

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

NORTHWEST PROPERTIES III, LTD.

Petitioner,

vs.

Application No. 2009-I45C

2009 Universal Cycle

FAFC File No.: 200-050C

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

**NORTHWEST GARDENS III'S PETITION CONCERNING
FLORIDA HOUSING'S THRESHOLD, SCORING AND RANKING DECISIONS
REGARDING THE LODGES AT PINELLAS PARK, TOWN PARK CROSSING, DR.
KENNEDY HOMES, EHLINGER APARTMENTS, AND PROGRESSO POINT**

Petitioner Northwest Properties III, Ltd. ("Northwest"), pursuant to sections 120.569 and 120.57(2), Florida Statutes, and rules 28-106.301 and 67-48.005(5), Florida Administrative Code, files this petition for an administrative hearing concerning the 2009 Universal Cycle Final Scoring Summary Reports for Application Nos. 2009-097C (RST Lodges at Pinellas Park, LP), 2009-255C (Town Park Crossing, LP), 2009-144C (Dr. Kennedy Homes, Ltd.), 2009-146C (Ehlinger Apartments, Ltd.), and 2009-123C (Reliance-Progresso Associates, Ltd.) and the 2009 Universal Application Cycle Ranked Order. In support of its petition, Northwest states:

1. RST Lodges at Pinellas Park, LP applied for an allocation of competitive housing credits in the 2009 Universal Application Cycle for a proposed housing development in Pinellas Park called The Lodges at Pinellas Park. The Lodges at Pinellas Park was awarded funding by Respondent Florida Housing Finance Corporation ("Florida Housing") when the ranked order spreadsheet was released on February 26, 2010.

2. Town Park Crossing, LP applied for an allocation of competitive housing credits in the 2009 Universal Application Cycle for a proposed housing development in Davie called Town Park Crossing. Town Park Crossing was ranked as an eligible application on the waiting list by Florida Housing when the ranked order spreadsheet was released on February 26, 2010.

3. Dr. Kennedy Homes, Ltd. applied for an allocation of competitive housing credits in the 2009 Universal Application Cycle for a proposed housing development in Fort Lauderdale called Dr. Kennedy Homes. Dr. Kennedy was ranked in the funding range by Florida Housing when the ranked order spreadsheet was released on February 26, 2010.

4. Ehlinger Apartments, Ltd. applied for an allocation of competitive housing credits in the 2009 Universal Application Cycle for a proposed housing development in Davie called Ehlinger Apartments. Ehlinger was ranked as an eligible application on the waiting list by Florida Housing when the ranked order spreadsheet was released on February 26, 2010.

5. Reliance-Progresso Associates, Ltd. applied for an allocation of competitive housing credits in the 2009 Universal Application Cycle for a proposed housing development in Fort Lauderdale called Progresso Point. Progresso Point was awarded funding by Florida Housing when the ranked order spreadsheet was released on February 26, 2010.

6. But for certain threshold, scoring and ranking decisions of Florida Housing in connection with each of these applications, Northwest would have been in the funding range at the time Florida Housing issued its 2009 Universal Application Cycle ranked order spreadsheet on February 26, 2010. The threshold, scoring and ranking decisions for each of the challenged applications are specifically identified and discussed later in this petition. These identified issues were also raised during the scoring process, either through the filing of Notices of Possible

Scoring Errors (“NOPSEs”) or through Notices of Alleged Deficiencies (“NOADs”). R. 67-48.004(4), (7), Fla. Admin. Code.

7. The agency affected in this proceeding is Florida Housing, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The agency’s file number is 2009-145C.

8. The petitioner is Northwest, 2950 SW 27th Avenue, Suite 200, Miami, Florida 33133. The petitioner’s telephone numbers are 305-476-8118 (phone) and 305-476-9674 (facsimile).

9. The petitioner’s attorney is Donna E. Blanton, Radey Thomas Yon & Clark, P.A., 301 S. Bronough Street, Suite 200, Tallahassee, Florida, 32301. The attorney’s telephone number is 850-425-6654 (phone) and 850-425-6694 (facsimile).

10. Northwest received notice of the Final Ranking and Notice of Rights from Kevin Tatreau, Florida Housing’s Director of Multifamily Development Programs, on March 1, 2010. Accompanying that Notice was a 2009 Universal Scoring Summary and a 2009 Final Ranking spreadsheet.

11. Northwest’s substantial interests are affected by the Final Scoring Summary Reports for The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes, Ehlinger Apartments, and Progresso Point and by the 2009 Universal Application Cycle Ranked Order for the following reasons: (1) Northwest timely filed an Application with Florida Housing for Housing Credits in the 2009 Universal Cycle in connection with the development of an apartment complex in Fort Landerdale, Florida; (2) When final scores were released, Northwest received a perfect score of 70 points, met all threshold requirements, and achieved perfect ability to proceed tie-breaker points and perfect proximity tie-breaker points; (3) But for the decisions made by Florida Housing in scoring and ranking The Lodges at Pinellas Park, Town Park

Crossing, Dr. Kennedy Homes, Ehlinger Apartments, and Progresso Point, Northwest would have been in the funding range when final rankings were released on February 26, 2010.

12. Ultimate facts alleged are listed below. First, it is important to recognize that this petition in Part A, below, addresses four cases that were all decided based on an identical issue – the interpretation of the “scattered sites” definition in Florida Housing’s rules. Thus, if Florida Housing changes its interpretation of that definition, that resolves four of the five issues presented in this petition. Second, this petition challenges Florida Housing’s scoring decision on one other proposed development – Progresso Point. *See* Part B, below. For the reasons expressed below, the scoring of Progresso Point was plainly wrong.

A. Facts Common to The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes, and Ehlinger

i. When Final Scores were released on December 2, 2009, The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes, and Ehlinger each failed multiple threshold requirements and did not achieve maximum scores in several areas for a single reason. That reason, repeated multiple times by Florida Housing in the final scoring summaries for each development, was as follows:

Based on information provided by a NOPSE [or NOAD], it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002 (106), F.A.C.)

See Composite Exhibit A (Scoring Summary Reports for The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes, and Ehlinger Apartments, December 2, 2009). Florida Housing’s Universal Application Instructions require Applicants to submit documentation of various types, such as to demonstrate site control or availability of infrastructure, for each site if

a development consists of scattered sites. *See, e.g.*, Instructions at pp. 30, 31, 32.¹ All four of these Applicants treated their sites as single sites, not scattered sites.

ii. Rule 67-48.002(106) provides:

“Scattered Sites” for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous (“non-contiguous parts”) or (ii) any part of which is **divided by a street or easement** (“divided parts”) and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.

(Emphasis supplied).

iii. The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes, and Ehlinger Apartments each filed petitions with Florida Housing seeking an administrative hearing concerning Florida Housing’s determination that the rule 67-48.002(106) (the “scattered sites rule”) applied to their Applications.

iv. Before each scheduled hearing took place, Florida Housing’s attorney entered into a Consent Agreement with attorneys for each Applicant. *See Composite Attachment B* (Consent Agreements between RST Lodges at Pinellas Park, L.P. and Florida Housing; Town Park Crossing, L.P. and Florida Housing; Dr. Kennedy Homes, Ltd. and Florida Housing; and Ehlinger Apartments, Ltd. and Florida Housing). In each of these Consent Agreements, Florida Housing reversed its earlier scoring decision and determined that there were in fact easements on each development site but that the easements did not “divide” the property. *Id.* at p. 2 of each Consent Agreement.

¹ The Universal Application Instructions have been incorporated by reference into Florida Housing’s rules. R. 67-48.004(1)(a), Fla. Admin. Code.

v. Each of these Consent Agreements was presented to the Florida Housing Board of Directors on February 26, 2010. In each case, Florida Housing entered a Final Order adopting the Stipulated Findings of Fact and Stipulated Conclusions of Law in the Consent Agreements and determined that each Applicant had received a perfect score, achieved maximum ability to proceed tie-breaker points, and maximum proximity tie-breaker points. *See Composite Attachment C* (Final Orders for RST Lodges at Pinellas Park, L.P., Town Park Crossing, L.P., Dr. Kennedy Homes, Ltd., and Ehlinger Apartments, Ltd.). Thus, by reversing its own final scoring decision on application of the scattered sites rule to each of these Applicants, Florida Housing determined that each Applicant was eligible for ranking. Each is ranked higher (either in the funding range or on the waiting list) than Northwest, and “but for” Florida Housing’s reversal of its original scoring decision and its errors in connection with Progresso Point, Northwest would be in the funding range.

vi. It is important to note here that Northwest and its undersigned counsel believe that Florida Housing acted correctly in entering into the Consent Agreements and reversing the final scoring decisions concerning the scattered sites rule. Two of the proposed developments favorably affected by that decision, Dr. Kennedy Homes and Ehlinger Apartments, are related to Northwest through a common developer. Additionally, undersigned counsel represented Dr. Kennedy Homes and Ehlinger following final scoring and is a signatory to the Consent Agreements in those cases.

vii. The petition in this case is being filed only because competing Applicants in the 2009 Universal Cycle have made clear that they intend to challenge Florida Housing’s decision to enter into the Consent Agreements relating to the scattered sites rule interpretation and to issue Final Orders adopting those agreements. Those competing Applicants are expected

to argue that Florida Housing erred by reversing its original decision and entering into the Consent Orders. They are also expected to argue that the wording of the scattered sites rule is plain: If any part of a single Development “is divided by a street or easement” the Development consists of Scattered Sites. Finally, the competing Applicants are expected to argue that Florida Housing correctly determined in its final scoring decisions, based on evidence submitted in NOPSEs or NOADs, that the development sites of The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes, and Ehlinger Apartments were divided by one or more easements, and those decisions should have not been reversed. If those Applicants are successful in challenging Florida Housing’s interpretation of the scattered sites rule in one or more of the Consent Agreements and Final Orders, then Northwest wishes to obtain the same benefit of that ultimate agency action. The only way to accomplish that objective is by filing this petition.

B. Progresso Point

Progresso Point made three significant mistakes in its Application, any one of which – according to Florida Housing’s rules and precedent – warrants point reductions or threshold failures, or both, that should have removed the Application from the funding range. Ultimate facts alleged, including those that warrant reversal of the proposed agency action, are as follows:

Invalid Signatory

i. The first significant error made by Progresso and overlooked by Florida Housing was that Progresso Point’s Local Government Verification of Status of Site Plan Approval for Multi-family Developments form (Exhibit 26 to its application) and its Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form (Exhibit 32 to its Application) were signed by an individual who does not qualify as a valid signatory under Florida Housing rules. Therefore, Progresso Point should have failed threshold

requirements for Status of Site Plan Approval and for Evidence of Appropriate Zoning. Additionally, Progresso Point should not have earned Ability to Proceed Tie-breaker Points for either Site Plan Approval or for Zoning.² Although Florida Housing received timely Notices of Possible Scoring Errors (“NOPSEs”) from two competing Applicants concerning the improperly signed forms behind Exhibits 26 and 32, the NOPSEs were ignored by Florida Housing when NOPSE scores were released on October 21, 2009.

ii. The forms that are to be completed for Exhibit 26 and Exhibit 32 contain similar language under the heading of “Certification.” Exhibit 26 provides: “This certification must be signed by the applicable City’s or County’s Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories.” (All emphasis supplied). Exhibit 32 provides: “This certification must be signed by the applicable City’s or County’s Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories.” (All emphasis supplied).

iii. Both Exhibit 26 and Exhibit 32 for Progresso Point were signed by the Deputy Director of Planning and Zoning, not the Director. See **Composite Attachment D** (containing Exhibit 26 and Exhibit 32 as submitted by Progresso Point with its application). Both forms

² Scoring requirements concerning Ability to Proceed Tie-Breaker Points are outlined on page 29 of the Universal Application Instructions (Part III.C.). The Instructions provide that Applicants are eligible for one Ability to Proceed Tie-breaker point if they achieve threshold requirements in each of six areas. Two of these areas are site plan approval and appropriate zoning. See Instructions, p. 29.

plainly identify the individual signing the forms, Wayne Jessup, as the Deputy Director of Planning and Zoning.

iv. There is no dispute as to Mr. Jessup's position with the City of Fort Lauderdale at the time Progresso Point's application was submitted. See **Attachment E**, "Planning and Zoning Staff Contact List" for the City of Fort Lauderdale, which states that Greg Brewton is Director of Planning and Zoning and that Wayne Jessup is the Deputy Director of Planning and Zoning.³ The Deputy Director clearly is not the "chief appointed official," given that there is a Director above him.

v. Moreover, other Applicants with proposed developments in the City of Fort Lauderdale did correctly obtain the signature of the Director of Planning and Zoning. See Application No. 2009-145C, Northwest Properties III Development, LLC, Exhibits 26 and 32; Application No. 2009-144C, Dr. Kennedy Homes, Ltd., Exhibits 26 and 32 (attached as **Composite Attachment F** and showing that Greg Brewton signed the forms as Director of Planning and Zoning).

vi. Florida Housing does not accept signatories from lower-ranked staff for a reason. We will never know whether or not the duly appointed Director of Planning and Zoning would have agreed to sign these forms for Progresso Point; that is precisely the kind of ambiguity that Florida Housing is looking to avoid when awarding funds with strict federal timelines. Florida Housing requires assurances from the highest levels of local government that the Applicant is, in fact, able to proceed with a development. Florida Housing has previously found that an Application does not meet threshold requirements and is not entitled to points if a certification is signed by an invalid signatory. See, e.g., The Sacramento, App. No. 2007-093C (Preliminary

³ This list was attached to Notices of Possible Scoring Error submitted to Florida Housing concerning Progresso Point during the 2009 Universal Application Cycle.

Scoring Summary, at p. 2); Pine Grove Apartments, App. No. 2007-027BS (Preliminary Scoring Summary, at p. 2); Bennett Creek Apartments, App. No. 2007-045BS (Preliminary Scoring Summary, at p. 2); Villa Patricia, App. No. 2005-053C (Preliminary Scoring Summary, March 17, 2005, at p. 2); Royalton, App. No. 2005-048S, (Preliminary Scoring Summary, March 17, 2005, at p. 2); Pinnacle Park, App. No. 2005-100C, (Preliminary Scoring Summary, March 17, 2005, at p. 3); Amber Garden, App. No. 2005-041C, (Preliminary Scoring Summary, March 17, 2005, at p. 2); Villa Amelia, App. No. 2005-042C, (Preliminary Scoring Summary, March 17, 2005, at p. 2); Mirasol, App. No. 2005-051C, (Preliminary Scoring Summary, March 17, 2005, at p. 2-3); Lafayette Square Apartments, App. No. 2005-063C, (Preliminary Scoring Summary), March 17, 2005; at p. 3; Riverside Place, App. No. 2005-095C, (Preliminary Scoring Summary, March 17, 2005, at pp. 2-3); Pinnacle Plaza, App. No. 2005-096C, (Preliminary Scoring Summary, March 17, 2005, at p. 3) (attached as **Composite Attachment G**).⁴

⁴ In The Sacramento, Florida Housing found that numerous forms were improperly signed. The Scoring Summary states: “The forms were signed by the First Deputy Mayor/City Administrator and the instructions at the bottom of each form states[s] ‘This certification must be signed by the Mayor, City Manager, County Manager/Administrator/Coordinator or Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. Zero points will be awarded if the certification is improperly signed.’” In Pine Grove Apartments and Bennett Creek Apartments, Florida Housing identified the same error in both applications: “The Applicant included signed Local Government Verification of Affordable Housing Incentives forms (exhibits 47, 48, 49 & 50). However, the forms were signed by the Chief Administrative Officer and not one of the acceptable signatories listed at the bottom of the forms.”

In all of the 2005 cases, the Local Government Verification of Qualification as Urban In-Fill Development forms were signed by someone on behalf of the proper signatory. Florida Housing stated in the scoring summary forms that the certification “will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated on the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in a permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does

vii. Even in the current cycle, Florida Housing in other cases has required strict adherence to the requirements of its rules and forms. In *MCP I, Ltd. v. Florida Housing Finance Corporation*, Case No. 2009-061UC, the Applicant simply listed a wrong date on its site plan approval form in a mistaken attempt to indicate the date of the meeting at which the approval was obtained. This error was pointed out to Florida Housing in a NOPSE, which Florida Housing accepted. Although the Applicant was permitted to cure the error, the original mistake cost the Applicant a one-half-point Ability to Proceed Tie-Breaker Point, which pushed the Applicant out of the funding range. See **Attachment H** (Final Order and Recommended Order in Case No. 2009-061UC). Similarly, Florida Housing should have accepted the NOPSE pointing out that an invalid signatory appeared on Progresso Point's forms.

viii. Florida Housing should have consistently followed its rules by determining that Progresso Point's Exhibits 26 and 32 were improperly signed. Florida Housing cannot simply "change its mind" about interpretation of its rules. See *Cleveland Clinic v. Agency for Health Care Administration*, 679 So. 2d 1237, 1241 (Fla. 1st DCA 1996). As the court explained in *Cleveland Clinic*:

Without question, an agency must follow its own rules, . . . but if the rule, as it plainly reads, should prove impractical in operation, the rule can be amended pursuant to established rulemaking procedures. However, 'absent such amendment, experience cannot be permitted to dictate its terms.' That is, while an administrative agency 'is not necessarily bound by its initial construction of a statute evidenced by the adoption of a rule,' the agency may implement its changed interpretation only by 'validly adopting subsequent rule changes.' The statutory framework under which administrative agencies must operate in this state provides adequate mechanisms for the adoption or amendment of rules.

