

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

**NAUTILUS DEVELOPMENT PARTNERS, LLLP,
2006-090S,**

Petitioner,

v.

**CASE NO.: 2006-0234C
FHFC Application No. 2006-090S**

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

PETITION FOR INFORMAL ADMINISTRATIVE PROCEEDINGS

Pursuant to Sections 120.569 and 120.57(2), Fla. Stat., and Rules 28-106.201 and 67-48.005(1), Fla. Admin. Code, Petitioner NAUTILUS DEVELOPMENT PARTNERS, LLLP (“Nautilus”) hereby requests an informal administrative proceeding on Florida Housing Finance Corporation’s proposed determination that Nautilus’s application for a State Apartment Incentive Loan (“SAIL”), Application No. 2006-090S, in the Year 2006 Universal Application cycle does not meet threshold requirements and is not entitled to local government contribution points for local government issued tax-exempt bond financing. In support of this petition, Nautilus states as follows:

Parties

1. The agency affected is the Florida Housing Finance Corporation (“FHFC”), 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. FHFC has assigned Application No. 2006-090S to this matter.

2. The Petitioner is Nautilus Development Partners, LLLP, (“Nautilus”) whose address is 1551 Sandspur Road, Maitland, Florida 32751. For purposes of this proceeding,

Nautilus's address is that of its undersigned attorney, M. Christopher Bryant, Oertel, Fernandez, Cole, & Bryant, P.A., 301 S. Bronough Street, 5th Floor, Tallahassee, Florida 32301 (P. O. Box 1110, Tallahassee, Florida 32302-1110), Telephone: (850) 521-0700, Facsimile: (850) 521-0720.

Substantial Interests Affected

3. Nautilus has proposed the construction of a 168-unit multi-family housing development in Bay County, Florida to be known as Nautilus Cove Apartments. Nautilus has proposed to set aside 70% of the units for residents making 60% or less of Area Median Income. Nautilus has projected its total development costs to be \$23,690,953. Nautilus proposes to finance a portion of these development costs with a SAIL loan of \$4.0 million, awarded by FHFC through a competitive process. SAIL loans are desirable to developers of affordable housing because they have more liberal repayment provisions and lower interest rates than conventional financing.

4. As explained more fully in this Petition, Nautilus's substantial interests are affected by FHFC's scoring of its application in this competitive application process, including the determination of threshold failure and the proposed award of no local government contribution points. Currently, Nautilus's application has a score of 55 points out of a possible 66 points, and has been deemed to fail threshold. If Nautilus does not receive its SAIL loan, it would have to substitute other, more expensive financing for that portion of the construction and permanent financing and would either not construct the proposed development, or would construct the development but would not operate it as affordable rental housing. Nautilus believes that a determination that its application meets threshold and is entitled to 60 points, as set forth in this petition, would position the Nautilus Cove application to be eligible for funding.

Background

5. FHFC allocates several forms of financing for affordable housing, including federal low income housing tax credits (“Housing Credits”), State Apartment Incentive Loans (“SAIL”), and Multi-Family Mortgage Revenue Bonds (“MMRB”). Applicants compete for the award of these forms of financing, which provide more favorable financing terms than would be available through conventional financing sources. In exchange for the receipt of such financing from FHFC, applicants enter into long-term agreements to set aside all or a portion of the residential units within such developments to low income residents, and, depending on the requirements of the particular program, may also be required to limit the rents charged to such residents.

6. All three of the above-named forms of financing (Housing Credits, SAIL loans, and MMRB) were combined into a single “Universal Application Cycle” for 2006. Financing for any of these programs is sought through the use of a joint Universal Application form. SAIL and Housing Credit applicants are subject to FHFC Rule Chapter 67-48, Fla. Admin. Code, while MMRB applicants are subject to FHFC Rule Chapter 67-21, Fla. Admin. Code. The Universal Application form is incorporated by reference into FHFC’s rules, as are exhibit forms to be used with the applications, and a 100-page document entitled Universal Application Instructions, designated UA1016 (revised 1-06).

