

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

TWC THIRTY-FOUR, LTD.,
(PROJECT NAME: WESLEYAN)

Petitioner,

vs.

Applicant No. 2002-115C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

Issue Summary: Florida Housing Scoring Summary incorrectly indicates a threshold failure when actual Florida Housing position as shown in Cure/NOAD Evaluation Form is that Wesleyan met threshold.

PETITION FOR REVIEW

Pursuant to Section 120.56(4), and .57, *Florida Statutes* ("F.S."), and Rule 67-48.005, *Florida Administrative Code* ("F.A.C."), Petitioner, TWC THIRTY-FOUR, LTD. ("Wesleyan"), requests an administrative hearing to review and contest the FLORIDA HOUSING FINANCE CORPORATION's ("FHFC") scoring of Wesleyan's 2002 Universal Application ("Application"). In support of this Petition, Wesleyan provides as follows:

1. Wesleyan is a Florida for-profit limited partnership with its address at 655 North Franklin Street, Suite 2200, Tampa, FL 33602. Wesleyan is in the business of providing affordable rental housing units.

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FINANCE CORPORATION

2. FHFC is the state agency delegated the authority and responsibility for administering and awarding the Housing Credit ("HC") program in the State of Florida pursuant to Chapter 420, F.S., and Rule 67-48, F.A.C.

3. The HC program is a federally funded program, which awards project owners a dollar-for-dollar reduction in income tax liability in exchange for the acquisition and substantial rehabilitation of new construction of low and very low-income rental housing units. FHFC is the designated housing credit agency for the allocation of tax credits in the State of Florida.

4. The award of HC funds is made through a competitive process in which project owners apply using a Universal Application.

5. The 2002 Universal Application is comprised of numerous forms, which request information of each applicant. FHFC has adopted the forms by reference in Rule 67-48.004(1), F.A.C.

6. On April 15, 2002, all applicants, including Wesleyan, submitted Universal Applications to FHFC for review. Wesleyan submitted its Application in an attempt to obtain funding to assist in the construction of a 196-unit affordable housing apartment complex in Sumter County, Florida.

7. To review and score the applications, FHFC in Rule 67-48.004, F.A.C., has established a multi-step scoring process, which at least initially allows all applicants to point out errors that FHFC may have missed. Additionally, the process allows applicants to correct errors and omissions made during the preparation of the application. The process concludes with the entry of Final Scores.

8. On May 13, 2002, FHFC completed its preliminary review and scoring of Wesleyan's Application. At that time, Wesleyan was awarded a preliminary score of 71 points out of a possible 71 points. However, Wesleyan was deemed to have failed threshold due to deficiencies related to site plan approval and zoning verifications (Items # 1T and 2T).

9. Subsequent to the release of FHFC's preliminary scores, each applicant, pursuant to Rule 67-48.004(4), F.A.C., was allowed to submit to FHFC Notice of Possible Scoring Errors ("NOPSE"). The purpose of a NOPSE was to point out errors in FHFC's scoring of applications. At least one NOPSE was filed regarding Wesleyan's application.

10. As a result of a NOPSE, Wesleyan's score for local government support-contributions- was reduced from five to zero points (because the local government verification of contribution loan form omitted the last paragraph of the form). As a result of this point reduction, Florida Housing also determined that Wesleyan failed threshold for Item #3T, Part IV, Section A, Exhibit 34 (the verification form), and for Item #4T, Part V, sources versus uses (shortfall in sources due to lack of contribution).

11. In response to the NOPSE's and FHFC's preliminary review, applicants were allowed 15 days to submit revised documentation to correct any errors in their applications pursuant to Rule 67-48.004(6), F.A.C. All revised documentation was due to FHFC by June 26, 2002. Wesleyan submitted numerous "cures", including submission of corrected Verification of Status of Site Plan Approval, Local Government

Verification that Development is Consistent with Zoning and Land Use Regulations, and Local Government Verification of Contribution Loan form.

12. Subsequent to the submittal of revised information pursuant to Rule 67-48.004(7), F.A.C., each applicant was allowed the opportunity to provide a Notice of Alleged Deficiency in Scoring ("NOAD") with respect to the revised documentation submitted by other applicants. There were no NOAD's submitted regarding Wesleyan's cures of these items.

Scoring Summary Does Not Accurately Reflect Actual Scoring- Florida Housing Determined That Threshold Was Met, But Scoring Summary Does Not Reflect

13. On July 22, 2002, FHFC finalized its review of the revised documentation submitted and issued Final Scores. Florida Housing accepted all of the cures referenced above, removing the threshold failures related to site plan approval and evidence of appropriate zoning, and increasing Wesleyan's Final Score to 71 out of a possible 71 points. The Final Score was increased because the revised Local Government Verification of Loan Form was accepted by Florida Housing.