679 So. 2d at 1242 (emphasis supplied), quoting *Boca Raton Artificial Kidney Center v. Department of Health and Rehabilitative Services*, 493 So. 2d 1055, 1057 (Fla. 1st DCA 1986),

not meet the previously stated criteria and as such, the Application will not be given credit for the form."

and *Department of Administration, Division of Retirement v. Albanese*, 445 So. 2d 639, 642 (Fla. 1st DCA 1984); see also *Brookwood-Walton County Convalescent Center v. Agency for Health Care Administration*, 845 So. 2d 223, 229 (Fla. 1st DCA 2003) (“The agency failed to explain why its policy had changed abruptly when applied to Appellants, despite the lack of any intervening change in the applicable provisions. AHCA’s unexplained, inconsistent policies are contrary to established administrative principles and sound public policy.”).

ix. The invalid signatory on these forms is sufficient reason that Progresso Point should not have been in the funding range. However, it is only the first of three reasons – any one of which warranted loss of points or threshold failure, or both – that the Applicant should have been denied funding.

Ownership Changes After the Application Deadline

x. The second significant error made by Progresso and overlooked by Florida Housing related to a revision in Progresso’s ownership structure. In an attempt to cure a deficiency in its equity commitment letter that was identified by Florida Housing during preliminary scoring, Progresso Point revised its ownership structure in violation of the Instructions at page 7 (Part II.A.3.a.), which provide: “For a Limited Partnership, provide a list, as of the Application Deadline, of the following: (i) the Principals of the Applicant, including percentage of ownership interest of each, and (ii) the Principals for each Developer. Provide this information behind a tab labeled “**Exhibit 9.**” (Emphasis supplied). The Applicant then made representations within its Application designed to hide this violation from Florida Housing and from other participants in the Universal Cycle.

xi. When preliminary scores were released on September 21, 2009, Florida Housing determined that Progresso Point’s equity commitment in Exhibit 56 failed to meet threshold for

the following reason: “Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The Applicant stated at Exhibit 9 of the Application that the limited partner’s interest in the Applicant entity is 99.90%. However, the equity commitment at Exhibit 56 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.” See Preliminary Scoring Summary Report for Progresso Point, App. No. 2009-123C, September 21, 2009, at p. 2. (**Attachment I**).

xii. Progresso Point attempted to cure the deficiency identified by Florida Housing by revising Exhibit 9 to suggest that the Limited Partner had 99.99% ownership of the limited partnership as of the Application deadline. Progresso Point also made corresponding reductions in the General Partners’ percent of ownership interest on Exhibit 9, changing the General Partners’ ownership splits from .051/.049 to .0051/.0049. See **Composite Attachment J** (Progresso Point’s original Exhibit 9 and Progresso Point’s Exhibit 9 that was submitted with its cure).

xiii. Importantly, Progresso Point included a header on its revised Exhibit 9 that states: “As of August 20, 2009.” See **Composite Attachment J**. This statement is simply false, as illustrated by documents on file with the Broward County Housing Authority (an affiliate of Progresso Point’s General Partner).⁵ As of the Application deadline for the 2009 Universal Cycle (August 20, 2009), Progresso Point’s General Partner interests were .051% and .049%. See **Attachment K** (Omnibus Amendment to Reliance-Progresso Associates, Ltd. Limited Partnership Agreement, dated March 2008). On October 30, 2009 – months after the

⁵ These documents were attached to the NOAD filed against Progresso Point during the Universal Cycle.

Application deadline – changes were made to the Applicant entity through an Amended and Restated Limited Partnership Agreement of Reliance-Progresso Associates, Ltd. See **Attachment L**. This document modifies the General Partners' ownership interests to .0051% and .0049% and clearly explains that the General Partners' ownership interests were .051% and .049% percent prior to the amendment. *Id.*

xiv. Moreover, Progresso Point knew that the reference to August 20, 2009, on the revised Exhibit 9 was false. A series of emails obtained from the Broward County Housing Authority illustrates the concern among members of the Applicant entity about the implications of the ownership change and the concern about competitors discovering it. See **Composite Attachment M**. For example, one email memo from Sandra Seals of Reliance Housing to Patrieia Green of the Stearns Weaver law firm states:

Hi Patty,

I need your help. We have a little situation. We have submitted the attached Exhibit 9 to FHFC in our recent Progresso Point Tax Credit Application. In the Exhibit, we show the limited partnership interest at 99.90%. Our Equity Letter from RBC Bank shows the limited partnership interest at 99.99% interest. FHFC noticed this discrepancy and asked us to CURE it. As we've proceeded to do so, we noticed that in our Corporate Docs (please see the attached), we show the limited partnership interest at 99.90%. Bob's concern is if anyone finds out (i.e., a competitor) that Exhibit 9 doesn't match this document, we are in trouble. He suggested that I run this dilemma by you. At this stage, we don't want to change the Equity letter.

Composite Attachment M at p. 3 (Emphasis supplied).

xv. This modification of the ownership interest after the Application deadline is contrary to Florida Housing's Instructions. It amounts to a 90% change in the General Partners' ownership interest and thus constitutes a change in the Applicant entity, which is prohibited by the Instructions: "Changes to the Applicant entity prior to the execution of a Carryover Allocation Agreement or without Board approval prior to the issuance of the Final Housing

Credit Allocation Agreement will result in a disqualification from receiving funding and shall be deemed a material misrepresentation.” Instructions, p. 6 (Part II.A.2.(1)). Because Progresso Point changed the percentage of ownership interests in a revised Exhibit 9 during the cure process – after the Application Deadline – and thereby also changed the Applicant entity, Progresso Point’s application should clearly fail threshold requirements.⁶

xvi. The ownership change after the Application deadline is sufficient reason that this Applicant should not have been in the funding range. However, it is only the second of three reasons – any one of which warranted loss of points or threshold failure, or both – that the Applicant should have been denied funding.

Financing Shortfall

xvii. The third significant error made by Progresso and overlooked by Florida Housing relates to financing shortfalls. Because Progresso Point did not properly cure the equity commitment deficiency identified by Florida Housing at preliminary scoring, Progresso Point continues to have a construction and permanent financing shortfall and should fail threshold requirements. Plainly stated, Progresso Point has committed to sell more of its partnership than it actually owns. This problem was identified by Florida Housing in the Preliminary Scoring Summary Report for Progresso Point, which stated: “The Application has a construction financing shortfall of \$13,211,469” and “The Application has a permanent financing shortfall of \$13,211,469.” *See Attachment I.* The Instructions provide that “[t]he percentage of credits proposed to be purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member.” Instructions, p. 74 (Part V.D.2.(b)). This discrepancy in Progresso Point’s application was subsequently reiterated in a NOAD, which Florida Housing

⁶ These issues were raised in a Notice of Alleged Deficiency, which was timely submitted to Florida Housing.

ignored. *See Attachment N.* Because of the inconsistency between Progresso Point's equity commitment letter and its ownership interests, its housing credit equity cannot be considered as a source of financing. Thus, the shortfalls persist, and Progresso Point must fail threshold.

xviii. The financing shortfall alone is sufficient reason that this Applicant should not have been in the funding range. However, it is the last of three reasons – any one of which warranted loss of points or threshold failure, or both – that the Applicant should have been denied funding.

13. Because of the specifically identified threshold, scoring and ranking errors discussed above, Florida Housing erred by placing Progresso Point in the funding range. Additionally, if Florida Housing ultimately determines that the Final Orders regarding The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes or Ehlinger Apartments reflect an incorrect interpretation of the scattered sites rule, then Northwest accepts that interpretation and requests equal treatment based on that decision. Because of Progresso Point's scoring errors, and if Florida Housing changes its position on four scattered sites cases, then Northwest should be placed in the funding range for the 2009 Universal Cycle.

14. Rules and statutes relevant to the proposed agency action are the Florida Housing Finance Corporation Act (sections 420.501 et. seq., Florida Statutes); sections 120.569 and 120.57(2), Florida Statutes; and rules 67-48.002, 67-48.004 (including the Universal Application Instructions, which are incorporated by reference), and 67-48.005, Florida Administrative Code.

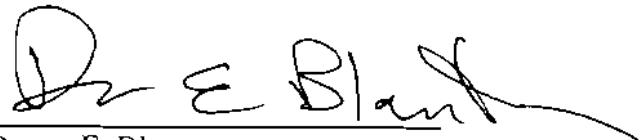
15. Based on the foregoing, Northwest respectfully requests that Florida Housing schedule this matter for an informal hearing and that the Hearing Officer enter a Recommended Order finding that Florida Housing erred in finding that Progresso Point met threshold requirements and in the scoring and ranking of Progresso Point. Additionally, Northwest

requests that this petition be assigned to the same Hearing Officer who will hear other Applicants' challenges to Florida Housing's interpretation of the scattered sites rule in connection with The Lodges at Pinellas Park, Town Park Crossing, Dr. Kennedy Homes or Ehlinger Apartments. If those Applicants are successful in their challenges, then Northwest requests the same relief afforded to those Petitioners. Northwest further requests that Florida Housing enter a Final Order adopting the requested recommendations of the Hearing Officer and determining that Northwest should have been in the funding range when final rankings were issued for the 2009 Universal Cycle. As a result of such Final Order, Northwest requests an allocation of housing credits and any other relief to which it is entitled, pursuant to rule 67-48.005(7), Florida Administrative Code.

16. At the time of filing this petition, Northwest does not believe that any material facts are in dispute. Northwest reserves the right to seek a hearing pursuant to sections 120.569 and 120.57(1) at the Division of Administrative Hearings if, during the course of proceedings on this petition, disputed issues of material fact become known to the parties.

Dated: 3/22/10

Respectfully submitted,



Donna E. Blanton
Florida Bar No. 948500
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

Attorney for Northwest Properties III, Ltd.

Scoring Summary Report

File #: 2009-097C Development Name: The Lodges at Pinellas Park

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
12/03/2009	46.00	N	0.00	0.00
Preliminary	66.00	N	6.00	7.50
NOPSE	46.00	N	0.00	0.00
Final	46.00	N	0.00	0.00
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00	9.00	
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00	0.00	
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	1.00	1.00	
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00	0.00	
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00	9.00	
4S	III	B	3	Green Building	5.00	5.00	5.00	5.00	
Set-Aside Commitment									
5S	III	E	1.d.(2)	Special Needs Households	4.00	0.00	0.00	0.00	
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
7S	III	E	3	Affordability Period	5.00	5.00	5.00	5.00	
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00	0.00	
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00	8.00	
Local Government Contributions									
10S	IV	A		Contributions	5.00	5.00	0.00	0.00	
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	0.00	0.00	

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE	
5S	All of the participating Special Needs Household Referral Agencies for the county are not listed on the Applicant Notification to Special Needs Household Referral Agency form. Because the form is incomplete, the Applicant is not eligible for Special Needs points.	Preliminary	Final
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE	
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution – Fee Waiver form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE	
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V	D	1	Non-Corporation Funding	The Applicant submitted a loan commitment from Raymond James Multifamily Finance, Inc. Page 71 of the 2009 Universal Application Instructions states "If the commitment is not from a regulated Financial Institution in the business of making loans or a governmental entity, evidence of ability to fund must be provided." The loan does not appear to be from a regulated Financial Institution and no evidence of ability to fund was provided with the loan commitment. Therefore, neither the construction nor the permanent loan commitments were considered a source of financing.	Preliminary	Final
2T	V	B		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$10,889,394.	Preliminary	Final
3T	V	B		Permanent Analysis	The Applicant has a permanent financing shortfall of \$2,125,471.	Preliminary	Final
4T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	NOPSE	
5T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
6T	III	C	2	Site Control	In its Application, the Applicant provided the following documentation to demonstrate site control: (i) an October 6, 2008 Contract for Purchase and Sale of Real Property between TPA Investment, LLC (as Seller) and Roundstone Development, LLC (as Purchaser) and (ii) a December 9, 2008 Assignment and Assumption of the Contract to RST Lodges at Pinellas Park, LP (the Applicant). However, based on evidence provided by a NOPSE, it appears that the Applicant does not have site control. The evidence provided shows a Special Warranty Deed (in-lieu of foreclosure), executed June 24, 2009, between TPA Investments, LLC (as Grantor) and Atlas FL I SPE, LLC (as Grantee).	NOPSE	Final
7T	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
8T	III	C	3.b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
9T	III	C	3.c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
10T	III	C	3.d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
11T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
12T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE	
13T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that evidence of appropriate environmental site assessment be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate environmental site assessment has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	0.00	0.00	
2A	III	C	3.a	Availability of Electricity	1.00	1.00	0.00	0.00	
3A	III	C	3.b	Availability of Water	1.00	1.00	0.00	0.00	
4A	III	C	3.c	Availability of Sewer	1.00	1.00	0.00	0.00	
5A	III	C	3.d	Availability of Roads	1.00	1.00	0.00	0.00	
6A	III	C	4	Appropriately Zoned	1.00	1.00	0.00	0.00	

Reason(s) for Failure to Achieve Selected Ability To Proceed Tie-Breaker Points:

Item #	Reason(s)	Created As Result	Rescinded As Result
1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 5T above.	NOPSE	
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 7T above.	NOPSE	
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 8T above.	NOPSE	
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 9T above.	NOPSE	
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 10T above.	NOPSE	
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for evidence of appropriate zoning and land use. See Item 11T above.	NOPSE	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	1.25	0.00	0.00	
2P	III	A	10.b.(2) (b)	Public School	1.25	1.25	0.00	0.00	
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00	0.00	0.00	
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00	0.00	
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	0.00	0.00	
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	3.75	0.00	0.00	
7P	III	A	10.a	Involvement of a PHA	7.50	0.00	0.00	0.00	

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

Item #	Reason(s)	Created As Result	Rescinded As Result
1P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE	
1P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE	
2P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE	
2P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE	
5P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE	
5P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE	

Item #	Reason(s)	Created As Result	Rescinded As Result
6P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE	
6P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it was impossible to measure the distance between it and other existing Developments on the Proximity List.	NOPSE	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	A	2.b	Scattered Sites	In its cure materials for Items 2S, 5S, 10S, 11S, 4T, 5T, 7T through 13T, 1A through 6A, 1P, 2P, 5P and 6P, the Applicant provided an affidavit from a licensed surveyor and various documents in an effort to demonstrate that the proposed Development site is not divided by the utility easement. However, documentation and affidavits from two (2) licensed surveyors provided by a NOAD support the original determination that the site is divided by an easement and thus meets the definition of Scattered Sites.	Final	

Scoring Summary Report

File #: 2009-255C Development Name: Town Park Crossing

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
12/03/2009	47.00	N	0.00	0.00
Preliminary	66.00	N	6.00	7.50
NOPSE	66.00	N	6.00	7.50
Final	47.00	N	0.00	0.00
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00	9.00	
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00	0.00	
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	12.00	2.00	
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00	0.00	
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00	9.00	
4S	III	B	3	Green Building	5.00	5.00	5.00	5.00	
Set-Aside Commitment									
5S	III	E	1.b.(2)	Special Needs Households	4.00	0.00	0.00	0.00	
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
7S	III	E	3	Affordability Period	5.00	5.00	5.00	5.00	
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00	0.00	
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00	8.00	
Local Government Contributions									
10S	IV	A		Contributions	5.00	5.00	5.00	0.00	
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	4.00	0.00	