7. Applicants in the Universal Application Cycle are scored on the various components of their applications, such as development features and amenities, greater numbers of units set aside, resident programs, and local government support. The maximum score that can be assigned to a Universal Application is 66 points. Applicants must meet certain threshold

requirements in order to be even potentially eligible to receive FHFC financing. Further, applicants must achieve a score of at least 60 points to be reasonably competitive and have a chance to be selected for FHFC financing. FHFC has also established a series of “tie-breakers” to be utilized in choosing among applications meeting threshold which have equal scores. Further, FHFC has established other mechanisms to distribute funds geographically, through Set Aside Unit Limitations (SAULs) established for each county, as well as certain goals for funding housing for various demographic groups and geographic areas.

8. As part of the Application, FHFC requires applicants to demonstrate that a number of threshold criteria have been satisfied, such that the proposed development is reasonably positioned to proceed to development. One of these threshold requirements is that applicants must demonstrate that they have firm financing commitments for all non-FHFC sources of financing. Obviously, applicants are not in a position to document firm financing for those funding sources which will be competitively awarded by FHFC, such as a SAIL loan, since those funding awards will not be made available by FHFC until the end of the Universal Cycle process. In Nautilus’s case, Nautilus proposed that \$12.0 million of its construction financing and permanent financing would come from first mortgage financing provided by the Bay County Housing Finance Authority (“HFA”) through the issuance of tax-exempt and taxable bonds.

Nature of the Controversy

9. Nautilus timely submitted its 2006 SAIL application to FHFC on February 1, 2006. FHFC preliminarily reviewed and scored the 2006 Universal Application Cycle applications, including Nautilus’s. On or about March 2, 2006, FHFC notified all applicants of the preliminary threshold responsiveness, scoring, and tie-breaker score determinations on their

applications. FHFC informed Nautilus that its application did not meet the required “threshold” responsiveness requirements, thus not allowing its application to continue to compete for a SAIL loan. FHFC also informed Nautilus, by way of a document labeled Universal Scoring Summary, that its score would be 50 points. A copy of that “preliminary” Scoring Summary is attached hereto as Exhibit “A”.

10. In its application as initially submitted, Nautilus did not include an exhibit documenting the Bay County HFA commitment for the tax-exempt bond issuance. The absence of this exhibit was noted in FHFC’s preliminary scoring of Nautilus’s application, as grounds for determining that the application did not meet threshold requirements. See, Item 2T on page 2 of Exhibit “A”. The preliminary Scoring Summary also noted that Nautilus’s application would receive zero of the available five points for local government contributions (Scoring Item 7S); applicants who document that local HFA tax-exempt bonds will be issued for the development are automatically entitled to the maximum five points for this item, according to page 52 of the Universal Application instructions. Finally, the preliminary scoring summary noted that Nautilus did not designate any resident programs for non-elderly and non-homeless developments at Section III.F.1 of the application (such as children’s after-school programs, literacy training, and job training), and thus was not preliminary awarded any of the available six points specifically designated for resident programs for non-elderly and non-homeless developments (Scoring Item 9S).

11. The preliminary Scoring Summary for Nautilus Cove noted three other threshold failures for this development: the absence of a zoning and land use verification form (Threshold Item 1T on page 2 of Exhibit “A”), and construction financing and permanent financing

shortfalls (Threshold Items 3T and 4T). The construction and permanent financing shortfalls are a direct result of the lack of documentation of the first mortgage financing to be provided by the Bay County HFA bonds; since FHFC assumed there would be no first mortgage financing, the application was deemed not to demonstrate adequate sources of funding to cover construction and permanent financing.

12. Pursuant to Rule 67-48.004(6), Fla. Admin. Code, Nautilus took the opportunity to provide additional documentation to FHFC to address the threshold failures and the local government contribution point issue, as well as the resident program point issue. This additional documentation is generally referred to as a “cure.” The documentation submitted by Nautilus as a cure on the first mortgage financing issue, to address in substance threshold Items 2T, 3T, and 4T, and scoring Item 7S is attached hereto as Exhibit “B”.