14. However, in the Universal Scoring Summary (attached as Exhibit 1), Florida Housing continued to reflect a threshold failure related to Items #3T and #4T. These threshold failures were caused because of the deficiency in the Local Government Verification of Loan Form, which had been cured and accepted by Florida Housing.

15. A public records request showed that in the actual Florida Housing scoring, as reflected in the Cure/NOAD Evaluation Form for Wesleyan (attached as

Exhibit 2), both of these items were deemed to be properly cured, and that Wesleyan had met threshold for items IVA (#3T) and V (#4T). Therefore, the scoring summary is inaccurate, and does not reflect the actual scoring of Wesleyan.

16. Wesleyan's position in the ranking and its ability to be awarded funding is dependent on how FHFC scores its Application. The ability to finance the proposed project will be jeopardized if funding is not obtained; accordingly, Wesleyan's substantial interests are affected by this proceeding. In the instant appeal, Wesleyan challenges Florida Housing's conclusion that Wesleyan failed threshold, as reflected inaccurately in the 2002 Universal Scoring Summary.

17. The material issues of fact and conclusions of law in the instant proceeding are as follows:

- a. Whether FHFC erred in reflecting a threshold failure in the 2002 Universal Scoring Summary, when the Florida Housing Cure/NOAD Evaluation Form showed that threshold had been met.
- b. Whether Wesleyan's application has satisfied threshold requirements.

WHEREFORE, based on the foregoing, Wesleyan respectfully requests, to the extent the facts are undisputed, a recommended order be entered which finds that the Application has met threshold. To the extent facts are in dispute, Wesleyan requests the right to request a formal administrative hearing to contest those disputed facts.

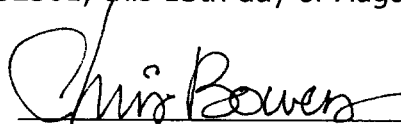
Respectfully submitted,



Chris Bowers
TWC Thirty-Four, Ltd.
655 North Franklin Street, Suite 2200
Tampa, FL 32602
Telephone: (813) 281-8888
Facsimile: (813) 281-5657

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301, and a copy furnished by Hand Delivery to Wellington H. Meffert, II, General Counsel, Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 13th day of August, 2002.



Chris Bowers

As of: 07/22/2002

2002 Universal Scoring Summary

File # 2002-115C

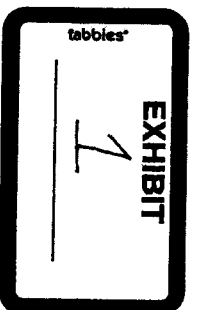
Development Name: Wesleyan

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit *	SAIL as Percentage of Total Development Cost
07 - 22 - 2002	71	N	4.25	\$32,141.57	%
Preliminary	71	N	6.75	\$32,141.57	%
NOPSE	66	N	4.25	\$32,141.57	%
Final	71	N	4.25	\$32,141.57	%
Post-Appeal	0	N	0		0

*Corporation funding includes Local Government-issued tax-exempt bond financing

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
1S	III	A	2b	If SAIL Application for Development in one of these counties where no SAIL Application has ever been funded: Bay, Citrus, Leon, Nassau, Okaloosa, Okeechobee, St. Lucie or Santa Rosa	2	0	0	0	0
Optional Features & Amenities:									
2S	III	B	2a	New Construction	9	9	9	9	0
2S	III	B	2b	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
3S	III	B	2c	All Developments Except SRO	12	12	12	12	0
3S	III	B	2d	SRO Developments	12	0	0	0	0
4S	III	B	2e	Energy Conservation Features	9	9	9	9	0
Demographic or Area Commitment:									
5S	III	D	1.	Florida Keys Area	7	0	0	0	0
5S	III	D	2.	RD 515 or RD 514/516	5	0	0	0	0
5S	III	D	3.	Elderly	5	0	0	0	0
5S	III	D	4.	Famworker/Commercial Fishing Worker	5	0	0	0	0
5S	III	D	5.	Homeless	5	0	0	0	0
5S	III	D	6.	Urban In-Fill	5	0	0	0	0
5S	III	D	7.	Large Family	5	5	5	5	0
5S	III	D	8.	HOPE VI	5	0	0	0	0
5S	III	D	9.	Front Porch Florida	5	0	0	0	0