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
2S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	Final	
5S	All of the participating Special Needs Household Referral Agencies for the county are not listed on the Applicant Notification to Special Needs Household Referral Agency form. Because the form is incomplete, the Applicant is not eligible for Special Needs points.	Preliminary	Final
5S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	Final	
10S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Contribution - Loan form (Exhibits 45) should reflect all of the Scattered Sites. Because the form is incomplete, the Applicant was not eligible for points for this contribution. No other Local Government Verification of Contribution forms were provided and the Application is not eligible for automatic points.	Final	
11S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	Final	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	III	C	2	Site Control	The May 20, 2009 Second Amendment to the Agreement of Purchase and Sale is incomplete. It refers to an amended legal description which was not attached to the Agreement as Exhibit A.	Preliminary	Final
2T	II	B	3	General Contractor	The General Contractor or Qualifying Agent Certification form lists the General Contractor as Summit Contractors Group, Inc. and the qualifying agent of the General Contractor as Robert L. Fleckenstein. The signature line on the form appears to contain the signature of Bernie Cornelius, not Robert L. Fleckenstein, the qualifying agent.	Preliminary	Final
3T	III	C	2	Site Control	The Assignment of Assumption of Agreement of Purchase and Sale was executed prior to the execution of the Second Amendment to Agreement of Purchase and Sale. Therefore, the Second Amendment to Agreement of Purchase and Sale should be between the Seller and Assignee and not the original Purchaser and Seller.	Preliminary	Final
4T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The Applicant stated at Exhibit 9 of the Application that the limited partner's interest in the Applicant entity is 99%. However, the syndication agreement at Exhibit 56 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	Final
5T	V	B		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$7,109,059.	Preliminary	Final
6T	V	B		Permanent Analysis	The Applicant has a permanent financing shortfall of \$9,489,059.	Preliminary	Final
7T	III	A	2.b	Scattered Sites	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	Final	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
8T	III	A	2.b	Scattered Sites	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	Final	
9T	III	C	1	Site Plan Approval / Plat Approval	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate site plan approval for all sites as required by the 2009 Universal Application Instructions.	Final	
10T	III	C	3.a	Availability of Electricity	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of electricity for all sites as required by the 2009 Universal Application Instructions.	Final	
11T	III	C	3.b	Availability of Water	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Therefore, the Applicant failed to demonstrate availability of water for all sites as required by the 2009 Universal Application Instructions.	Final	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
12T	III	C	3.c	Availability of Sewer	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of sewer for all sites as required by the 2009 Universal Application Instructions.	Final	
13T	III	C	3.d	Availability of Roads	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of roads for all sites as required by the 2009 Universal Application Instructions.	Final	
14T	III	C	4	Zoning	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate appropriate zoning for all sites as required by the 2009 Universal Application Instructions.	Final	
15T	III	C	5	Environmental Site Assessment	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate that a Phase I ESA has been performed for all sites as required by the 2009 Universal Application Instructions.	Final	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	1.00	0.00	
2A	III	C	3.a	Availability of Electricity	1.00	1.00	1.00	0.00	
3A	III	C	3.b	Availability of Water	1.00	1.00	1.00	0.00	
4A	III	C	3.c	Availability of Sewer	1.00	1.00	1.00	0.00	
5A	III	C	3.d	Availability of Roads	1.00	1.00	1.00	0.00	
6A	III	C	4	Appropriately Zoned	1.00	1.00	1.00	0.00	

Reason(s) for Failure to Achieve Selected Ability To Proceed Tie-Breaker Points:

Item #	Reason(s)	Created As Result	Rescinded As Result
1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 9T above.	Final	
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 10T above.	Final	
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 11T above.	Final	
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 12T above.	Final	
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 13T above.	Final	
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 14T above.	Final	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	1.25	1.25	0.00	
2P	III	A	10.b.(2) (b)	Public School	1.25	1.25	1.25	0.00	
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00	0.00	0.00	
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00	0.00	
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	0.00	
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	0.00	
7P	III	A	10.a	Involvement of a PHA	7.50	0.00	0.00	0.00	

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

Item #	Reason(s)	Created As Result	Rescinded As Result
1P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the other services.	Final	
1P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
2P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
2P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the other services.	Final	
5P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the other services.	Final	

Item #	Reason(s)	Created As Result	Rescinded As Result
5P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
6P	Because the Application does not qualify as an Urban In-Fill Development, (see item 3C), the Applicant is not eligible for automatic 3.75 proximity points.	Final	
6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the existing Developments on the Proximity List.	Final	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	A	10	Proximity	The Applicant qualified for 3.75 automatic proximity points at 6P.	Preliminary	Final
2C	V	B		Developer Fee	The Applicant provided a Commitment to Defer Developer Fee form from both Co-Developers, with each Developer committing to defer \$2,148,328 during construction and permanent financing. The total maximum combined amount of deferred Developer fee allowed is \$2,148,328, which is the amount utilized by Florida Housing as a source for construction and permanent financing.	Preliminary	
3C	V	B		Development Cost Pro Forma	The Applicant listed Rent up reserves, operating/debt reserves, and R.R. totaling \$703,323. However, No. 5 on the Development Cost Pro forma Notes states "For purposes of the Development cost calculation in this Application, the only reserves allowed are contingency reserves for rehabilitation and construction..." Therefore, the Development Cost was reduced by \$703,323.	Preliminary	
4C	III	A	2.c	Urban In-Fill	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Qualification as Urban In-Fill Development form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development does not qualify as an Urban In-Fill Development.	Final	
5C	IV	A		Local Government Contributions	Because the Local Government Contributions – Loan form does not qualify as a Local Government contribution for purposes of this Application, (see item 10S), the Local Government Verification of Contribution Loan - form could not be considered as a source of financing. However, this did not create any shortfall in funding for the Development.	Final	

Scoring Summary Report

File #: 2009-144C Development Name: Dr. Kennedy Homes

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
12/02/2009	47.00	N	0.00	7.50
Preliminary	70.00	Y	6.00	7.50
NOPSE	47.00	N	0.00	7.50
Final	47.00	N	0.00	7.50
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00	9.00	
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00	0.00	
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	2.00	2.00	
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00	0.00	
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00	9.00	
4S	III	B	3	Green Building	5.00	5.00	5.00	5.00	
Set-Aside Commitment									
5S	III	E	1.b.(2)	Special Needs Households	4.00	4.00	0.00	0.00	
8S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
7S	III	E	3	Affordability Period	5.00	5.00	5.00	5.00	
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00	0.00	
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00	8.00	
Local Government Contributions									
10S	IV	A		Contributions	5.00	5.00	0.00	0.00	
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	0.00	0.00	

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE	
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE	
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution – Grant form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE	
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b of the Application.	NOPSE	
2T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
3T	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
4T	III	C	3.b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
5T	III	C	3.c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
6T	III	C	3.d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
7T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE	
8T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
9T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Although evidence that a Phase I ESA has been performed for the site located at 1004 W. Broward Boulevard, no such evidence has been provided for the other site(s).	NOPSE	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	0.00	0.00	
2A	III	C	3.a	Availability of Electricity	1.00	1.00	0.00	0.00	
3A	III	C	3.b	Availability of Water	1.00	1.00	0.00	0.00	
4A	III	C	3.c	Availability of Sewer	1.00	1.00	0.00	0.00	
5A	III	C	3.d	Availability of Roads	1.00	1.00	0.00	0.00	
6A	III	C	4	Appropriately Zoned	1.00	1.00	0.00	0.00	

Reason(s) for Failure to Achieve Selected Ability To Proceed Tie-Breaker Points:

Item #	Reason(s)	Created As Result	Rescinded As Result
1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See item 2T.	NOPSE	
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See item 3T.	NOPSE	
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See item 4T.	NOPSE	
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See item 5T.	NOPSE	
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See item 6T.	NOPSE	
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See item 7T.	NOPSE	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	0.00	0.00	0.00	
2P	III	A	10.b.(2) (b)	Public School	1.25	0.00	0.00	0.00	
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00	0.00	0.00	
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00	0.00	
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	0.00	0.00	0.00	
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	0.00	0.00	0.00	
7P	III	A	10.a	Involvement of a PHA	7.50	7.50	7.50	7.50	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	A	2.c	Urban In-Fill	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Qualification as Urban In-Fill Development form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development does not qualify as an Urban In-Fill Development.	NOPSE	
2C	IV	A		Local Government Contributions	Because the Local Government grant is not eligible for Local Government Contributions points (see Item 10S above), it could not be considered a source of financing. However, this did not result in any financing shortfalls because the Applicant has sufficient other financing sources.	NOPSE	
3C	III	A	2.b	Scattered Sites	In its cure materials for Items 2S, 5S, 10S, 11S, 1T through 9T, 1A through 6A, 1C and 2C, the Applicant provided an affidavit from a licensed surveyor and various documents in an effort to demonstrate that the existing easements do not make the proposed Development site a Scattered Site. However, documentation and an affidavit from a licensed surveyor provided by a NOAD support the original determination that the site is divided by one or more easements and thus meets the definition of Scattered Sites.	Final	

Scoring Summary Report

File #: 2009-146C Development Name: Ehlinger Apartments

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
12/02/2009	46.00	N	0.00	7.50
Preliminary	70.00	Y	6.00	7.50
NOPSE	46.00	N	0.00	7.50
Final	46.00	N	0.00	7.50
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00	9.00	
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00	0.00	
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	1.00	1.00	
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00	0.00	
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00	9.00	
4S	III	B	3	Green Building	5.00	5.00	5.00	5.00	
Set-Aside Commitment									
5S	III	E	1.b.(2)	Special Needs Households	4.00	4.00	0.00	0.00	
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
7S	III	E	3	Affordability Period	5.00	5.00	5.00	5.00	
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00	0.00	
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00	8.00	
Local Government Contributions									
10S	IV	A		Contributions	5.00	5.00	0.00	0.00	
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	0.00	0.00	

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE	
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE	
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution – Grant form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE	
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	NOPSE	
2T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE	
3T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE	
4T	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
5T	III	C	3.b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE	
6T	III	C	3.c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE	
7T	III	C	3.d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE	
8T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
9T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Although evidence that a Phase I ESA has been performed for the site located at 7481 NW 33rd Street, no such evidence has been provided for the other site(s).	NOPSE	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	0.00	0.00	
2A	III	C	3.a	Availability of Electricity	1.00	1.00	0.00	0.00	
3A	III	C	3.b	Availability of Water	1.00	1.00	0.00	0.00	
4A	III	C	3.c	Availability of Sewer	1.00	1.00	0.00	0.00	
5A	III	C	3.d	Availability of Roads	1.00	1.00	0.00	0.00	
6A	III	C	4	Appropriately Zoned	1.00	1.00	0.00	0.00	

Reason(s) for Failure to Achieve Selected Ability To Proceed Tie-Breaker Points:

Item #	Reason(s)	Created As Result	Rescinded As Result
1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 3T above.	NOPSE	
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 4T above.	NOPSE	
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 5T above.	NOPSE	
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 6T above.	NOPSE	
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 7T above.	NOPSE	
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 8T above.	NOPSE	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	0.00	0.00	0.00	
2P	III	A	10.b.(2) (b)	Public School	1.25	0.00	0.00	0.00	
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00	0.00	0.00	
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00	0.00	
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	0.00	0.00	0.00	
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	0.00	0.00	0.00	
7P	III	A	10.a	Involvement of a PHA	7.50	7.50	7.50	7.50	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	A	2.c	Urban In-Fill	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Qualification as Urban In-Fill Development form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development does not qualify as an Urban In-Fill Development.	NOPSE	
2C	IV	A		Local Government Contributions	Because the Local Government grant is not eligible for Local Government Contributions points (see Item 10S above), it could not be considered a source of financing. However, this did not result in any financing shortfalls because the Applicant has sufficient other financing sources.	NOPSE	
3C	III	A	2.b	Scattered Sites	In its cure materials for Items 2S, 5S, 10S, 11S, 1T through 9T, 1A through 6A, 1C and 2C, the Applicant provided an affidavit from a licensed surveyor and various documents in an effort to demonstrate that the existing easements do not make the proposed Development site a Scattered Site. However, documentation and an affidavit from a licensed surveyor provided by a NOAD support the original determination that the site is divided by one or more easements and thus meets the definition of Scattered Sites.	Final	

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

RST LODGES AT PINELLAS PARK, L.P.

Petitioner,

**FHFC No. 2009-068 UC
Application No. 2009- 97C
2009 Universal Cycle**

vs.

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

CONSENT AGREEMENT

Petitioner RST Lodges at Pinellas Park, L.P., ("RST") and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)

RECEIVED
10 JUN 15 PM 3:52

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, RST submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified RST of the results of scoring its Application and provided RST with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. RST timely filed a Petition for Review ("Petition") challenging the finding that RST consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points and 7.5 proximity tie-breaker points. Florida Housing determined that the utility easement did not divide the RST Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, RST is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, RST has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, RST agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. RST is a Florida for-profit limited partnership with its address at 1750 Valley View Lane, Suite 420, Dallas, Tx, 75234, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, RST and others submitted applications for financing in Florida Housing's 2009 funding cycle. RST (Application #2009-097C) applied for \$1,660,000 of Tax Credit equity funding to help finance the construction of a 120-unit affordable apartment complex in Pinellas Park, Pinellas County, Florida.

10. RST received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time RST was awarded a preliminary score of 66 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the RST application had not passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with RST's application. On or about October 23, 2009, Florida Housing sent RST NOPSEs relating to its application submitted by other applicants. Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, RST timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with RST's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the RST Application a score of 46 points. The basis for the score was:

2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.) The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution - Fee Waiver form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE

15. Florida Housing also determined that the RST Application failed threshold requirements, stating:

4T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.) The Applicant failed to correctly answer the question at Part II.A.2.b. of the Application.	NOPSE
5T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.) The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
7T	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
8T	III	C	3.b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
9T	III	C	3.c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE

10T	III	C	3 c	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
11T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
12T	III	A	2b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(10), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE
13T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(10), F.A.C.). The 2009 Universal Application Instructions require that evidence of appropriate environmental site assessment be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate environmental site assessment has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE

16. With respect to the “scattered sites” issue, Florida Housing provided the following additional comment:

In its cure materials for Items 2S, 5S, 10S, 11S, 4T 5T, 7T, 7T through 13T, 1A through 6A, 1P, 2P, 5P and 6P, the Applicant provided an affidavit from a licensed surveyor and various documents in an effort to demonstrate that the proposed Development site is not divided by the utility easement. However, documentation and an affidavit from two (2) licensed surveyors provided by a NOAD support the original determination that the site is divided by an easement and thus meets the definition of Scattered Sites.

17. Florida Housing also determined that RST failed to achieve selected ability to proceed tie-breaker points:

1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 5T above.	NOPSE
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 7T above.	NOPSE
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 8T above.	NOPSE
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 9T above.	NOPSE
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 10T above.	NOPSE
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for evidence of appropriate zoning and land use. See Item 11T above.	NOPSE

18. Finally, Florida Housing determined that RST failed to achieve selected proximity tie-breaker points:

1P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE
1P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE
2P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE
2P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE
5P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE
5P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE

6P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE
6P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it was impossible to measure the distance between it and other existing Developments on the Proximity List.	NOPSE

19. On or before December 28, 2009, RST submitted a Petition for Review pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

20. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that RST's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that RST consists of scattered sites resulted in RST failing threshold requirements and achieving a total score of 46 with 0 ability to proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that RST consisted of scattered sites, all threshold requirements would have been met and RST would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

21. Florida Housing determined that the utility easement did not divide the RST Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, RST is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, RST has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc., v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A*

and M Univ., 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

STIPULATED DISPOSITION

RST has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)

By: 

Wellington H. Meffen II
General Counsel
Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

TOWN PARK CROSSING, L.P.

Petitioner,

FHFC No. 2009-064 UC
Application No. 2009-255C
2009 Universal Cycle

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

CONSENT AGREEMENT

Petitioner Town Park Crossing, L.P., ("TPC") and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)

RECEIVED
10 JAN 19 PM 3:52
2009

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, TPC submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified TPC of the results of scoring its Application and provided TPC with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. TPC timely filed a Petition for Review ("Petition") challenging the finding that TPC consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points. Florida Housing determined that the utility easement did not divide the TPC Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, TPC is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, TPC has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, TPC agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. TPC is a Florida for-profit limited partnership with its address at 8380 Resource Drive, West Palm Beach, FL, 33404, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, TPC and others submitted applications for financing in Florida Housing's 2009 funding cycle. TPC (Application #2009-255C) applied for \$1,735,993 of Tax Credit equity funding to help finance the construction of a 100-unit affordable apartment complex in Davie, Broward County, Florida.

10. TPC received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time TPC was awarded a preliminary score of 66 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the TPC application had not passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with TPC's application. On or about October 23, 2009, Florida Housing sent TPC NOPSEs relating to its application submitted by other applicants, Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, TPC timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with TPC's application. Florida Housing issued its final scores on December 3, 2009.