13. On or about May 4, 2006, FHFC released “final” Universal Scoring Summaries for all applicants. (Although designated “final,” the scoring summaries are accompanied by points of entry to request formal or informal administrative hearings.) FHFC’s final Universal Scoring Summary for Nautilus, which was received by Nautilus via overnight delivery on May 5, 2006, is attached hereto as Exhibit “C”.

14. The final scoring summary rescinded threshold failure Item 1T, relating to the zoning and land use verification, accepting as sufficient the cure documentation submitted on that issue. The summary further rescinded threshold failure Item 2T, regarding absence of any documentation on the first mortgage financing, but added a new threshold failure Item 5T, concerning an alleged substantive deficiency in the first mortgage financing documents. The scoring summary maintained the loss of local government contribution points (Item 9S), due to

the same alleged substantive deficiency in the first mortgage documentation. The scoring summary also maintained threshold failure Items 3T and 4T, concerning construction and permanent financing shortfalls, presumably also due to the alleged HFA documentation deficiency. The final scoring summary also noted Nautilus's cure on the resident program issue (Scoring Item 7S), and awarded Nautilus five of the available six points for resident programs.

15. In the final scoring summary, FHFC stated that the documentation submitted by Nautilus as a cure on the HFA financing issue. The comment provided on threshold failure Item 5T reads:

As a cure for Item 2T, the Applicant submitted a first mortgage financing commitment from the Housing and Finance Authority of Bay County. The commitment states "Private activity tax-exempt bond allocation has been approved for the Project (up to \$10,500,000 tax-exempt and \$1,500,000 taxable) by the Authority and shall be reserved upon application of the Authority to the Florida Division of Bond Finance." Page 65 of the 2006 Universal Application Instructions states that in order to be considered a firm commitment the Applicant must provide "affirmation that the tax-exempt allocation has been reserved." Since the allocation has not yet been reserved, the commitment cannot be considered a firm source of financing.

A similar explanation was provided as the final reason for the loss of local government contribution points, scoring Item 9S.

Notice

16. Nautilus received notice via Federal Express delivery on Friday, May 5, 2006, of FHFC's scoring of Nautilus's SAIL application. This Petition is being accompanied by a completed Election of Rights form, electing informal administrative proceedings and stating its available dates for the informal hearing. A copy of the Election of Rights form is attached hereto

as Exhibit "D". Pursuant to Rule 67-48.005(1), Fla. Admin. Code, this Petition is being filed within twenty-one days of Nautilus's receipt of the memorandum forwarding its score.

HFA Commitment Letter

17. The Bay County HFA letter submitted by Nautilus as its cure on threshold Item 2T stated that it had approved bond allocation for the Nautilus Cove development of up to \$10.5 million in tax-exempt bonds and \$1.5 million taxable bonds. It further stated that all approvals precedent to the authorization of the bond issuance had been obtained; that all fees due to the authority had been paid; and that the authority had executed a firm commitment for the bonds in favor of the development.

18. The letter further stated that the bond allocation "shall be reserved upon application of the Authority of the Florida Division of Bond Finance." This statement simply means that, to the extent the Division of Bond Finance ("the Division") may interpret a "reservation" of bonds to only occur upon action of the Division, the HFA did not presume to act on behalf of the Division. However, the Bay County HFA is firmly committed to the issuance of tax-exempt and taxable bonds for this development.

19. However, nowhere in its rules, forms, or instructions does FHFC state or imply that "reserving" local HFA bonds for purposes of a first mortgage commitment can only occur upon application to the Division. Had FHFC's rules clearly and unambiguously required that HFA bonds be "reserved" by the Division in order for such bonds to be firmly committed, then Nautilus would have been able to pursue either a different form of commitment or different financing for the Nautilus Cove development.

20. The Division's issuance of a letter "reserving" tax-exempt bonds for a local HFA is, generally a non-discretionary and ministerial act. Bond allocations are awarded by the Division upon submission of documentation that a valid TEFRA notice has been published and that the issuer's counsel has rendered an opinion that the development qualifies for the use of tax-exempt bonds; and upon verification that allocation is available for the development. In this case, there was (and is) ample tax-exempt bond allocation available to the Bay County HFA for the Nautilus Cove development. Further, there is likely ample SAIL funding available to FHFC, such that extending both local HFA bond financing and an FHFC SAIL loan to the Nautilus Cove development would provide much-needed affordable rental housing and would not deprive any other development of financing.

