Florida Housing is a public corporation authorized by the Florida Legislature to allocate and distribute state and federal resources toward the financing of affordable housing in the State of Florida.

10. Chapter 67-60, Florida Administrative Code, establishes the procedures by which Florida Housing administers the competitive solicitation funding process for the allocation of funding.

11. The RFA was issued pursuant to and in accordance with Rule 67-60.003, Florida Administrative Code, and is adopted and incorporated by reference.

12. As a result of discovery in this proceeding, the Parties agree that SP Pinellas has met its burden to show the applications of 350 Overtown LLC and Village of Valor Ltd are each ineligible for failing to meet certain eligibility requirements of the RFA.

STIPULATED CONCLUSIONS OF LAW

13. Pursuant to the funding and selection process outlined in the RFA, certain changes to the preliminary recommendations for funding occur as a result of these proceedings: (A) the applications submitted by SP Pinellas III LLC (App. No. 2024-255S), Liberty Square Elderly, LLC (App. No. 2024-241BS), and ECG Florida 2023, LP (App. No. 2024-253BS) are selected for funding; and (B) the applications submitted by Southward Village Phase 2, LP (App. No. 2024-225BS), Metro Grande II Associates, Ltd. (App. No. 2024-252S), and ECG Florida 2023 IV, LP (App. No. 2024-279BS), are not selected for funding. No other preliminarily funded applicants are affected by this Settlement Agreement. In addition, none of the three challenged applications listed in Paragraph 6 are affected, as they were not initially recommended for funding.

14. The undersigned attorneys represent that they have the authority to execute this Settlement Agreement on behalf of their respective clients.

15. Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 67-60, Florida Administrative Code, the Florida Housing Board has jurisdiction over the parties to this proceeding.

16. With the execution of this Settlement Agreement, the Parties will file a joint motion requesting that the assigned Administrative Law Judge relinquish jurisdiction of this proceeding to allow the Board to consider this Settlement Agreement. Florida Housing shall recommend that the Board enter a Final Order approving and adopting the changes to the funding selection described in Paragraph 13. Following the Board's decision to adopt this Settlement Agreement, Petitioner agrees to voluntarily dismiss its Petition; provided, however, that such dismissal shall have no effect on the Final Order adopting the Settlement Agreement.

17. This Settlement Agreement is subject to approval of the Board. If the Board does not approve this Settlement Agreement, no Final Order will be issued, and this Settlement Agreement shall be null and void as if it were never executed.

18. The parties waive all rights to appeal this Settlement Agreement and Florida Housing's Final Order adopting this Settlement Agreement. Each party shall bear its own costs and attorney's fees.

Dated this 26th day of March 2024.

/s/Lawrence E. Sellers, Jr.

Lawrence E. Sellers, Jr.
Florida Bar No. 300241
Tiffany A. Roddenberry
Florida Bar No. 92524
HOLLAND & KNIGHT LLP
315 S. Calhoun St., Suite 600
Tallahassee, Florida 32301
(850) 224-7000
(850) 224-8832 (facsimile)
larry.sellers@hkclaw.com
tiffany.rodtenberry@hkclaw.com
Attorneys for Petitioner

/s/Ethan S. Katz

Ethan S. Katz
Cecilie Sykes
Florida Housing Finance Corporation
227 N Bronough St Ste 5000
Tallahassee, FL 32301-1367
Office: 850-488-4197
Email: ethan.katz@floridahousing.org
cecilie.sykes@floridahousing.org
corporationclerk@floridahousing.org
Counsel for Florida Housing Finance Corporation

/s/Michael P. Donaldson

Michael P. Donaldson
Carlton Fields, PA
P.O. Box 190
Tallahassee, FL 32302-0190
Office: 850-224-1585
Email: mdonaldson@carltonfields.com
rcbrown@carltonfields.com
Counsel for Liberty Square Elderly, LLC; Residences at Marina Village, LLC; ECG Florida 2023, LP; and ECG Florida 2023 IV, LP