14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the TPC Application a score of 47 points. The basis for the score was:

25	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	Final
25	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	Final
10S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). Therefore, the Development Location on the Local Government Verification of Contribution - Loan form (Exhibits 45) should reflect all of the Scattered Sites. Because the form is incomplete, the Applicant was not eligible for points for this contribution. No other Local Government Verification of Contribution forms were provided and the Application is not eligible for automatic points.	Final
11S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	Final

15. Florida Housing also determined that the TPC Application failed threshold requirements, stating:

1T	III	A	2.b	Scattered Sites	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	Final
----	-----	---	-----	-----------------	--	-------

8T	III	A	2.b	Scattered Sites	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	Final
9T	III	C	1	Site Plan Approval / Plat Approval	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate site plan approval for all sites as required by the 2009 Universal Application Instructions.	Final
10T	III	C	3.a	Availability of Electricity	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of electricity for all sites as required by the 2009 Universal Application Instructions.	Final
11T	III	C	3.b	Availability of Water	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Therefore, the Applicant failed to demonstrate availability of water for all sites as required by the 2009 Universal Application Instructions.	Final
12T	III	C	3.c	Availability of Sewer	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of sewer for all sites as required by the 2009 Universal Application Instructions.	Final
13T	III	C	3.d	Availability of Roads	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of roads for all sites as required by the 2009 Universal Application Instructions.	Final
14T	III	C	4	Zoning	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate appropriate zoning for all sites as required by the 2009 Universal Application Instructions.	Final
15T	III	C	5	Environmental Site Assessment	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate that a Phase I ESA has been performed for all sites as required by the 2009 Universal Application Instructions.	Final

16. Florida Housing also determined that TPC failed to achieve selected ability to proceed tie-breaker points stating:

1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 8T above.	Final
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 10T above.	Final
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 11T above.	Final
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 12T above.	Final
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 13T above.	Final
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 14T above.	Final

17. Finally, Florida Housing determined that TPC failed to achieve selected proximity tie-breaker points:

1P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the other services.	Final
1P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
2P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
2P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the other services.	Final
5P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the other services.	Final

6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
6P	Because the Application does not qualify as an Urban In-Fill Development (see item 3C), the Applicant is not eligible for automatic 3.75 proximity points.	Final
6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the existing Developments on the Proximity List.	Final

18. On or before December 28, 2009, TPC submitted a Petition for Review pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

19. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that TPC's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that TPC consists of scattered sites resulted in TPC failing threshold requirements and achieving a total score of 46 with 0 ability to proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that TPC consisted of scattered sites, all threshold requirements would have been met and TPC would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

20. Florida Housing determined that the utility easement did not divide the TPC Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, TPC is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, TPC has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc. v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

STIPULATED DISPOSITION

TPC has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)



By: Wellington H. Meffert II
General Counsel
Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

DR. KENNEDY HOMES, LTD.

Petitioner,

vs.

**FHFC CASE NO.: 2009-073UC
Application No. 2009-144C
2009 Universal Cycle**

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

CONSENT AGREEMENT

Petitioner Dr. Kennedy Homes, Ltd. ("Dr. Kennedy") and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Donna E. Blanton
Florida Bar No.: 948500
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, Dr. Kennedy submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified Dr. Kennedy of the results of scoring its Application and provided Dr. Kennedy with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. Dr. Kennedy timely filed a Petition for Review of the 2009 Final Scoring Summary Report ("Petition") challenging the finding that Dr. Kennedy consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points. Florida Housing determined that the utility easement did not divide the Dr. Kennedy Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Dr. Kennedy is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Dr. Kennedy has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, Dr. Kennedy agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. Dr. Kennedy is a Florida not-for-profit limited partnership with its address at 2950 SW 27th Avenue, Suite 200, Miami, FL, 33133, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, Dr. Kennedy and others submitted applications for financing in Florida Housing's 2009 funding cycle. Dr. Kennedy (Application #2009-144C) applied for \$2,150,720 of Tax Credit equity funding to help finance the construction of a 132-unit affordable apartment complex in Fort Lauderdale, Broward County, Florida.

10. Dr. Kennedy received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time Dr. Kennedy was awarded a preliminary score of 70 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the Dr. Kennedy application had passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with Kennedy's application. On or about October 23, 2009, Florida Housing sent Dr. Kennedy NOPSEs relating to its application submitted by other applicants. Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, Dr. Kennedy timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with Dr. Kennedy's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the Kennedy Application a score of 47 points. The basis for the score was:

Item #	Reason(s)	Created As Result
2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.) The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/10 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE
3S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution - Grant form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE

15. Florida Housing also determined that the Kennedy Application failed threshold requirements, stating:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
1T	III	A	2 b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.) The Applicant failed to correctly answer the question at Part III A.2 b. of the Application	NOPSE
2T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
3T	III	C	3 a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
4T	III	C	3 b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
5T	III	C	3 c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
6T	III	C	3 d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
7T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
8T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE
Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
9T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Although evidence that a Phase I ESA has been performed for the site located at 1004 W. Broward Boulevard, no such evidence has been provided for the other site(s).	NOPSE

16. On or before December 28, 2009, Dr. Kennedy submitted a Petition for Review of 2009 Universal Cycle Final Scoring Summary Report pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

17. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that Dr. Kennedy's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that Dr. Kennedy consists of scattered sites resulted in Dr. Kennedy failing threshold requirements and achieving a total score of 47 with 0

ability to proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that Dr. Kennedy consisted of scattered sites, all threshold requirements would have been met and Dr. Kennedy would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

18. Florida Housing determined that the utility easement did not divide the Dr. Kennedy Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Dr. Kennedy is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Dr. Kennedy has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

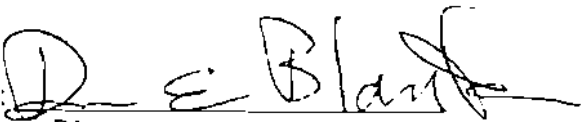
2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc., v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

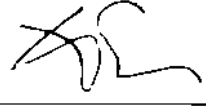
STIPULATED DISPOSITION

Dr. Kennedy has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Donna Blanton
Florida Bar No. 948500
Counsel for Petitioner
Radey, Thomas, Yon & Clark, P.A.
301 S. Bronough St., Suite 200
Tallahassee, Florida 32301
Telephone No. (850) 425-6654
Facsimile No. (850) 425-6694

By: 

Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

EHLINGER APARTMENTS, LTD.

Petitioner,

vs.

**FHFC Case No.: 2009-074 UC
Application No. 2009-146C
2009 Universal Cycle**

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

CONSENT AGREEMENT

Petitioner Ehlinger Apartments, Ltd. ("Ehlinger") and Respondent Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Donna E. Blanton
Florida Bar No.: 948500
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, Ehlinger submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified Ehlinger of the results of scoring its Application and provided Ehlinger with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. Ehlinger timely filed a Petition for Review of the 2009 Final Scoring Summary Report challenging the finding that Ehlinger consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points. Florida Housing determined that the utility easement did not divide the Ehlinger Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Ehlinger is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Ehlinger has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, Ehlinger agrees to dismiss its petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. Ehlinger is a Florida not-for-profit limited liability partnership with its address at 2950 SW 27th Avenue, Suite 200, Miami, FL, 33133, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, Ehlinger and others submitted applications for financing in Florida Housing's 2009 funding cycle. Ehlinger (Application #2009-146C) applied

for \$2,526,000 of Tax Credit equity funding to help finance the construction of a 155-unit affordable apartment complex in Davie, Broward County, Florida.

10. Ehlinger received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time Ehlinger was awarded a preliminary score of 70 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the Ehlinger application had passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with Ehlinger's application. On or about October 23, 2009, Florida Housing sent Ehlinger NOPSEs relating to its application submitted by other applicants, Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, Ehlinger timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with Ehlinger's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the Ehlinger Application a score of 46 points. The basis for the score was:

Item #	Reason(s)	Created As Result
25	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(100), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE
55	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE
105	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution - Grant form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE
115	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE

15. Florida Housing also determined that the Ehlinger Application failed threshold, stating:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
17	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(100), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b of the Application.	NOPSE
27	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(100), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE
37	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(100), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
47	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(100), F.A.C.). The 2009 Universal Application Instructions require that availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
5T	II	C	3 b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
6T	II	C	3 c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
7T	III	C	3 d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
8T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
6T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Although evidence that a Phase I ESA has been performed for the site located at 7481 NW 33rd Street, no such evidence has been provided for the other site(s).	NOPSE

16. On or before December 28, 2009, Ehlinger submitted a Petition for Review of 2009 Universal Cycle Final Scoring Summary Report pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

17. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that Ehlinger's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that Ehlinger consists of scattered sites resulted in Ehlinger failing threshold requirements and achieving a total score of 46 with 0 ability to

proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that Ehlinger consisted of scattered sites, all threshold requirements would have been met and Ehlinger would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

18. Florida Housing determined that the utility easement did not divide the Ehlinger Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Ehlinger is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Ehlinger has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

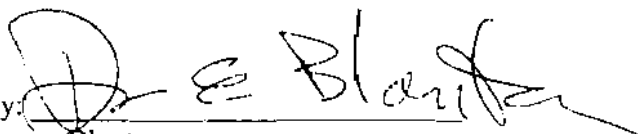
2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc., v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

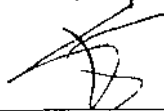
STIPULATED DISPOSITION

Ehlinger has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Donna Blanton
Florida Bar No. 948500
Counsel for Petitioner
Radey, Thomas, Yon & Clark, P.A.
301 S. Bronough St., Suite 200
Tallahassee, Florida 32301
Telephone No. (850) 425-6654
Facsimile No. (850) 425-6694

By: 

Matthew A. Simmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

RST LODGES AT PINELLAS PARK,
LP.

FHFC CASE NO.: 2009-068UC
APPLICATION NO. 2009-79C

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation for consideration and final agency action on February 26, 2010. RST Lodges at Pinellas Park, L.P.. ("Petitioner") timely submitted its 2009 Universal Cycle Program Application (the "Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for funding from the 2009 Universal Cycle Program. Subsequently, Petitioner timely filed its petition for an informal hearing, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing's scoring on parts of the Application. Prior to the informal hearing, Petitioner and Respondent entered into a Consent Agreement. A true and correct copy of the Consent Agreement is attached hereto as "Exhibit A." Pursuant to the Consent Agreement, Petitioner and Respondent recommend that:

1. Florida Housing enter a Final Order concluding that the Petitioner met all threshold requirements, and that its application receive a total score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

RULING ON THE CONSENT AGREEMENT

The Stipulated Findings of Fact and Stipulated Conclusions of Law of the Consent Agreement are supported by competent substantial evidence.

ORDER

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

1. The Stipulated Findings of Fact of the Consent Agreement are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.

2. The Stipulated Conclusions of Law of the Consent Agreement are adopted as Florida Housing's Conclusions of Law and incorporated by reference as though fully set forth in this Order.


Based on the Findings of Fact and Conclusions of Law stated above,

IT IS FURTHER ORDERED that Petitioner's application is scored as having met all threshold requirements, and that its application receives a score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

DONE and ORDERED this 26th day of February, 2010.



FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chairperson

Copies to:

Matt Sirmans
Assistant General Counsel
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Michael P. Donaldson
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302

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**

RST LODGES AT PINELLAS PARK, L.P.

Petitioner,

**FHFC No. 2009-068 UC
Application No. 2009- 97C
2009 Universal Cycle**

vs.

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

CONSENT AGREEMENT

Petitioner RST Lodges at Pinellas Park, L.P., ("RST") and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)

**RECEIVED
10 JUN 15 PM 3:52**

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, RST submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified RST of the results of scoring its Application and provided RST with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. RST timely filed a Petition for Review ("Petition") challenging the finding that RST consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points and 7.5 proximity tie-breaker points. Florida Housing determined that the utility easement did not divide the RST Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, RST is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, RST has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, RST agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. RST is a Florida for-profit limited partnership with its address at 1750 Valley View Lane, Suite 420, Dallas, Tx, 75234, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, RST and others submitted applications for financing in Florida Housing's 2009 funding cycle. RST (Application #2009-097C) applied for \$1,660,000 of Tax Credit equity funding to help finance the construction of a 120-unit affordable apartment complex in Pinellas Park, Pinellas County, Florida.

10. RST received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time RST was awarded a preliminary score of 66 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the RST application had not passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with RST's application. On or about October 23, 2009, Florida Housing sent RST NOPSEs relating to its application submitted by other applicants. Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, RST timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with RST's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the RST Application a score of 46 points. The basis for the score was:

2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(100), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/10 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution - Fee Waiver form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE

15. Florida Housing also determined that the RST Application failed threshold requirements, stating:

4T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(100), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	NOPSE
5T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(100), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
7T	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
8T	III	C	3.b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
9T	III	C	3.c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 8721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE

10T	III	C	3 a	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
11T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE
12T	III	A	2b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites in Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE
13T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(108), F.A.C.). The 2009 Universal Application Instructions require that evidence of appropriate environmental site assessment be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate environmental site assessment has been demonstrated for the site located at 6721 Park Boulevard, it has not been demonstrated for the other site(s).	NOPSE

16. With respect to the "scattered sites" issue, Florida Housing provided the following additional comment:

In its cure materials for Items 2S, 5S, 10S, 11S, 4T 5T, 7T, 7T through 13T, 1A through 6A, 1P, 2P, 5P and 6P, the Applicant provided an affidavit from a licensed surveyor and various documents in an effort to demonstrate that the proposed Development site is not divided by the utility easement. However, documentation and an affidavit from two (2) licensed surveyors provided by a NOAD support the original determination that the site is divided by an easement and thus meets the definition of Scattered Sites.

17. Florida Housing also determined that RST failed to achieve selected ability to proceed tie-breaker points:

1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for use plan approval. See item 5T above.	NOPSE
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See item 7T above.	NOPSE
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See item 8T above.	NOPSE
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See item 9T above.	NOPSE
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See item 10T above.	NOPSE
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for evidence of appropriate zoning and land use. See item 11T above.	NOPSE

18. Finally, Florida Housing determined that RST failed to achieve selected proximity

tie-breaker points:

1P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE
1P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE
2P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE
2P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE
5P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units. Therefore it is impossible to measure the distance between it and the other services.	NOPSE
5P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE

8P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Because the Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point, the form could not be scored.	NOPSE
8P	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the parcel with the most units. Because the Applicant did not provide information for each of its Scattered Sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it was impossible to measure the distance between it and other existing Developments on the Proximity List.	NOPSE

19. On or before December 28, 2009, RST submitted a Petition for Review pursuant

to Sections 120.569 and 120.57(2), Florida Statutes.

20. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that RST's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that RST consists of scattered sites resulted in RST failing threshold requirements and achieving a total score of 46 with 0 ability to proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that RST consisted of scattered sites, all threshold requirements would have been met and RST would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

21. Florida Housing determined that the utility easement did not divide the RST Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, RST is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, RST has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc., v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A*

and M Univ., 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

STIPULATED DISPOSITION

RST has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)

By: 

Wellington H. Meffer II
General Counsel
Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

TOWN PARK CROSSING, LP.

FHFC CASE NO.: 2009-064UC
APPLICATION NO. 2009-255C

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation for consideration and final agency action on February 26, 2010. Town Park Crossing, L.P., ("Petitioner") timely submitted its 2009 Universal Cycle Program Application (the "Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for funding from the 2009 Universal Cycle Program. Subsequently, Petitioner timely filed its petition for an informal hearing, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing's scoring on parts of the Application. Prior to the informal hearing, Petitioner and Respondent entered into a Consent Agreement. A true and correct copy of the Consent Agreement is attached hereto as "Exhibit A." Pursuant to the Consent Agreement, Petitioner and Respondent recommend that:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harris DATE 2/24/10

1. Florida Housing enter a Final Order concluding that the Petitioner met all threshold requirements, and that its application receive a total score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

RULING ON THE CONSENT AGREEMENT

The Stipulated Findings of Fact and Stipulated Conclusions of Law of the Consent Agreement are supported by competent substantial evidence.

ORDER

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

1. The Stipulated Findings of Fact of the Consent Agreement are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.

2. The Stipulated Conclusions of Law of the Consent Agreement are adopted as Florida Housing's Conclusions of Law and incorporated by reference as though fully set forth in this Order.


Based on the Findings of Fact and Conclusions of Law stated above,

IT IS FURTHER ORDERED that Petitioner's application is scored as having met all threshold requirements, and that its application receives a score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

DONE and ORDERED this 26th day of February, 2010.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chairperson

Copies to:

Matt Simmans
Assistant General Counsel
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Michael P. Donaldson
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302

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

TOWN PARK CROSSING, L.P.

Petitioner,

FHFC No. 2009-064 UC
Application No. 2009-255C
2009 Universal Cycle

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

CONSENT AGREEMENT

Petitioner Town Park Crossing, L.P., ("TPC") and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Michael P. Donaldson
Florida Bar No : 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)

RECEIVED
10 JAN 15 PM 3:52
STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, TPC submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified TPC of the results of scoring its Application and provided TPC with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. TPC timely filed a Petition for Review ("Petition") challenging the finding that TPC consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points. Florida Housing determined that the utility easement did not divide the TPC Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, TPC is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, TPC has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, TPC agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. TPC is a Florida for-profit limited partnership with its address at 8380 Resource Drive, West Palm Beach, FL, 33404, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, TPC and others submitted applications for financing in Florida Housing's 2009 funding cycle. TPC (Application #2009-255C) applied for \$1,735,993 of Tax Credit equity funding to help finance the construction of a 100-unit affordable apartment complex in Davie, Broward County, Florida.