21. Nautilus adequately demonstrated that the Bay County HFA has firmly committed to issue tax-exempt and taxable bonds of up to \$12.0 million for the Nautilus Cove development. As a result, Nautilus has commitments for the full amount of its construction financing and permanent financing. Further, the Bay County HFA commitment demonstrates a local government contribution which automatically entitles Nautilus to five points for such contribution.

Disputed Issues

22. Nautilus has initially identified the following disputed issues, which it reserves the right to supplement as additional matters become known to it.

- (a) Whether Nautilus provided documentation that the Bay County HFA has reserved tax-exempt bond allocation for the proposed Nautilus Cove development. Nautilus contends that it has.

- (b) Whether Nautilus has demonstrated firm commitments (except for the FHFC SAIL loan) for construction financing and permanent financing for the Nautilus Cove development. Nautilus contends that it has.
- (c) Whether Nautilus is entitled to automatically receive five points for a local government contribution for the Bay County HFA tax-exempt bond commitment. Nautilus contends that it is.
- (d) Whether FHFC has accepted as satisfactory in prior cycles evidence of local HFA bond financing when such financing was not “reserved.” Nautilus contends that it has, and that this prior agency practice establishes a precedent upon Nautilus is entitled to rely.

Concise Statement of Ultimate Facts

23. Nautilus alleges as ultimate facts that its application, as cured, established a firm commitment for the Bay County HFA tax-exempt and taxable bond financing of up to \$12.0 million; established firm financing commitments for all of its construction period and permanent period financing; and established local government contribution in the form of tax-exempt bond financing. Nautilus has thus met all threshold requirements and should be awarded a total score of 60 points.

Relief Sought and Law Entitling Applicant to Relief

24. Nautilus seeks entry of Recommended and Final Orders determining that its application meets all threshold requirements and should be awarded 60 points. Nautilus is entitled to this formulation of FHFC’s action by Chapter 120, Fla. Stat., including but not limited to Sections 120.569 and 120.57(2); and Rule Chapters 28-106 and 67-48, Fla. Admin. Code.

FILED and SERVED this 26th day of May, 2006.



M. CHRISTOPHER BRYANT

Florida Bar No. 434450

OERTEL, FERNANDEZ, COLE, & BRYANT, P.A.

Post Office Box 1110

Tallahassee, Florida 32302-1110

Telephone: (850) 521-0700

Telecopier: (850) 521-0720

Attorneys for Petitioner, Nautilus Development

Partners, LLLP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed via Hand Delivery upon the Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, this 26th day of May, 2006.



M. CHRISTOPHER BRYANT

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**INDEX OF EXHIBITS TO PETITION OF
NAUTILUS COVE, 2006-090S**

- | | |
|-----------|--|
| Exhibit A | Preliminary Universal Scoring Summary for Nautilus Cove, dated March 1, 2006 |
| Exhibit B | “Cure” submitted by Nautilus Cove on Bay County HFA first mortgage financing issue on April 10, 2006 |
| Exhibit C | “Final” Universal Scoring Summary for Nautilus Cove, dated May 3, 2006 |
| Exhibit D | Election of Rights form |

2006 MMRB, SAIL & HC Scoring Summary

Development Name: Nautilus Cove

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
03 - 01 - 2006	50	N	0	\$135,593.22	20.78%	Y
Preliminary	50	N	0	\$135,593.22	20.78%	Y
NOPSE	0	N	0		0	
Final	0	N	0		0	
Final-Ranking	0	N	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	0	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	0	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	0	0	0
Set-Aside Commitments									
4S	III	E	1.b.(2Xa)	ELI Set-Aside Commitment	5	5	0	0	0
5S	III	E	1.b.(2Xb)	Total Set-Aside Commitment	3	3	0	0	0
6S	III	E	3	Affordability Period	5	0	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	0	0	0	0
7S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3	Programs for Elderly	6	0	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	0	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0



