THE HENDRICKSON COMPANY

1404 Alban Avenue ♦ Tallahassee, Florida 32301
Telephone: 850-671-5601
Fax: 850-671-5603

November 14, 2013

Mr. Steve Auger,
Executive Director, Florida Housing Finance Corporation
Tallahassee, Florida 32301

Re: Comments on Proposed SAIL and HOME RFA's

Dear Mr. Auger:

These are my comments, and are not submitted in my capacity as the representative of local HFA's. Those comments have been submitted separately.

1. **<u>SAIL: Geographic and Demographic Set-Asides</u>:**
   FHFC will face the difficult task of trying to "foot" the numbers for fixed demographic (elderly and family) and geographic (large, medium, and small counties). Having overlapping set-asides is almost impossible to manage—as finding the specific set of applications that cause both set asides to be hit exactly is highly unlikely. Additionally, an analysis needs to be done to determine the legal issues of how much, if any, flexibility FHFC has in waiving off exact compliance with either set of set-asides. The initial proposal to fund the last deal regardless of the set-asides (by simply taking the highest scoring unfunded application) may not meet legal requirements in either the Bank Settlement appropriation bill or the SAIL statute.

   Section 420.5087(1), F.S., seems to allow the geographic set-aside to be met over a three year period, stating "Program funds shall be distributed over successive 3-year periods in a manner that meets the need and demand for very-low-income housing throughout the state". It would seem that more flexibility is given here than in the demographic set-asides found in the appropriation.

   Recommendation: Make clear in the RFA which set-aside will take precedence.

2. **<u>SAIL: Applications Requesting More than 25% of TDC:</u>**
   There are two issues:
   - Clearly delineate what the statutory requirements are for a deal to exceed 25%
   - Prevent gaming of applications by artificially increasing TDC within the application in order to make it appear that the requested SAIL loan meets the 25% test.

Section 420.507(22)(a), F.S. states that the 25% may be exceeded only by "nonprofit organizations and public bodies that are able to secure grants, donations of land, or contributions from other sources and to projects meeting the criteria of subparagraph 1. Subparagraph 1 refers to "projects that set aside at least 80 percent of their total units for residents qualifying as farmworkers, commercial fishing workers, the homeless as defined in s. 420.621, or persons with special needs as defined in s. 420.0004(13) over the life of the loan".

More importantly, history has shown that some applicants will inflate their total development cost in the application, and then reduce it during credit underwriting to its real level. Simply decreasing the SAIL loan amount is an insufficient deterrent, as an accurate application would have placed the deal in the "above 25%" group, where it is unlikely to have even been considered for funding. Applicants who submit accurate applications should not be at a competitive disadvantage to applicants who submit inaccurate information in order to manipulate this calculation.

Recommendation: Address these issues in the RFA, particularly spelling out the consequences and rules surrounding reduction of TDC in credit underwriting to a level that would cause the SAIL loan to exceed the 25% limit. The recommended sanction would be to re-rank the applicant and remove them from credit underwriting if another applicant would have been funded.

3. **HOME: Preference for Applicants Serving Non-Participating Jurisdictions**

The allocation of HOME dollars is formula driven. An amount that is due to Florida is calculated, and then the division of that amount among all local jurisdictions is further calculated. If a local allocation does not meet a threshold level of funding, those monies are instead allocated to the State. The State's allocation is the higher of $3 million or the total of the funds that would have gone to the non-PJ's.

Clearly the overwhelming bulk of FHFC's HOME funding comes from the funds that were targeted to the non-PJ's. Even if there is no legal requirement to give applications from those areas a priority, it would seem that fairness would guide the policy—so that the areas who do not directly receive their own HOME funds are served before areas that already receive HOME funds directly from the federal government.

FHFC policy over the years recognized this, with an absolute preference or point preference used in almost all years of HOME funding cycles.

Recommendation: Fund applications from non-PJ's before funding applications from PJ's. The one exception to this should be to fund deals from PJ's if necessary to meet the statutorily required CHDO set-aside.

4. **<u>SAIL & HOME: Requirement for 24 hour on-site staff in Elderly Developments</u>**

The requirement for 24/7 staff to be on-site and available (by whatever means) to answer resident questions and “help determine the approach to address the issue”, is impractical and unnecessary. These residents are independent elderly. A Housing Credit development is not an ALF, nor should it attempt to be one. When residents can no longer live independently, they will need to move to a facility that can deal with those issues. Attempting to make every HC elderly development some type of mini-ALF is not efficient. Burdening property managers with 24/7 phone calls from residents is impractical. Providing advice on “how to address the issue” is beyond the scope of apartment management and creates massive liability.

Recommendation: Remove on-site 24/7 staff as requirements for Elderly developments.

Thank you for the opportunity to comment. Please feel free to contact me with any questions.

Sincerely,

Mark Hendrickson