10. TPC received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time TPC was awarded a preliminary score of 66 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the TPC application had not passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with TPC's application. On or about October 23, 2009, Florida Housing sent TPC NOPSEs relating to its application submitted by other applicants, Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, TPC timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with TPC's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the TPC Application a score of 47 points. The basis for the score was:

25	As a cure to item 11, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	Final
55	As a cure to item 11, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	Final
105	As a cure to item 11, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Contribution - Loan form (Exhibits 45) should reflect all of the Scattered Sites. Because the form is incomplete, the Applicant was not eligible for points for this contribution. No other Local Government Verification of Contribution forms were provided and the Application is not eligible for automatic points.	Final
115	As a cure to item 11, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government incentives.	Final

15. Florida Housing also determined that the TPC Application failed threshold requirements, stating:

11	11	A	2 b	Scattered Sites	As a cure to item 11, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b of the Application.	Final
----	----	---	-----	-----------------	---	-------

8T	II	A	2.b	Scattered Sites	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	Final
9T	II	C	1	Site Plan Approval / Plat Approval	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate site plan approval for all sites as required by the 2009 Universal Application Instructions.	Final
10T	III	C	3.a	Availability of Electricity	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of electricity for all sites as required by the 2009 Universal Application Instructions.	Final
11T	III	C	3.b	Availability of Water	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Therefore, the Applicant failed to demonstrate availability of water for all sites as required by the 2009 Universal Application Instructions.	Final
12T	III	C	3.c	Availability of Sewer	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of sewer for all sites as required by the 2009 Universal Application Instructions.	Final
13T	III	C	3.a	Availability of Roads	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of roads for all sites as required by the 2009 Universal Application Instructions.	Final
14T	III	C	4	Zoning	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate appropriate zoning for all sites as required by the 2009 Universal Application Instructions.	Final
15T	III	C	5	Environmental Site Assessment	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate that a Phase I ESA has been performed for all sites as required by the 2009 Universal Application Instructions.	Final

16. Florida Housing also determined that TPC failed to achieve selected ability to proceed tie-breaker points stating:

1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 9T above.	Final
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 10T above.	Final
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 11T above.	Final
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 12T above.	Final
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 13T above.	Final
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 14T above.	Final

17. Finally, Florida Housing determined that TPC failed to achieve selected proximity tie-breaker points:

1P	As a cure to Item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(113), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the other services.	Final
1P	As a cure to Item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
2P	As a cure to Item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
2P	As a cure to Item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the other services.	Final
5P	As a cure to Item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the other services.	Final

EP	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
EP	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final
EP	Because the Application does not qualify as an Urban to-Rise Development (see item 3C), the Applicant is not eligible for automatic 3.75 proximity points.	Final
EP	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FIFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it is impossible to measure the distance between it and the existing Developments on the Proximity List.	Final

18. On or before December 28, 2009, TPC submitted a Petition for Review pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

19. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that TPC's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that TPC consists of scattered sites resulted in TPC failing threshold requirements and achieving a total score of 46 with 0 ability to proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that TPC consisted of scattered sites, all threshold requirements would have been met and TPC would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

20. Florida Housing determined that the utility easement did not divide the TPC Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, TPC is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, TPC has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

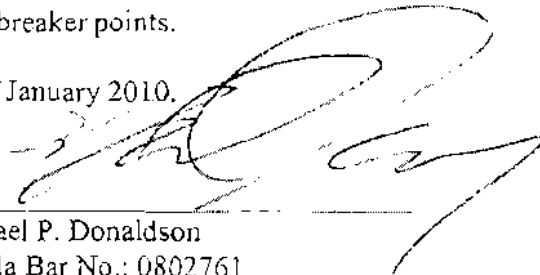
2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found Inc , v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin* , 662 So. 2d 1330 (Fla. 1st DCA 1995)

STIPULATED DISPOSITION

TPC has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 
Michael P. Donaldson
Florida Bar No.: 0802761
Carlton Fields, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, Florida 32302
850-224-1585 (phone)
850-222-0398 (facsimile)



By: Wellington H. Meffert II
General Counsel
Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

DR. KENNEDY HOMES, LTD.

FHFC CASE NO.: 2009-073UC
APPLICATION NO. 2009-144C

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation for consideration and final agency action on February 26, 2010. Dr. Kennedy Homes, Ltd., ("Petitioner") timely submitted its 2009 Universal Cycle Program Application (the "Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for funding from the 2009 Universal Cycle Program. Subsequently, Petitioner timely filed its petition for an informal hearing, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing's scoring on parts of the Application. Prior to the informal hearing, Petitioner and Respondent entered into a Consent Agreement. A true and correct copy of the Consent Agreement is attached hereto as "Exhibit A." Pursuant to the Consent Agreement, Petitioner and Respondent recommend that:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell / DATE: 2/26/10

1. Florida Housing enter a Final Order concluding that the Petitioner met all threshold requirements, and that its application receive a total score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

RULING ON THE CONSENT AGREEMENT

The Stipulated Findings of Fact and Stipulated Conclusions of Law of the Consent Agreement are supported by competent substantial evidence.

ORDER

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

1. The Stipulated Findings of Fact of the Consent Agreement are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.

2. The Stipulated Conclusions of Law of the Consent Agreement are adopted as Florida Housing's Conclusions of Law and incorporated by reference as though fully set forth in this Order.

Based on the Findings of Fact and Conclusions of Law stated above,

IT IS FURTHER ORDERED that Petitioner's application is scored as having met all threshold requirements, and that its application receives a score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

DONE and ORDERED this 26th day of February, 2010.



FLORIDA HOUSING FINANCE CORPORATION

By:  _____
Chairperson

Copies to:

Matt Sirmans
Assistant General Counsel
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Donna E. Blanton
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301

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**

DR. KENNEDY HOMES, LTD.

Petitioner,

vs.

**FHFC CASE NO.: 2009-073UC
Application No. 2009-144C
2009 Universal Cycle**

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

CONSENT AGREEMENT

Petitioner Dr. Kennedy Homes, Ltd. ("Dr. Kennedy") and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Donna E. Blanton
Florida Bar No.: 948500
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, Dr. Kennedy submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified Dr. Kennedy of the results of scoring its Application and provided Dr. Kennedy with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. Dr. Kennedy timely filed a Petition for Review of the 2009 Final Scoring Summary Report ("Petition") challenging the finding that Dr. Kennedy consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points. Florida Housing determined that the utility easement did not divide the Dr. Kennedy Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Dr. Kennedy is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Dr. Kennedy has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, Dr. Kennedy agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. Dr. Kennedy is a Florida not-for-profit limited partnership with its address at 2950 SW 27th Avenue, Suite 200, Miami, Fl, 33133, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, Dr. Kennedy and others submitted applications for financing in Florida Housing's 2009 funding cycle. Dr. Kennedy (Application #2009-144C) applied for \$2,150,720 of Tax Credit equity funding to help finance the construction of a 132-unit affordable apartment complex in Fort Lauderdale, Broward County, Florida.

10. Dr. Kennedy received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time Dr. Kennedy was awarded a preliminary score of 70 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the Dr. Kennedy application had passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with Kennedy's application. On or about October 23, 2009, Florida Housing sent Dr. Kennedy NOPSEs relating to its application submitted by other applicants, Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, Dr. Kennedy timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with Dr. Kennedy's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the Kennedy Application a score of 47 points. The basis for the score was:

Item #	Reason(s)	Created As Result
2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution - Grant form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE

15. Florida Housing also determined that the Kennedy Application failed threshold requirements, stating:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
1T	III	A	2 b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	NOPSE
2T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 87-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 1004 W Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
3T	III	C	3 a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 1004 W Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
4T	III	C	3 b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 1004 W Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
5T	III	C	3 c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
6T	III	C	3 d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of the availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
7T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. The 2009 Universal Application Instructions require that evidence of appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 1004 W. Broward Boulevard, it has not been demonstrated for the other site(s).	NOPSE
8T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE
Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
9T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Although evidence that a Phase I ESA has been performed for the site located at 1004 W. Broward Boulevard, no such evidence has been provided for the other site(s).	NOPSE

16. On or before December 28, 2009, Dr. Kennedy submitted a Petition for Review of 2009 Universal Cycle Final Scoring Summary Report pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

17. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that Dr. Kennedy's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that Dr. Kennedy consists of scattered sites resulted in Dr. Kennedy failing threshold requirements and achieving a total score of 47 with 0

ability to proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that Dr. Kennedy consisted of scattered sites, all threshold requirements would have been met and Dr. Kennedy would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

18. Florida Housing determined that the utility easement did not divide the Dr. Kennedy Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Dr. Kennedy is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Dr. Kennedy has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

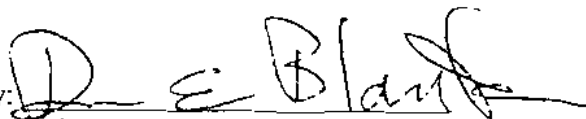
2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc., v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

STIPULATED DISPOSITION

Dr. Kennedy has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Donna Blanton
Florida Bar No. 948500
Counsel for Petitioner
Radey, Thomas, Yon & Clark, P.A.
301 S. Bronough St., Suite 200
Tallahassee, Florida 32301
Telephone No. (850) 425-6654
Facsimile No. (850) 425-6694

By: 

Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

EHLINGER APARTMENTS, LTD.

FHFC CASE NO.: 2009-074UC
APPLICATION NO. 2009-146C

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation for consideration and final agency action on February 26, 2010. Ehlinger Apartments, Ltd., ("Petitioner") timely submitted its 2009 Universal Cycle Program Application (the "Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for funding from the 2009 Universal Cycle Program. Subsequently, Petitioner timely filed its petition for an informal hearing, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing's scoring on parts of the Application. Prior to the informal hearing, Petitioner and Respondent entered into a Consent Agreement. A true and correct copy of the Consent Agreement is attached hereto as "Exhibit A." Pursuant to the Consent Agreement, Petitioner and Respondent recommend that:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harris / DATE: 2/26/10

1. Florida Housing enter a Final Order concluding that the Petitioner met all threshold requirements, and that its application receive a total score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

RULING ON THE CONSENT AGREEMENT

The Stipulated Findings of Fact and Stipulated Conclusions of Law of the Consent Agreement are supported by competent substantial evidence.

ORDER

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

1. The Stipulated Findings of Fact of the Consent Agreement are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.

2. The Stipulated Conclusions of Law of the Consent Agreement are adopted as Florida Housing's Conclusions of Law and incorporated by reference as though fully set forth in this Order.

Based on the Findings of Fact and Conclusions of Law stated above,

IT IS FURTHER ORDERED that Petitioner's application is scored as having met all threshold requirements, and that its application receives a score of 70 points, 6 ability to proceed tie-breaker points and 7.50 proximity tie-breaker points.

DONE and ORDERED this 26th day of February, 2010.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chairperson

Copies to:

Matt Sirmans
Assistant General Counsel
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Donna E. Blanton
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301

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**

EHLINGER APARTMENTS, LTD.

Petitioner,

vs.

**FHFC Case No.: 2009-074 UC
Application No. 2009-146C
2009 Universal Cycle**

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

CONSENT AGREEMENT

Petitioner Ehlinger Apartments, Ltd. ("Ehlinger") and Respondent Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:

Donna E. Blanton
Florida Bar No.: 948500
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

For Respondent:

Matthew A. Sirmans, Assistant General Counsel
Florida Bar No.: 0961973
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

PRELIMINARY STATEMENT

On or before August 20, 2009, Ehlinger submitted an Application to Florida Housing for funding through the 2009 Universal Cycle. On December 3, 2009, Florida Housing notified Ehlinger of the results of scoring its Application and provided Ehlinger with a Notice of Rights pursuant to Section 120.569 and 120.57, Florida Statutes. Ehlinger timely filed a Petition for Review of the 2009 Final Scoring Summary Report challenging the finding that Ehlinger consisted of "scattered sites" and therefore failed threshold requirements and was not entitled to 70 total points and 6 ability to proceed tie-breaker points. Florida Housing determined that the utility easement did not divide the Ehlinger Development site within the meaning of the "scattered sites" definition of Rule 67-48.002(106). Thus, Ehlinger is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Ehlinger has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, Ehlinger agrees to dismiss its petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear his own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. Ehlinger is a Florida not-for-profit limited liability partnership with its address at 2950 SW 27th Avenue, Suite 200, Miami, Fl, 33133, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(95), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2009 Universal Cycle Application is adopted as Form UA1016 (Rev. 5-09) by Rule 67-48.004(1)(a), Fla. Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2009, found at Rules 67-48.004-.005,

Florida Administrative Code, involves the following:

- a. the publication and adoption by rule of an application package;
- b. the completion and submission of applications by developers;
- c. Florida Housing's preliminary scoring of applications;
- d. an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e. Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f. an opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- g. a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cured materials by filing a Notice of Alleged Deficiency ("NOAD");
- h. Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i. an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2009 Universal Cycle Application offers a maximum score of 70 points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

9. On or about August 20, 2009, Ehlinger and others submitted applications for financing in Florida Housing's 2009 funding cycle. Ehlinger (Application #2009-146C) applied

for \$2,526,000 of Tax Credit equity funding to help finance the construction of a 155-unit affordable apartment complex in Davie, Broward County, Florida.

10. Ehlinger received notice of Florida Housing's initial scoring of the Application on or about September 21, 2009, at which time Ehlinger was awarded a preliminary score of 70 points out of a possible 70 points, and 7.5 of 7.5 possible "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the Ehlinger application had passed all threshold requirements.

11. On or about October 1, 2009, Florida Housing received a NOPSE in connection with Ehlinger's application. On or about October 23, 2009, Florida Housing sent Ehlinger NOPSEs relating to its application submitted by other applicants, Florida Housing's position on any NOPSEs, and the effect the NOPSEs may have had on the applicant's score.

12. On or before November 3, 2009, Ehlinger timely submitted its cure materials to Florida Housing.

13. On or about November 12, 2009, Florida Housing received a NOAD in connection with Ehlinger's application. Florida Housing issued its final scores on December 3, 2009.

14. At the conclusion of the NOPSE, cure review and NOAD processes, Florida Housing awarded the Ehlinger Application a score of 46 points. The basis for the score was:

Item #	Reason(s)	Created As Result
2S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	NOPSE
5S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	NOPSE
10S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Contribution - Grant form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for any points for Local Government Contributions.	NOPSE
11S	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites. Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	NOPSE

15. Florida Housing also determined that the Ehlinger Application failed threshold,

stating:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
1T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	NOPSE
2T	III	A	2.b	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	NOPSE
3T	III	C	1	Site Plan Approval / Plat Approval	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that site plan approval be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although site plan approval has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
4T	III	C	3.a	Availability of Electricity	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of electricity be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of electricity has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
5T	II	C	3 b	Availability of Water	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of water has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
6T	III	C	3 c	Availability of Sewer	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of sewer be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of sewer has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
7T	III	C	3 d	Availability of Roads	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of roads be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of the availability of roads has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE
8T	III	C	4	Zoning	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that appropriate zoning be demonstrated for all sites if the proposed Development consists of Scattered Sites. Although evidence of appropriate zoning has been demonstrated for the site located at 7481 NW 33rd Street, it has not been demonstrated for the other site(s).	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of
9T	III	C	5	Environmental Site Assessment	Based on information provided by a NOPSE, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(104), F.A.C.). Although evidence that a Phase I ESA has been performed for the site located at 7481 NW 33rd Street, no such evidence has been provided for the other site(s).	NOPSE

16. On or before December 28, 2009, Ehlinger submitted a Petition for Review of 2009 Universal Cycle Final Scoring Summary Report pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

17. The sole issue raised by the petition was the determination by Florida Housing during the Universal Cycle scoring process that Ehlinger's development site "is divided by one or more easements and thus meets the definition of Scattered Sites" in rule 67-48.002(106). As noted in the charts above, the determination that Ehlinger consists of scattered sites resulted in Ehlinger failing threshold requirements and achieving a total score of 46 with 0 ability to

proceed tie-breaker points when final scores were issued on December 3, 2009. Had Florida Housing not found that Ehlinger consisted of scattered sites, all threshold requirements would have been met and Ehlinger would have achieved a total score of 70, and six ability to proceed tie-breaker points, as well as 7.50 proximity tie-breaker points.

18. Florida Housing determined that the utility easement did not divide the Ehlinger Development site within the meaning of the “scattered sites” definition of Rule 67-48.002(106). Thus, Ehlinger is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points. Additionally, Ehlinger has satisfied all threshold requirements.

STIPULATED CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Board has jurisdiction over the parties to this proceeding.

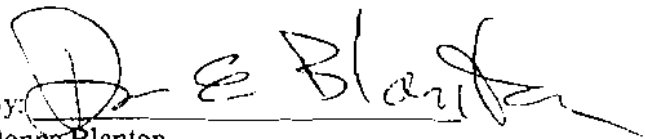
2. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

3. An agency’s interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc. v. Board of County Comm’rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency’s interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

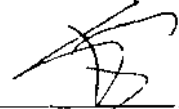
STIPULATED DISPOSITION

Ehlinger has met all threshold requirements and is entitled to 70 total points, 6 ability to proceed tie-breaker points, and 7.50 proximity tie-breaker points.

Respectfully submitted this 15th day of January 2010.

By: 

Donna Blanton
Florida Bar No. 948500
Counsel for Petitioner
Radey, Thomas, Yon & Clark, P.A.
301 S. Bronough St., Suite 200
Tallahassee, Florida 32301
Telephone No. (850) 425-6654
Facsimile No. (850) 425-6694

By: 

Matthew A. Sirmans
Florida Bar No. 0961973
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

2009

Universal Application

9%

**Housing Credit (HC)
Program**

By:

**Reliance-Progresso
Associates, Ltd.**

Copy

Exhibit 26

**2009 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF STATUS
OF SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS**

Name of Development: Progresso Point
619 N. Andrews Avenue, Fort Lauderdale, FL 33311

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.)