2006 MMRB, SAIL & HC Scoring Summary

As of: 03/01/2006

File # 2006-090S Development Name: Nautilus Cove

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
6S	The Applicant failed to specify the number of years committed to set aside units in the proposed Development. Therefore, the Applicant received no points for Affordability Period.	Preliminary	
7S	The Applicant failed to select any Resident Programs for Non-Elderly and Non-Homeless Developments and is therefore unable to achieve maximum points.	Preliminary	
9S	The Applicant failed to provide any of the Local Government Contribution forms and, since a firm financing commitment for the referenced tax exempt bond financing was not provided it does not qualify for automatic Local Government contribution points.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1T	III	C	4	Zoning	The Applicant failed to provide the required Local Government Verification That Development is Consistent With Zoning And Land Use Regulations form.	Preliminary	
2T	V	B		First Mortgage Financing	The Applicant failed to provide any documentation of the first mortgage financing at Exhibit "56" as referenced in the Development Cost Pro Forma.	Preliminary	
3T	V	B		Construction Financing Shortfall	The Applicant has a construction financing shortfall of \$11,992,731.00.	Preliminary	
4T	V	B		Permanent Financing Shortfall	The Applicant has a permanent financing shortfall of \$11,522,372.00.	Preliminary	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	0	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	0	0	0	0
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	0	0	0	0

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

Item #	Reason(s)	Created As Result	Rescinded as Result
1P	The Applicant did not provide the Surveyor Certification Form.	Preliminary	
1P	The Applicant did not provide the required sketches.	Preliminary	
2P	The Applicant did not provide the Surveyor Certification Form.	Preliminary	

2006 MMRB, SAIL & HC Scoring Summary

As of: 03/01/2006

File # 2006-090S

Development Name: Nautilus Cove

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
2P	The Applicant did not provide the required sketches.	Preliminary	
4P	The Applicant did not provide the Surveyor Certification Form..	Preliminary	
4P	The Applicant did not provide the required sketches.	Preliminary	
6P	The Applicant did not provide the Surveyor Certification Form..	Preliminary	

2006 CURE FORM

(Submit a SEPARATE form for EACH reason relative to EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2006-090S** and pertains to:

Part V Section B Subsection Exhibit No. 56 (if applicable)

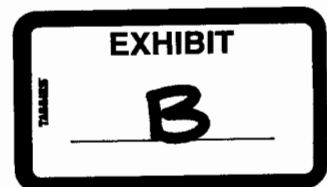
The attached information is submitted in response to the 2006 Universal Scoring Summary Report because:

- 1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2006 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. 2T	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____P	<input type="checkbox"/>	<input type="checkbox"/>

- 2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part ____ Section ____ Subsection ____ Exhibit ____ (if applicable).



Brief Statement of Explanation regarding
Application 2005-090S

Provide a separate bridge statement for each Cure or NOAD

In the 2006 MMRB, SAIL & HC Scoring Summary dated 03/27/2006, for the above referenced Application, Florida Housing indicated Threshold Failed, designated as 2T. The reason stated by Florida Housing is as follows:

“The Applicant failed to provide any documentation for the first mortgage financing at Exhibit ‘56’ as referenced in the Development Cost Pro Forma.”

As the submission for Cure, provided is Exhibit 56.a construction/permanent first mortgage commitment from the Housing and Finance Authority of Bay County. The commitment should be scored firm and this issue will no longer exist.

April 7, 2006

Florida Housing Finance Corporation
State Apartment Incentive Loan (SAIL) Program
227 North Bronough Street - Suite 5000
Tallahassee, FL 32301-1329

RE: Nautilus Cove, located in Panama City Beach (Bay County), Florida

Ladies and Gentlemen:

In reference to the above-captioned matter, and at the request of Nautilus Development Partners, L.L.P. (the "Owner"), this letter is supplied to you as part of the Owner's application to the Florida Housing Finance Corporation for funds from the State Apartment Incentive Loan (SAIL) Program for the development of a multi-family housing project located in Panama City Beach (Bay County), Florida, (the "Project"). The SAIL loan is to be made in conjunction with the issuance of bonds (the "Bonds") by the Housing Finance Authority of Bay County, Florida (the "Authority"); the proceeds of which will be loaned to the Owner to finance the Project.