As of: 07/22/2002

2002 Universal Scoring Summary

File # 2002-115C

Development Name: Wesleyan

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
Set-Aside Commitment:									
6S	III	E	2.	Commitment to Serve Lower AMI	5	5	5	5	0
7S	III	E	3.	Total Set-Aside Commitment	3	3	3	3	0
8S	III	E	4.	Affordability Period	5	5	5	5	0
Resident Programs:									
9S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	6	6	0
9S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
9S	III	F	3.	Programs for Elderly	6	0	0	0	0
10S	III	F	4.	Programs for All Developments	6	0	0	0	0
Local Government Support									
11S	IV		a.	Contributions	5	5	0	5	0
12S	IV		b.	Incentives	4	4	4	4	0

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
1S	Applicant did not request SAIL.	Preliminary	
5S	The proposed Development is not located in the Florida Keys Area.	Preliminary	
11S	Exhibit 34 appears to have been altered and cannot count as contribution.	NOPSE	Final

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	1	Site Plan Approval	Applicant failed to provide a property completed and executed Local Government Verification of Status of Site Plan Approval.	Preliminary	Final
2T	III	C	4	Evidence of Appropriate Zoning	Applicant failed to provide a properly completed and executed Local Government Verification that Development is Consistent with Zoning and Land Use Regulations.	Preliminary	Final
3T	IV	A	Ex. 34	Local Gov't Verification Loan form	The Local Government Verification of Contribution Loan form was submitted in the Application behind Exhibit 34 with the last paragraph omitted. The form has been deemed altered and is therefore unacceptable.	NOPSE	
4T	V			Sources versus uses.	NOPSE: Due to the Local Government Contribution Loan form, provided in Part IV Section A, Ex. 34, being deemed unacceptable the Application has a funding	NOPSE	

As of: 07/22/2002

2002 Universal Scoring Summary

File # 2002-115C

Development Name: Wesleyan

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
					shortfall.		

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1).	Grocery Store	1.25	0.5	0.5	0.5	0
2P	III	A	11.b.(2).	Public School	1.25	1.25	0	0	0
2P	III	A	11.b.(3).	Medical Facility	1.25	0	0	0	0
3P	III	A	11.b.(4).	Bus Stop or Metro-Rail Stop	1.25	1.25	0	0	0
4P	III	A	11.c.	Address/Location on FHFC Development Proximity List	3.75	3.75	3.75	3.75	0

Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:

Item #	Reason(s)	Created As Result of	Rescinded as Result of
2P	Evidence submitted with a NOPSE indicates that the school listed in the Application does not qualify as a public school.	NOPSE	
3P	Evidence submitted with a NOPSE indicates that there is no public bus or metro-rail stop at the coordinates listed in the Application.	NOPSE	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	11	Public School	The Villages Charter School does not meet the requirements for Proximity Tie-Breaker Points as stated in the Application Instructions.	Final	
2C	III	A	11	Public Bus or Metro-Rail Stop	Summer County Transit is a Dial-A-Ride service and does not qualify as a public bus or metro-rail services for the purposes of the 2002 Universal Application.	Final	

WESLEYAN

Application No.: 2002-115C

Part II Section A

Subsection 34

Submitted by Applicant in Response to:			Created by:					Other Change (revision/additional documentation) submitted by Applicant necessary to address an issue created by a Cure				Award Additional Points:		Assess:		Deduct Points:		No Change:								
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)								
(complete all that apply)	(complete all that apply)	(check all that apply)	Reason For Failure to Achieve Proximity Tie Breaker Points Selected (Provide Item No.)	Reason Threshold Failed (Provide Item No.)	Reason Score Not Maxed (Provide Item No.)	Prediminary Scoring	NOAD	Part	Section	Subsection	Exhibit (if applicable)	If "Y", list NOAD No(s) below. "N/A"	Existing Reason Score Not Maxed (Y/N)	Existing Threshold Failure (Y/N)	Existing Failure to Achieve Tie-Breaker Proximity Points Selected (Y/N)	Explain on Pg. 2	State number of additional points awarded	Explain on Pg. 2	Explain on Pg. 2	Explain on Pg. 2	Explain on Pg. 2	Explain on Pg. 2	State number of points deducted	Explain on Pg. 2	No Change to Current Score, Threshold, or Proximity Points	
115	3T				IV	A		34			34		Y	Y			5									AC
	4T				IV	A							Y	Y												AC

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EXHIBIT
2

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Comments:

~~Item V Exhibit 34 - Scored. Didn't issue a threshold failure for this exhibit. Therefore, the score does not agree with the ADPSE. In addition, the original issue was with Ex. 37 where a noise was issued stating the form was altered/retyped. There was never an issue with Ex. 34.~~

Applicant properly cured Exhibit 34 resulting in the restoration of 5 points for item 115 and has met threshold for items IV A and V