Development Type: High Rise
(Part III.A.4. of 2009 Universal Cycle Application)

Total Number of Units in Development: 76
(Part III.A.6 of 2009 Universal Cycle Application)

Zoning Designation: RAC-UV

Mark the applicable statement:

1. The above-referenced Development is new construction or rehabilitation with new construction and the final site plan, in the zoning designation stated above, was approved by action of the _____ on _____
(Legally Authorized BodyTM) Date (mm/dd/yyyy)**
2. The above-referenced Development is new construction or rehabilitation with new construction and this jurisdiction provides either preliminary site plan approval or conceptual site plan approval. The preliminary or conceptual site plan, in the zoning designation stated above, was approved by action of the _____ on _____
(Legally Authorized BodyTM) Date (mm/dd/yyyy)**
3. The above-referenced Development is new construction or rehabilitation with new construction and requires site plan approval for the new construction work. However, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the zoning designation stated above, was reviewed by _____ on 04/02/2009
(Legally Authorized BodyTM) Date (mm/dd/yyyy)**
4. The above-referenced Development, in the zoning designation stated above, is rehabilitation without any new construction and does not require additional site plan approval or similar process.

* "Legally Authorized Body" is not an individual. Applicant must state the name of the City Council, County Commission, Board, Department, Division, etc., with authority over such matters.

** Date must be "on or before" the Application Deadline.

CERTIFICATION

I certify that the City/County of Fort Lauderdale has vested in me the authority to verify status of _____
(Name of City or County)
 site plan approval as specified above and I further certify that the information stated above is true and correct.

Signature _____

Wayne Jessup

Print or Type Name

Deputy Director of Planning and Zoning

Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If this certification is applicable to this Development and it is inappropriately signed, the Application will fail to meet threshold. If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold. The certification may be photocopied.

Exhibit 32

**2009 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS
CONSISTENT WITH ZONING AND LAND USE REGULATIONS**

Name of Development: Progresso Point
619 N. Andrews Avenue, Fort Lauderdale, FL 33311

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.)

Development Type: High Rise
(Part III.A.4. of 2009 Universal Cycle Application)

Total Number of Units in Development: 76
(Part III.A.6. of 2009 Universal Cycle Application)

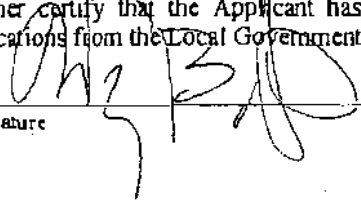
The undersigned Local Government official confirms that on or before 05/26/2009:
Date (mm/dd/yyyy)*

- (1) The number of units (not buildings) allowed for this development site (if restricted) is: 76
and/or
if a PUD, the number of units (not buildings) allowed per development site is: _____
or
if not a PUD and development site is subject to existing special use or similar permit, number
of units allowed for this development site is: _____; and
- (2) The zoning designation for the referenced Development site is RAC-LV; and
- (3) The intended use is consistent with current land use regulations and the referenced zoning
designation or, if the Development consists of rehabilitation, the intended use is allowed as a
legally non-conforming use. To the best of my knowledge, there are no additional land use
regulation hearings or approvals required to obtain the zoning classification or density
described herein. Assuming compliance with the applicable land use regulations, there are no
known conditions which would preclude construction or rehabilitation (as the case may be) of
the referenced Development on the proposed site.

* Date must be "on or before" the Application Deadline

CERTIFICATION

I certify that the City/County of Fort Lauderdale has vested in me the authority
(Name of City/County)
to verify consistency with local land use regulations and the zoning designation specified above or, if
the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming
use" and I further certify that the foregoing information is true and correct. In addition, if the proposed
Development site is in the Florida Keys Area as defined in Rule Chapters 67-21 and 67-48, F.A.C., I
further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO)
allocations from the Local Government.

Signature 

Wayne Jessup
Print or Type Name
Deputy Director of Planning and Zoning
Print or Type Title

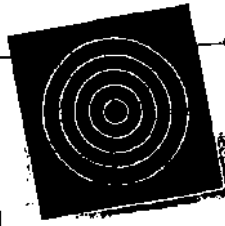
This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief
appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning,
City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not
acceptable, nor are other signatories. If the certification is applicable to this Development and it is
inappropriately signed, the Application will fail to meet threshold.

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the
Application will fail to meet threshold. The certification may be photocopied.

EXHIBIT B

Planning & Zoning Staff Contact List

NAME	TITLE	PHONE	E-MAIL
PLANNING STAFF			
Greg Brewton	DIRECTOR, Planning and Zoning	954-828-5266	GBrewton@fortlauderdale.gov
Wayne Jessup	Deputy Director	954-828-4346	WJessup@fortlauderdale.gov
Jim Koeth	Principal Planner	954-828-5276	JKoeth@fortlauderdale.gov
Jenni Morejon	Principal Planner	954-828-5849	JMorejon@fortlauderdale.gov
Elta Parker	Planner III	954-828-3729	EParker@fortlauderdale.gov
Renee Cross	Planner III	954-828-4699	RCross@fortlauderdale.gov
Anthony Fajardo	Planner III	954-828-5984	AFajardo@fortlauderdale.gov
Adrienne Ehle	Planner III	954-828-5798	AEhle@fortlauderdale.gov
Patricia Garbe- Morillo	Planner III	954-828-8958	PGarbe-Morillo@fortlauderdale.gov
Michael Ciesielski	Planner II	954-828-5256	MCiesielski@fortlauderdale.gov
Rollin Maycumber	Planner II	954-828-5294	RMaycumber@fortlauderdale.gov
Yvonne Redding	Planner II	954-828-6495	YRedding@fortlauderdale.gov
Thomas Lodge	Planner II	954-828-8981	TLodge@fortlauderdale.gov
Randall Robinson	Planner II	954-828-5265	RRobinson@fortlauderdale.gov



**Northwest Gardens III
Broward, FL**

**FY 2009
HC Application**

Submitted To:

**Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301**

COPY

Exhibit 26

**2009 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF STATUS
OF SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS**

Name of Development: Northwest Gardens III
See Attached

Development Location: _____
(As a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.)

Development Type: Garden
(Part III.A.4. of 2009 Universal Cycle Application)

Total Number of Units in Development: 150
(Part III.A.6. of 2009 Universal Cycle Application)

Zoning Designation: RMM-25, RM-15, RC-15

Mark the applicable statement:

1. The above-referenced Development is new construction or rehabilitation with new construction and the final site plan, in the zoning designation stated above, was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)**

2. The above-referenced Development is new construction or rehabilitation with new construction and this jurisdiction provides either preliminary site plan approval or conceptual site plan approval. The preliminary or conceptual site plan, in the zoning designation stated above, was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)**

3. The above-referenced Development is new construction or rehabilitation with new construction and requires site plan approval for the new construction work. However, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the zoning designation stated above, was reviewed by _____ on 4/28/09
(Legally Authorized Body*) Date (mm/dd/yyyy)**

4. The above-referenced Development, in the zoning designation stated above, is rehabilitation without any new construction and does not require additional site plan approval or similar process.

* "Legally Authorized Body" is not an individual. Applicant must state the name of the City Council, County Commission, Board, Department, Division, etc., with authority over such matters.
** Date must be "on or before" the Application Deadline.

CERTIFICATION

I certify that the City/County of City of Fort Lauderdale has vested in me the authority to verify status of site plan approval as specified above and I further certify that the information stated above is true and correct.
(Name of City or County)

Greg Brewton
Signature

Greg Brewton
Print or Type Name
Director of Planning and Zoning
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If this certification is applicable to this Development and it is inappropriately signed, the Application will fail to meet threshold. If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold. The certification may be photocopied.

Northwest Gardens III				
Sites	Address	Units	Latitude	Longitude
1	On NW 9th Street, southeast of the intersection of NW 14th Way and NW 9th Street, Ft. Lauderdale, FL	32	26-08-01.8	80-09-39.3
2	On NW 9th Street, southeast of the intersection of NW 14th Terrace and NW 9th Street, Ft. Lauderdale, FL	36	26-08-01.7	80-09-37.5
3	On NW 9th Street, southeast of the intersection of NW 14th Avenue and NW 9th Street, Ft. Lauderdale, FL	36	26-08-01.6	80-09-34.8
4	On NW 13th Terrace, northeast of the intersection of NW 13th Terrace and NW 8th Street, Ft. Lauderdale, FL	16	26-08-00.9	80-09-31.9
5	On NW 13th Avenue, southeast of the intersection of NW 13th Avenue and NW 8th Court, Ft. Lauderdale, FL	30	26-08-00.9	80-09-30.1
6	On NW 13th Avenue, northeast of the intersection of NW 13th Avenue and NW 8th Court, Ft. Lauderdale, FL	0	26-08-03.2	80-09-30.4
		150		

Exhibit 32

2009 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS
CONSISTENT WITH ZONING AND LAND USE REGULATIONS

Name of Development: Northwest Gardens III
See Attached

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.)

Development Type: Garden
(Part III.A.4. of 2009 Universal Cycle Application)

Total Number of Units in Development: 150
(Part III.A.4. of 2009 Universal Cycle Application)

The undersigned Local Government official confirms that on or before 05/26/2009
Date (mm/dd/yyyy)*

- (1) The number of units (not buildings) allowed for this development site (if restricted) is: 204
and/or
if a PUD, the number of units (not buildings) allowed per development site is: _____
or
if not a PUD and development site is subject to existing special use or similar permit, number
of units allowed for this development site is: _____; and RMM-25, RM-15,
- (2) The zoning designation for the referenced Development site is RC-35; and
- (3) The intended use is consistent with current land use regulations and the referenced zoning
designation or, if the Development consists of rehabilitation, the intended use is allowed as a
legally non-conforming use. To the best of my knowledge, there are no additional land use
regulation hearings or approvals required to obtain the zoning classification or density
described herein. Assuming compliance with the applicable land use regulations, there are no
known conditions which would preclude construction or rehabilitation (as the case may be) of
the referenced Development on the proposed site.

* Date must be "on or before" the Application Deadline.

CERTIFICATION

I certify that the City/County of City of Fort Lauderdale has vested in me the authority
(Name of City/County)
to verify consistency with local land use regulations and the zoning designation specified above or, if
the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming
use" and I further certify that the foregoing information is true and correct. In addition, if the proposed
Development site is in the Florida Keys Area as defined in Rule Chapters 67-21 and 67-48, F.A.C., I
further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO)
allocations from the Local Government.

A. Brent
Signature

Greg Brewton
Print or Type Name

Director of Planning and Zoning
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief
appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning,
City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not
acceptable, nor are other signatories. If the certification is applicable to this Development and it is
inappropriately signed, the Application will fail to meet threshold.

If this certification contains corrections or "white-out", or if it is scanned, imaged, altered, or retyped, the
Application will fail to meet threshold. The certification may be photocopied.

Northwest Gardens III				
Sites	Address	Units	Latitude	Longitude
1	On NW 9th Street, southeast of the intersection of NW 14th Way and NW 9th Street, Ft. Lauderdale, FL	32	26-08-01.8	80-09-39.3
2	On NW 9th Street, southeast of the intersection of NW 14th Terrace and NW 9th Street, Ft. Lauderdale, FL	36	26-08-01.7	80-09-37.5
3	On NW 9th Street, southeast of the intersection of NW 14th Avenue and NW 9th Street, Ft. Lauderdale, FL	36	26-08-01.6	80-09-34.8
4	On NW 13th Terrace, northeast of the intersection of NW 13th Terrace and NW 8th Street, Ft. Lauderdale, FL	16	26-08-00.9	80-09-31.9
5	On NW 13th Avenue, southeast of the intersection of NW 13th Avenue and NW 8th Court, Ft. Lauderdale, FL	30	26-08-00.9	80-09-30.1
6	On NW 13th Avenue, northeast of the intersection of NW 13th Avenue and NW 8th Court, Ft. Lauderdale, FL	0	26-08-03.2	80-09-30.4
		150		

**Dr. Kennedy Homes
Broward, FL**

**FY 2009
HC Application**

Submitted To:

**Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301**

COPY

Exhibit 26

**2009 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF STATUS
OF SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS**

Name of Development: Dr. Kennedy Houses

Development Location: 7004 West Broward Boulevard, Ft. Lauderdale, FL 33311

(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.)

Development Type: Mid-Rise with elevator (a building comprised of 5 or 6 stories)
(Part III.A.4. of 2009 Universal Cycle Application)

Total Number of Units in Development: 132
(Part III.A.6. of 2009 Universal Cycle Application)

Zoning Designation: RMM-25

Mark the applicable statement:

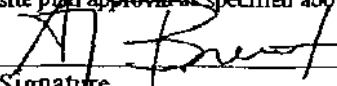
1. The above-referenced Development is new construction or rehabilitation with new construction and the final site plan, in the zoning designation stated above, was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)**
2. The above-referenced Development is new construction or rehabilitation with new construction and this jurisdiction provides either preliminary site plan approval or conceptual site plan approval. The preliminary or conceptual site plan, in the zoning designation stated above, was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)**
3. The above-referenced Development is new construction or rehabilitation with new construction and requires site plan approval for the new construction work. However, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the zoning designation stated above, was reviewed by _____ on 4/28/09.
(Legally Authorized Body*) Date (mm/dd/yyyy)**
4. The above-referenced Development, in the zoning designation stated above, is rehabilitation without any new construction and does not require additional site plan approval or similar process.

* "Legally Authorized Body" is not an individual. Applicant must state the name of the City Council, County Commission, Board, Department, Division, etc., with authority over such matters.

** Date must be "on or before" the Application Deadline.

CERTIFICATION

I certify that the City/County of Fort Lauderdale has vested in me the authority to verify status of site plan approval as specified above and I further certify that the information stated above is true and correct.
(Name of City or County)


Signature

Greg Brewton
Print or Type Name

Director of Planning and Zoning
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If this certification is applicable to this Development and it is inappropriately signed, the Application will fail to meet threshold. If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold. The certification may be photocopied.

Exhibit 32

2009 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS
CONSISTENT WITH ZONING AND LAND USE REGULATIONS

Name of Development: Dr. Kennedy Homes
1004 West Broward Boulevard, Ft. Lauderdale, FL 33311

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.)

Development Type: Mid-Rise with Elevator (a building composed of 5 or 6 stories)
(Part III.A.4. of 2009 Universal Cycle Application)

Total Number of Units in Development: 132
(Part III.A.4. of 2009 Universal Cycle Application)

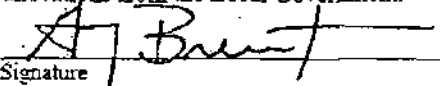
The undersigned Local Government official confirms that on or before 05/26/2009
Date (mm/dd/yyyy)*

- (1) The number of units (not buildings) allowed for this development site (if restricted) is: 212
and/or
if a PUD, the number of units (not buildings) allowed per development site is: _____
or
if not a PUD and development site is subject to existing special use or similar permit, number
of units allowed for this development site is: _____; and
- (2) The zoning designation for the referenced Development site is RMM-25; and
- (3) The intended use is consistent with current land use regulations and the referenced zoning
designation or, if the Development consists of rehabilitation, the intended use is allowed as a
legally non-conforming use. To the best of my knowledge, there are no additional land use
regulation hearings or approvals required to obtain the zoning classification or density
described herein. Assuming compliance with the applicable land use regulations, there are no
known conditions which would preclude construction or rehabilitation (as the case may be) of
the referenced Development on the proposed site.

* Date must be "on or before" the Application Deadline.

CERTIFICATION

I certify that the City/County of City of Fort Lauderdale has vested in me the authority
(Name of City/County)
to verify consistency with local land use regulations and the zoning designation specified above or, if
the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming
use" and I further certify that the foregoing information is true and correct. In addition, if the proposed
Development site is in the Florida Keys Area as defined in Rule Chapters 67-21 and 67-48, F.A.C., I
further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO)
allocations from the Local Government.


Signature

Greg Brewton
Print or Type Name

Director of Planning and Zoning
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief
appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning,
City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not
acceptable, nor are other signatories. If the certification is applicable to this Development and it is
inappropriately signed, the Application will fail to meet threshold.

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the
Application will fail to meet threshold. The certification may be photocopied.