Please be advised of the following:

1. Private activity tax-exempt bond allocation has been approved for the Project (up to \$10,500,000 tax-exempt and \$1,500,000 taxable) by the Authority and shall be reserved upon application of the Authority to the Florida Division of Bond Finance.
2. All approvals precedent to the authorization of the issuance of the Bonds under the Authority's implementing ordinance have been obtained.
3. All fees currently due to the Authority from the Owner in connection with the Project have been paid.
4. The Authority has executed a firm commitment in favor of the Project with respect to its intent to issue the proposed Bonds.

04/10/2006 10:25AM (GMT-04:00)

Florida Housing Finance Corporation
State Apartment Incentive Loan (SAIL) Program
Page 2

Very truly yours,

HOUSING FINANCE AUTHORITY OF BAY COUNTY

By: Benjamin S. Johnson
Name: Benjamin S. Johnson
Title: Chairperson

AGREED TO AND ACCEPTED THIS
10th DAY OF APRIL, 2006

BY: NAUTILUS DEVELOPMENT PARTNERS, L.L.P., a Florida
limited liability limited partnership

By: Nautilus Development Group Managers, L.L.C., a Florida
limited liability company, its general partner

By: J.P. Brock
Jay P. Brock, Manager

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-0905

Development Name: Nautilus Cove

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
05 - 03 - 2006	55	N	5	\$135,593.22	20.78%	Y
Preliminary	50	N	0	\$135,593.22	20.78%	Y
NOPSE	50	N	0	\$135,593.22	20.78%	Y
Final	55	N	5	\$135,593.22	20.78%	Y
Final-Ranking	0	N	0			

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	9	9	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	0
Set-Aside Commitments									
4S	III	E	1.b.(2)(a)	EI Set-Aside Commitment	5	5	5	5	0
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	3	0
6S	III	E	3	Affordability Period	5	0	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	0	0	0	0
7S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3	Programs for Elderly	6	0	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	8	8	0
Local Government Support									
9S	IV		a.	Contributions	5	0	0	0	0
10S	IV		b.	Incentives	4	4	4	4	0



2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-090S

Development Name: Nautilus Cove

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
6S	The Applicant failed to specify the number of years committed to set aside units in the proposed Development. Therefore, the Applicant received no points for Affordability Period.	Preliminary	
7S	The Applicant failed to select any Resident Programs for Non-Elderly and Non-Homeless Developments and is therefore unable to achieve maximum points.	Preliminary	Final
7S	In its cure for item 7S, the Applicant failed to select enough Resident Programs for Non-Elderly and Non-Homeless Developments to achieve maximum points.	Final	
9S	The Applicant failed to provide any of the Local Government Contribution forms and, since a firm financing commitment for the referenced tax exempt bond financing was not provided it does not qualify for automatic Local Government contribution points.	Preliminary	
9S	In an attempt to Cure item 2T, which would also Cure the deficiency at item 9S, the Applicant submitted a first mortgage financing commitment from the Housing and Finance Authority of Bay County. The commitment states "Private activity tax-exempt bond allocation has been approved for the Project (up to \$10,500,000 tax-exempt and \$1,500,000 taxable) by the Authority and shall be reserved upon application of the Authority to the Florida Division of Bond Finance". Page 65 of the 2006 Universal Application Instructions states that in order to be considered a firm commitment the Applicant must provide "affirmation that the tax-exempt allocation has been reserved". Since the allocation has not yet been reserved, the commitment cannot be considered a source of financing and no points will be awarded.	Final	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	4	Zoning	The Applicant failed to provide the required Local Government Verification That Development Is Consistent With Zoning And Land Use Regulations form.	Preliminary	Final
2T	V	B		First Mortgage Financing	The Applicant failed to provide any documentation of the first mortgage financing at Exhibit "56" as referenced in the Development Cost Pro Forma.	Preliminary	Final
3T	V	B		Construction Financing Shortfall	The Applicant has a permanent financing shortfall of \$11,992,731.00.	Preliminary	
4T	V	B		Permanent Financing Shortfall	The Applicant has a permanent financing shortfall of \$11,522,372.00.	Preliminary	
5T	V	B		First Mortgage Financing	As a cure for item 2T, the Applicant submitted a first mortgage financing commitment from the Housing and Finance Authority of Bay County. The commitment states "Private activity tax-exempt bond allocation has been approved for the Project (up to \$10,500,000 tax-exempt and \$1,500,000 taxable) by the Authority and shall be reserved upon application of the Authority to the Florida Division of Bond Finance". Page 65 of the 2006 Universal Application Instructions states that in order to be considered a firm commitment the Applicant must provide "affirmation that the tax-exempt allocation has been reserved". Since the allocation has not yet been reserved, the commitment cannot be considered a firm source of financing.	Final	

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-090S

Development Name: Nautilus Cove

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	0	0	0.75	0
2P	III	A	10.a.(2)(b)	Public School	1.25	0	0	1.25	0
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0.75	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	0	0	2.25	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
1P	The Applicant did not provide the Surveyor Certification Form.	Preliminary	Final
1P	The Applicant did not provide the required sketches.	Preliminary	Final
2P	The Applicant did not provide the Surveyor Certification Form.	Preliminary	Final
2P	The Applicant did not provide the required sketches.	Preliminary	Final
4P	The Applicant did not provide the Surveyor Certification Form..	Preliminary	Final
4P	The Applicant did not provide the required sketches.	Preliminary	Final
6P	The Applicant did not provide the Surveyor Certification Form..	Preliminary	Final

ELECTION OF RIGHTS

Application Number: 2006-090S Development Name: Nautilus Cove

- 1. I do not desire a proceeding.
- 2. I elect an informal proceeding to be conducted in accordance with Sections 120.569 and 120.57(2), Florida Statutes. In this regard I desire to (Choose one):
 - submit a written statement and documentary evidence; or
 - attend an informal hearing to be held in Tallahassee.

Note: Rule 28-106.301, Florida Administrative Code, requires Applicant to submit a petition in a prescribed format. (attached)

- 3. I elect a formal proceeding at the Division of Administrative Hearings. This option is available only if there are disputed issues of material fact.

Note: Applicant must submit an appropriate petition in accordance with Rule 28-106.201, Florida Administrative Code. (attached)

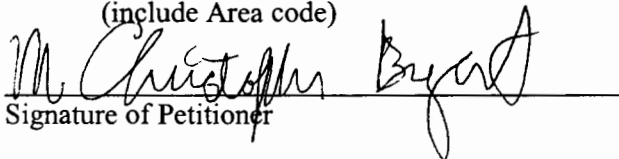
Following are my top five preferences, in order from 1-5 (with 1 being my first choice, etc.) for scheduling my informal hearing. All formal hearings will be scheduled by the Division of Administrative Hearings.

Hearing Dates:	AM.	P.M.	Hearing Dates:	A.M.	P.M.
June 14, 2006	unavailable	unavailable	June 20, 2006	4	3
June 15, 2006	unavailable	unavailable	June 21, 2006	2	1
June 19, 2006	unavailable	unavailable			

Matters heard after these dates will likely not be funded in the current Application Cycle.

Please fax a Hearing Schedule to me at this number: (850) 521-0720
(include Area code)

DATE: 26 May, 2006


Signature of Petitioner

Name: M. Christopher Bryant
Oertel, Fernandez, Cole & Bryant, P.A.

Address: P. O. Box 1110
Tallahassee, Florida 32302-1110

Phone: (850) 521-0700
(include Area Code)



TO PRESERVE YOUR RIGHT TO A PROCEEDING, YOU MUST RETURN THIS FORM WITHIN TWENTY-ONE (21) DAYS OF RECEIPT OF THIS NOTICE. THE FORM MUST BE RETURNED TO THE FLORIDA HOUSING FINANCE CORPORATION AT THE ADDRESS INDICATED IN THE NOTICE OF RIGHTS. TO FACILITATE THE SCHEDULING OF HEARINGS, THIS FORM MAY BE SUBMITTED PRIOR TO FILING A PETITION.