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File # 2007-093C

Development Name: The Sacramento

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
05 - 09 - 2007	57	N	2.5
Preliminary	57	N	2.5
NOPSE	0	N	0
Final	0	N	0
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	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
Ability To Proceed									
4S	III	C	1.	Site Plan/Plat Approval	2	2	0	0	0
5S	III	C	4.	Evidence of Zoning	3	3	0	0	0
Set-Aside Commitments									
6S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	0	0	0
7S	III	E	3.	Affordability Period	5	5	0	0	0
Resident Programs									
8S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	0	0	0
8S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
8S	III	F	3.	Programs for Elderly	6	0	0	0	0
9S	III	F	4.	Programs for All Applicants	8	8	0	0	0

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File # 2007-093C

Development Name: The Sacramento

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Local Government Support									
10S	IV		A.	Contributions	5	0	0	0	0
11S	IV		B.	Incentives	4	0	0	0	0

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
10S	The Local Government Verification of Contribution - Loan form (Exhibits 45) was inappropriately signed. The form was signed by the First Deputy Mayor/City Administrator and the instructions at the bottom of each form state "This certification must be signed by the Mayor, City Manager, County Manager/ Administrator/Coordinator or Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. Zero points will be awarded if the certification is improperly signed."	Preliminary	
11S	The Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) were inappropriately signed. The forms were signed by the First Deputy Mayor/City Administrator and the instructions at the bottom of each form state "This certification must be signed by the Mayor, City Manager, County Manager/ Administrator/Coordinator or Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. Zero points will be awarded if the certification is improperly signed."	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	V	B		Construction Financing Shortfall	The Applicant has a construction financing shortfall of \$462,826.	Preliminary	
2T	V	D		Loan Commitment	The loan commitment provided behind Exhibit 58 could not be considered (see 10S) and was not used as a source of construction or permanent financing.	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	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	0	0	0	0

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File # 2007-093C

Development Name: The Sacramento

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
2P	Applicants are to provide the latitude/longitude coordinates for an exterior public entrance to the service. The provided sketch does not show a point on a public entrance doorway threshold.	Preliminary	
6P	The Applicant stated that the property qualifies as an Urban In-Fill Development. However, because the Application does not qualify as such, it is not eligible for Automatic Proximity points.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	2.c.	Urban In-Fill	The Applicant provided a Local Government Verification of Qualification as Urban In-Fill Development form signed by the First Deputy Mayor/City Administrator. The instructions at the bottom of the form state "This certification must be signed by the Mayor, City Manager, County Manager/Administrator/ Coordinator or Chairperson of the City Council or County Commission. Other signatories are not acceptable." Since the form was inappropriately signed, the proposed Development does not qualify as an Urban In-Fill Development.	Preliminary	

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File #: 2007-027BS

Development Name: Pine Grove Apartments

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
05 - 09 - 2007	60	Y	7.5
Preliminary	60	Y	7.5
NOPSE	0	Y	0
Final	0	Y	0
Final-Ranking	0	Y	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
Ability To Proceed									
4S	III	C	1.	Site Plan/Plat Approval	2	0	0	0	0
5S	III	C	4.	Evidence of Zoning	3	3	0	0	0
Set-Aside Commitments									
6S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	0	0	0
7S	III	E	3.	Affordability Period	5	5	0	0	0
Resident Programs									
8S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	0	0	0
8S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
8S	III	F	3.	Programs for Elderly	6	0	0	0	0
9S	III	F	4.	Programs for All Applicants	8	8	0	0	0

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File # 2007-027BS

Development Name: Pine Grove Apartments

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
				Local Government Support					
10S	IV		A.	Contributions	5	5	0	0	0
11S	IV		B.	Incentives	4	0	0	0	0

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
4S	The Applicant provided the Local Government Verification of Status of Site Plan Approval for Multifamily Developments form; however, the form does not reflect the "legally authorized body" or the date of approval.	Preliminary	
11S	The Applicant included signed Local Government Verification of Affordable Housing Incentives forms (exhibits 47, 48, 49 & 50). However, the forms were signed by the Chief Administrative Officer who is not one of the acceptable signatories listed on the bottom of the form.	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	1.25	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	3.75	0	0	0

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File # 2007-045BS

Development Name: Bennett Creek Apartments

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
05 - 09 - 2007	59	N	5.5
Preliminary	59	N	5.5
NOPSE	0	N	0
Final	0	N	0
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	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
Ability To Proceed									
4S	III	C	1.	Site Plan/Plat Approval	2	2	0	0	0
5S	III	C	4.	Evidence of Zoning	3	3	0	0	0
Set-Aside Commitments									
6S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	0	0	0	0
7S	III	E	3.	Affordability Period	5	5	0	0	0
Resident Programs									
8S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	0	0	0
8S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
8S	III	F	3.	Programs for Elderly	6	0	0	0	0
9S	III	F	4.	Programs for All Applicants	8	8	0	0	0

2007 MMRB, SAIL & HC Scoring Summary

As of: 05/09/2007

File # 2007-045BS

Development Name: Bennett Creek Apartments

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Local Government Support									
10S	IV		A.	Contributions	5	5	0	0	0
11S	IV		B.	Incentives	4	0	0	0	0

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
6S	The Applicant failed to commit to set aside at least 70% of the total units at 60% AMI or less on the total set-aside breakdown chart, and therefore the Applicant is not eligible to receive points for Total Set-Aside Commitment.	Preliminary	
11S	The Applicant included signed Local Government Verification of Affordable Housing Incentives forms (exhibits 47, 48, 49 & 50). However, the forms were signed by the Chief Administrative Officer and not one of the acceptable signatories listed at the bottom of the forms.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	II	B	5b	Attorney	The Applicant failed to provide the properly completed and executed Attorney Certification form for Housing Credits (Competitive and Non-Competitive).	Preliminary	
2T	II	B	8	Guarantor Information	The Applicant failed to provide the required information for the Guarantor(s).	Preliminary	
3T	III	E	1.b.(1)	Location A	Per page 35 of the 2007 Universal Application Instructions, "MMRB and SAIL Applicants with Family Designation must commit to set aside at least 50 percent of the Development's residential units at 50 percent AMI or less" in order to meet threshold for Developments located in Set-Aside Location A. The Applicant did not commit to this set-aside, and therefore failed threshold.	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	1	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1	0	0	0
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	2.25	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-053C

Development Name: Villa Patricia

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 - 17 - 2005	66	Y	7.5	\$83,149.32	%	N
Preliminary	66	Y	7.5	\$83,149.32	%	N
NOPSE	0	Y	0		0	
Final	0	Y	0		0	
Final-Ranking	0	Y	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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	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	6	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-053C

Development Name: Villa Patricia

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	1.25	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	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	0	0	0

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	V			Deep Targeting Incentive (DTI)	The Application earned a DTI of \$48,000.	Preliminary	
2C	III	A	2.c.	Local Government Verification of Qualification as Urban In-Fill	The Local Government Verification of Qualification as Urban In-Fill Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in a permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form. The Applicant attempted to provide evidence of a delegation authority for the signatory of the form but the delegation of authority was not for this type of documentation.	Preliminary	
3C	III	A	10.b.	Proximity	Applicant did not qualify for automatic points because Development did not qualify as Urban In-Fill. However, the nearest Development with the same Demographic group is further than 2.5 miles. Therefore, Applicant still received full points.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-048S

Development Name: Royallon

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 - 17 - 2005	66	Y	7.5	\$99,116.63	34.26%	Y
Preliminary	66	Y	7.5	\$99,116.63	34.26%	Y
NOPSE	0	Y	0		0	
Final	0	Y	0		0	
Final-Ranking	0	Y	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	0	0	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	9	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	0	0	0	0
2S	III	B	2.d.	SRO Developments	12	12	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	0	0	0
Set-Aside Commitments									
4S	III	E	1.b.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	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	6	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	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-048S

Development Name: Royalfon

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	1.25	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	0	0	0

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	2.c.	Local Government Verification of Qualification as Urban In-Fill	The Local Government Verification of Qualification as Urban In-Fill Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in a permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form. The Applicant attempted to provide evidence of a delegation authority for the signatory of the form but the delegation of authority was not for this type of documentation.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-100C

Development Name: Pinnacle Park

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 - 17 - 2005	62	N	4.5	\$104,585.66	%	N
Preliminary	62	N	4.5	\$104,585.66	%	N
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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	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	5	0	0	0
10S	IV		b.	Incentives	4	0	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-100C

Development Name: Pinnacle Park

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
10S	The Local Government Verification of Affordable Housing Incentives forms: Expedited Permitting Process For Affordable Housing form; Contributions to Affordable Housing Properties Or Developments form; Modification of Fee Requirements for Affordable Housing Properties Or Developments form; Impact of Policies, Ordinances, Regulations, Or Plan Provisions On Cost Of Affordable Housing Properties Or Developments form, will only be accepted by Florida Housing if they are certified by either: one serving in one of the positions stated at the bottom of the forms, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the forms, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the forms and the written delegation of authority is properly executed and presented with the forms in the Application. The person who signed the provided forms does not meet the previously stated criteria and as such, the Application will not be given credit for the forms.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	2	Site Control	Applicant provided an Assignment of Contract, but the Assignment refers to a Contract and two Amendments that are between Pinnacle Park, Ltd. and PHG Holding Inc., whereas the Contract and Amendments for the property are between Malibu Lodging Investments, LLC and PHG-Holdings, Inc.	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	1.25	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	0.75	0	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
6P	The Applicant did not qualify for automatic points because the Development did not qualify as an Urban In-Fill Development.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-100C

Development Name: Pinnacle Park

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	A	1	c(2)	Urban In-Fill	The Local Government Verification of Qualification as Urban In-Fill Development Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-041C

Development Name: Amber Garden

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 - 17 - 2005	66	N	6	\$55,991.22	%	N
Preliminary	66	N	6	\$55,991.22	%	N
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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	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	6	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-041C

Development Name: Amber Garden

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 a completed and executed Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form.	Preliminary	
2T	III	C	1.	Site Plan Approval	The Applicant failed to provide the required Local Government Verification of Status of Site Plan Approval for Multifamily Developments form.	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	1.25	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	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	2.25	0	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
6P	Applicant did not qualify for automatic points because Development did not qualify as Urban In-Fill.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C	III	A	2.c.	Development	The Local Government Verification of Qualification as Urban In-Fill Development Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria. The Applicant attempted to provide evidence of a delegation of authority for the signatory of the form but the delegation	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-041C

Development Name: Amber Garden

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
					of authority was not for this type of documentation. Therefore this proposed Development does not qualify as an Urban In-Fill Development.		

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-042C

Development Name: Villa Amalia

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 - 17 - 2005	66	Y	5.25	\$56,017.65	%	N
Preliminary	66	Y	5.25	\$56,017.65	%	N
NOPSE	0	Y	0		0	
Final	0	Y	0		0	
Final-Ranking	0	Y	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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	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	6	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-042C

Development Name: Villa Amalia

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	1.25	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	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	1.5	0	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
6P	Applicant did not qualify for automatic points because Development did not qualify as an Urban In-Fill Development.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C	III	A	2.c.	Development	The Local Government Verification of Qualification as Urban In-Fill Development Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria. The Applicant attempted to provide evidence of a delegation of authority for the signatory of the form but the delegation of authority was not for this type of documentation. Therefore this proposed Development does not qualify as an Urban In-Fill Development.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-051C

Development Name: Mirasol

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 - 17 - 2005	66	N	4.5	\$85,898.55	%	N
Preliminary	66	N	4.5	\$85,898.55	%	N
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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	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	6	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-051C

Development Name: Mirasol

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	The Applicant failed to provide the required Local Government Verification of Status of Site Plan Approval for Multifamily Developments form.	Preliminary	
2T	III	C	2	Site Control	The Applicant failed to provide any of the required documentation to demonstrate site control.	Preliminary	
3T	III	C	4	Zoning	The Applicant failed to provide a completed and executed Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form.	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	1.25	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	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	0.75	0	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
6P	Applicant did not qualify for automatic points because the Development did not qualify as an Urban In-Fill Development.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C	V			Deep Targeting Incentive (DTI)	The Application earned a DTI of \$42,000.	Preliminary	
2C	III	A	2.c.	Local Government Verification of Qualification as Urban In-Fill	The Local Government Verification of Qualification as Urban In-Fill Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-051C

Development Name: Mirasol

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
					bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form. The Applicant attempted to provide evidence of a delegation authority for the signatory of the form but the delegation of authority was not for this type of documentation.		

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/18/2005

File # 2005-063C

Development Name: Lafayette Square Apartments

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 - 18 - 2005	65	Y	6	\$83,668.53	%	N
Preliminary	65	Y	6	\$83,668.53	%	N
NOPSE	0	Y	0		0	
Final	0	Y	0		0	
Final-Ranking	0	Y	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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	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	5	0	0	0
10S	IV		b.	Incentives	4	3	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/18/2005

File # 2005-063C

Development Name: Lafayette Square Apartments

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
10S	The Local Government Verification of Affordable Housing Incentives Expedited Permitting Process For Affordable Housing form, Exhibit 47, will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in a permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form.	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	1.25	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	2.25	0	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
6P	Applicant did not qualify for automatic points because the Development did not qualify as an Urban In-Fill Development.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	IV	B		Local Government Incentives	The Applicant provided certifications signed by the appropriate County signatory and therefore one point was awarded for each of the following three Local Government Verification of Affordable Housing Incentives forms: (1) Contributions To Affordable Housing Properties Or Developments, (2) Modification of Fee Requirements For Affordable Housing Properties Or Developments, and (3) Impact of Policies, Ordinances, Regulations, Or Plan Provisions On Cost Of Affordable Housing Properties Or Developments. A second set of certification forms for these three incentives was provided by the Applicant; however, these certification forms were not considered because they were not signed by the appropriate signatory.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/18/2005

File # 2005-063C

Development Name: Lafayette Square Apartments

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
2C	III	A	2.c.	Local Government Verification of Qualification as Urban In-Fill	The Local Government Verification of Qualification as Urban In-Fill Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in a permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form.	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-095C

Development Name: Riverside Place

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 - 17 - 2005	62	Y	3.75	\$121,699.68	%	N
Preliminary	62	Y	3.75	\$121,699.68	%	N
NOPSE	0	Y	0		0	
Final	0	Y	0		0	
Final-Ranking	0	Y	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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	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	5	0	0	0
10S	IV		b.	Incentives	4	0	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-095C

Development Name: Riverside Place

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
10S	The Local Government Verification of Affordable Housing Incentives forms: Expedited Permitting Process For Affordable Housing form; Contributions to Affordable Housing Properties Or Developments form; Modification of Fee Requirements for Affordable Housing Properties Or Developments form, Impact of Policies, Ordinances, Regulations, Or Plan Provisions On Cost Of Affordable Housing Properties Or Developments form, will only be accepted by Florida Housing if they are certified by either: one serving in one of the positions stated at the bottom of the forms, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the forms, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the forms and the written delegation of authority is properly executed and presented with the forms in the Application. The person who signed the provided forms does not meet the previously stated criteria and as such, the Application will not be given credit for the forms.	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	1.25	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1.25	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 of	Rescinded as Result of
6P	The Applicant did not qualify for automatic points because the Development did not qualify as an Urban In-Fill Development.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	1.c.2.	General Development	The Local Government Verification of Qualification as Urban In-Fill Development Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-095C

Development Name: Riverside Place

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
					and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form.		

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-096C

Development Name: Pinnacle Plaza

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 - 17 - 2005	63	N	4.5	\$101,416.4	%	N
Preliminary	63	N	4.5	\$101,416.4	%	N
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.	Total Set-Aside Percentage	3	3	0	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	0	0	0
6S	III	E	3	Affordability Period	5	5	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	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	5	0	0	0
10S	IV		b.	Incentives	4	1	0	0	0

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-096C

Development Name: Pinnacle Plaza

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
10S	The Local Government Verification of Affordable Housing Incentives forms; Contributions to Affordable Housing Properties Or Developments form; Modification of Fee Requirements for Affordable Housing Properties Or Developments form; Impact of Policies, Ordinances, Regulations, Or Plan Provisions On Cost Of Affordable Housing Properties Or Developments form, will only be accepted by Florida Housing if they are certified by either: one serving in one of the positions stated at the bottom of the forms, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the forms, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the forms and the written delegation of authority is properly executed and presented with the forms in the Application. The person who signed the provided forms does not meet the previously stated criteria and as such, the Application will not be given credit for the forms.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	2	Site Control	Section 4. of the Addendum to Contract for Sale and Purchase provides for a closing date of September 30, 2005. However, Section 5. of the Second Addendum to Contract for Purchase and Sale deletes Section 4. of the Addendum in its entirety and replaces it with a new provision that does not have a term that does not expire before the last expected closing date of September 30, 2005 and no extension options are included in the Contract for Sale and Purchase or either of the two Addendums.	Preliminary	
2T	III	C	2	Site Control	Section 21. of the Addendum to Contract for Sale and Purchase provides that the buyer may assign its interest in the Contract and the Addendum to any entity (the Assignee) in which the buyer or its affiliate owns more than 50% of the interest of the general partner or managing member of such Assignee, without obtaining Seller's consent. No documentation has been provided to show that the buyer, PHG Holdings, Inc., meets this 50% ownership requirement and no Seller's approval has been provided which would allow PHG Holdings, Inc., to assign the Contract and the Addendum to the Applicant, Pinnacle Plaza, Ltd.	Preliminary	
3T	III	C	2	Site Control	The Applicant provided an Assignment of Contract, with PHG Holdings, Inc. as the Assignor and Pinnacle Plaza, Ltd. as the Assignee. The Assignment purports to assign a Contract for Purchase and Sale, Modification and Amendment to Contract, and 1st Addendum to Contract dated 9/21/04, and a 2nd Addendum to Contract dated 12/1/04 by and between Pinnacle Plaza, Ltd. and PHG Holdings, Inc. No contract or amendments between these two parties have been provided. The documents provided in the Application in an attempt to demonstrate site control are between Jai Alai Villas, LLC (Seller) and PHG Holdings, Inc. (Buyer).	Preliminary	

2005 MMRB, SAIL & HC Scoring Summary

As of: 03/17/2005

File # 2005-096C

Development Name: Pinnacle Plaza

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	1.25	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	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	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	0.75	0	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
6P	The Applicant did not qualify for automatic points because the Development did not qualify as an Urban In-Fill Development.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	1.c.2.	General Development	The Local Government Verification of Qualification as Urban In-Fill Development Form will only be accepted by Florida Housing if it is certified by either: one serving in one of the positions stated at the bottom of the form, one temporarily serving on an interim or acting basis in one of the positions stated at the bottom of the form, or one who has been delegated the authority in writing to sign such type certification for a person serving in an permanent, acting or interim role of one of the positions stated at the bottom of the form and the written delegation of authority is properly executed and presented with the form in the Application. The person who signed the form does not meet the previously stated criteria and as such, the Application will not be given credit for the form.	Preliminary	

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

MCP I, LTD.,

Petitioner,

v.

FHFC CASE NO.: 2009-061UC
Application No.: 2009-257C

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 February 26, 2010. MCP I, Ltd., ("Petitioner") timely submitted its 2009 Universal Cycle Application ("Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for an allocation of competitive housing credits under the Housing Credit (HC) Program administered by Florida Housing.

The matter for consideration before this Board is a recommended order pursuant to Section 120.57(2), Florida Statutes, and Rule 67-48.005(2), F.A.C.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Petitioner timely filed its Petition for Formal Administrative Hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, (the "Petition") challenging Florida Housing's scoring of its Application. Florida Housing reviewed the Petition pursuant to Section 120.569(2)(c), Florida Statutes, and determined that the Petition did not raise disputed issues of material fact. Pursuant to Section 120.57(2), Florida Statutes, an informal hearing was held in this case on January 14, 2010, in Tallahassee, Florida, before Florida Housing's designated Hearing Officer, David E. Ramba. Petitioner and Florida Housing timely filed Proposed Recommended Orders.

After consideration of the evidence and arguments presented at hearing, and the Proposed Recommended Orders, the Hearing Officer issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as "Exhibit A." The Hearing Officer recommended that Florida Housing issue a Final Order affirming the scoring of Petitioner's Application and recommending denial of the relief requested in the Petition.

Rule 67-48.005(3), F.A.C., provides a procedure for an Applicant to challenge the findings of a recommended order entered pursuant to an informal hearing. Petitioner timely filed its written arguments in opposition to the Recommended Order (titled "Exceptions to the Recommended Order", hereinafter "Exceptions"), a copy of which is attached hereto as "Exhibit B" and made a part

hereof by reference. Florida Housing subsequently filed its Response to Petitioners Exceptions (“Response”), a copy of which is attached hereto as “Exhibit C.”

RULING ON THE RECOMMENDED ORDER

1. The findings of fact set out in the Recommended Order are supported by competent substantial evidence.

2. The conclusions of law in the Recommended Order are supported by competent substantial evidence.

3. The arguments presented in Petitioner’s “Exceptions” are specifically rejected on the grounds set forth in the Recommended Order and Florida Housing’s Response to Petitioner’s “Exceptions.”

ORDER

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

5. The findings of fact of the Recommended Order are adopted as Florida Housing’s findings of fact and incorporated by reference as though fully set forth in this Order.


6. The conclusions of law in the Recommended Order are adopted as Florida Housing’s conclusions of law and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED that Florida Housing's scoring of Petitioner's Application is **AFFIRMED** and the relief requested in the Petition is **DENIED**.

DONE and ORDERED this 26th day of February, 2010.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chair

Copies to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301

J. Stephen Menton, Esquire
Rutledge, Ecenia and Purnell, P.A.
119 South Monroe Street, Suite 202
Tallahassee, Florida 32301
Telephone: (850) 681-6788
Facsimile: (850) 681-6515

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

RECEIVED
OFFICE OF THE
SECRETARY
JAN 14 2010
FLORIDA HOUSING FINANCE CORPORATION

MCP I, LTD., as applicant for MODEL CITY
APARTMENTS--Application No. 2009-257C

Petitioner,

FHFC 2009-061UC
Application No. 2009-257C

v.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

_____ /

RECOMMENDED ORDER

Pursuant to notice, an informal Administrative Hearing was held in this case in Tallahassee, Florida, on January 14, 2010, before Florida Housing Finance Corporation's appointed Hearing Officer, David E. Ramba.

Appearances

For Petitioner:

J. Stephen Menton
Rutledge, Ecenia & Purnell, P.A.
119 South Monroe Street, Suite 202
Tallahassee, Florida 32301

For Respondent:

Hugh R. Brown
Deputy General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329

PRELIMINARY STATEMENT

At the informal hearing the parties agreed to file a Stipulation including proposed findings of fact on which the parties agree, and such Stipulation was filed contemporaneously with Respondent's Proposed Recommended Order.

Petitioner submitted Exhibits P-1 through P-3, all of which were admitted into evidence. Respondent submitted Exhibit R-1, which was admitted into evidence. The parties jointly submitted Exhibits J-1 through J-7, all of which were admitted into evidence.

In addition to the above Exhibits, Petitioner presented the testimony of Todd Fabbri, corporate representative of MCP I, Ltd.

Petitioner is referred to below as "Petitioner" or "Model City" and Respondent is referred to as "Respondent" or "Florida Housing."

STATEMENT OF THE ISSUE

The issue in this case is whether Florida Housing correctly scored the Tax Credit Application submitted by Model City in the 2009 Universal Cycle by assessing a ½ point Ability to Proceed Tie Breaker penalty regarding Model City's cure of Exhibit 26 to the Application, the Local Government Verification of Status of Site Plan Approval for Multifamily Developments (hereinafter, the "Site Plan Form").

There are no disputed issues of material fact.

WITNESSES

For Petitioner:

Todd Fabbri
MCP I, Ltd.
580 Village Blvd., Suite 360
West Palm Beach, FL 33409

FINDINGS OF FACT

Based upon the stipulated facts agreed to by the parties and exhibits received into evidence at the hearing, the following relevant facts are found:

1. Petitioner is a Florida limited partnership whose address is 580 Village Blvd., Suite 360, West Palm Beach, Florida 33409, and is engaged in the development of affordable housing in the State of Florida.

2. Florida Housing is a public corporation created by Section 420.504, Florida Statutes, to administer the governmental function of financing or refinancing affordable housing and related facilities in Florida. Florida Housing's statutory authority and mandates appear in Part V of Chapter 420, Florida Statutes. Florida Housing's address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

3. On August 20, 2009, Petitioner timely submitted Application No. 2009-257C (the "Application") in Florida Housing's 2009 Universal Cycle application process. The Application sought an allocation of low income housing tax credits ("Tax Credits") to provide equity capital to construct a 100-unit family apartment complex ("Model City Plaza") in Miami-Dade County, Florida.

4. Florida Housing is the allocating agency and administers the federal low income housing tax credit program (the "Tax Credit Program") established in Florida under the authority of Section 420.5093, Fla. Stat.

5. The Tax Credit Program was created in 1986 by the federal government. Every year since 1986, Florida has received an allocation of federal Tax Credits to be used to fund the construction of affordable housing. Tax Credits are a dollar for dollar offset to federal income tax liability.

6. Developers who receive an allocation of Tax Credits get the awarded amount every year for ten years. The developer will often sell the future stream of tax credits to a

syndicator, who, in turn, sells them to investors seeking to shelter income from federal income taxes.

7. Low income housing tax credits come in two varieties: competitively awarded "9%" tax credits and non-competitively awarded "4%" tax credits. The "9%" and "4%" designations relate to the approximate percentage of a development's eligible cost basis that is awarded in annual tax credits. The 4% tax credits are "non-competitive" in the sense that developers do not directly compete for an award. Instead, the 4% tax credits are paired with tax exempt mortgage revenue bonds. The 9% Tax Credits are competitively awarded.

8. Each year the federal government allocates to every state a specific amount of 9% Tax Credits using a population-based formula. Developers in Florida directly compete for an award of 9% credits through the Universal Cycle process.

9. Since 2002, Florida Housing has administered several programs, including the Tax Credit Program, through a combined competitive process known as the "Universal Cycle."

10. Florida Housing has adopted rules which incorporate by reference the application forms and instructions for the Universal Cycle as well as general policies governing the allocation of funds from the various programs its administers.

11. Rule 67-48.004, Fla. Admin. Code, sets forth the process used by Florida Housing to review the Universal Cycle applications and to determine funding allocations from the various programs. That process is summarized as follows:

- a) Developers submit applications by a specified date.
- b) Florida Housing staff reviews all applications to determine if certain threshold and scoring requirements are met.

- c) Applications are awarded points based on a variety of features as programs for tenants, amenities of the development as a whole and of the tenants' units, local government contributions to the specific development, and local government ordinances and planning efforts that support affordable housing in general.
- d) After Florida Housing's initial review and scoring, a list of all applications, along with Florida Housing's threshold determinations, initial scoring and tiebreaker points, is published on Florida Housing's website (the "Preliminary Scores").
- e) Following the issuance of Preliminary Scores, the applicants are then given a specific period of time to alert Florida Housing of any errors they believe were made in the Preliminary Scores with respect to competitors' applications. These potential scoring errors are submitted through a Notice of Possible Scoring Error or "NOPSE."
- f) After Florida Housing staff has reviewed the NOPSEs, a revised scoring summary (the "NOPSE Scores") is published.
- g) Following the issuance of the NOPSE Scores, Applicants can "cure" their applications by supplementing, correcting or amending the application or its supporting documentation. Certain items are specified in Florida Housing's rules that cannot be "cured." A deadline is established after which no cures can be submitted.
- h) After all cures have been submitted, an applicant's competitors have an opportunity to comment on the attempted cures by filing a Notice of Alleged Deficiency or "NOAD."

- i) Florida Housing staff reviews all of the submitted cures and NOADs and prepares its "final" scoring summary for all applications.

12. Florida Housing's "final" score for each application sets forth the staff's position on threshold issues, scoring and tiebreaker points. The "final" scores represent preliminary agency action which is accompanied by a point of entry for an applicant to request a formal or informal administrative proceeding on the scoring of its own application. An appeal procedure for challenging the final scores assigned by Florida Housing is set forth in Rule 67-48.005, Fla. Admin. Code.

13. Following the completion of informal appeal proceedings under Section 120.57(2), Fla. Stat., Florida Housing publishes final rankings which delineate the applications that are within the "funding range" for the various programs. In other words, the final rankings determine which applications are preliminarily selected for funding.

14. The applicants ranked in the funding range are then invited into the "credit underwriting" process. The Credit Underwriting review of a development selected for funding is governed by Rule 67-48.0072, Fla. Admin. Code.

15. Because of the likelihood that many applications will achieve a "perfect score," Florida Housing has built into its scoring and ranking process a series of "tiebreakers" to determine the final ranking of applicants and to decide which projects get funded. The tiebreakers are utilized to differentiate between competing applicants that have all achieved the maximum highest score. The tiebreakers are written into the Application Instructions which, as indicated above, are incorporated by reference into Florida Housing's rules.

16. The final tiebreaker for those applicants that achieve a perfect score and maximum tiebreaker points is a randomly assigned lottery number.

17. For the 2009 Universal Cycle, Application Deadline was August 20, 2009.

18. On or about September 8, 2009, Florida Housing issued the Preliminary Scores for the applications submitted in the 2009 Universal Cycle. As part of the Preliminary Score for Model City's Application, Florida Housing determined that the Application was entitled to a full point for site plan/plat approval element of the "ability to proceed" tiebreaker.

19. On or about October 1, 2009, another applicant in the 2009 Universal Cycle (the "Opposing Applicant") submitted a Notice of Possible Scoring Error ("NOPSE") challenging the scoring of Petitioner's Application. The NOPSE alleged that the Application did not meet threshold requirements because Petitioner failed to comply with Part III, Section C, Subsection (1) of the 2009 Universal Application Instructions (requiring a verification of site plan/plat approval for multi-family developments). The NOPSE contended that Petitioner did not meet threshold requirements because there had not been a local government Zoning Board meeting on the date noted on the Local Government Verification Form.

20. On October 26, 2009, Florida Housing issued its NOPSE Scores for all applications in the 2009 Universal Cycle. The NOPSE Score for Petitioner's Application indicated that the Application did not meet threshold requirements due to the purported failure to provide verification of site plan approval by the local government.

21. In response to the NOPSE Score for its Application, the Petitioner submitted a "cure" on November 3, 2009, in accordance with Rule 67-48.004(6), Florida Administrative Code.

22. On December 3, 2009, Florida Housing issued its Final Scores and Notice of Rights (the "Final Scoring"). Petitioner received notice of the Final Scoring through the publication by Florida Housing on December 3, 2009.

23. The Final Scoring for the Application rescinded the determination in the NOPSE Scores that the Application failed to meet threshold because of the purported failure to comply with Part III, Section C, Subsection (1) of the 2009 Universal Cycle Application Instructions. However, the Final Scoring only awarded 1/2 point to the Applicant for the site plan/plat approval element of the “ability to proceed” tiebreaker.

24. As a result of the 1/2 point reduction, Petitioner’s Application failed to achieve the maximum tie-breaker points available for “ability to proceed” and, consequently, the Application is currently ranked outside the funding range for an allocation of Tax Credits in the 2009 Universal Cycle.

CONCLUSIONS OF LAW

1. Pursuant to Sections 120.569 and 120.57(2), Fla. Stat., and Rule Chapter 67-48, Fla. Admin. Code, the Hearing Officer has jurisdiction of the parties and the subject matter of this proceeding.

2. As requested by the parties during the informal hearing, official recognition is taken of Respondent’s rules, particularly Rule Chapters 67-21 and 67-48, Fla. Admin. Code, as well as the Universal Application Package or UA1016 (Rev. 3-08).

3. The Universal Application Package, or UA1016 (Rev. 3-08), which includes both its forms and instructions, is adopted as a rule. *See*, Rule 67-48.004(1)(a), Fla. Admin. Code, and Section 120.55(1)(a)4., Fla. Stat. The forms and instructions are agency statements of general applicability that implement, interpret, or prescribe law or policy or describe the procedure or practice requirements of Florida Housing and therefore meet the definition of a “rule” found in Section 120.52, Fla. Stat. As such, the instructions and forms are themselves rules.

4. Florida Housing bases its decision to award the Model City Application $\frac{1}{2}$ of an Ability to Proceed Tie-Breaker Point on the language and the chart found at page 29 of the 2009 Universal Application Instructions, in pertinent part:

C. Ability to Proceed

For Applications requesting Competitive HC, during the preliminary and NOPSE scoring process described in subsections 67-48.004(3), (4) and (5), F.A.C., Applicants may be eligible for Ability to Proceed tie-breaker points for the following Ability to Proceed elements: Site Plan/Plat Approval, Infrastructure Availability (electricity, water, sewer and roads), and Appropriate Zoning. The Applicant will either

- (i) Achieve the full 6 Ability to Proceed tie-breaker points if it meets the threshold requirements for all of the following elements: site plan/plat approval, availability of electricity, availability of water, availability of sewer, availability of roads, and appropriate zoning, or
- (ii) Achieve 1 Ability to Proceed tie-breaker point for each of these elements which pass threshold and zero Ability to Proceed tie-breaker points for each of these elements which fail threshold. Then during the cure period described in subsection 67-48.004(6), F.A.C., if a threshold failure is successfully cured the Application will be awarded $\frac{1}{2}$ Ability to Proceed tie-breaker point for each cured Ability to Proceed element.

Ability to Proceed tie-breaker points will be awarded as follows:

Competitive HC Ability to Proceed Tie-Breaker Points			
Ability to Proceed Element	Preliminary and NOPSE Scoring		Cure Period
	Pass Threshold – Tie-Breaker Point Value for each Element	Fail Threshold – Tie-Breaker Point Value for each Element	Pass Threshold – Tie-Breaker Point Value for each Element
Site Plan/Plat Approval	1	0	$\frac{1}{2}$
Availability of Electricity	1	0	$\frac{1}{2}$
Availability of Water	1	0	$\frac{1}{2}$
Availability of Sewer	1	0	$\frac{1}{2}$
Availability of Roads	1	0	$\frac{1}{2}$
Appropriately Zoned	1	0	$\frac{1}{2}$
Total Available Tie-Breaker Points	6	0	3

5. Essentially, the above provisions and accompanying chart award a full point to those Applicants that submit the listed items correctly and who are not required to cure. Those applicants who are required to cure these items are awarded ½ point if the cure is successful. Those applicants that submit cures that are not successful receive no points, in addition to failing threshold requirements.

6. In the instant case, there is no dispute that Model City submitted a cure for the Site Plan Form, and no dispute that Florida Housing ultimately determined that the cure was successful and that the Model City Application passed threshold with regard to the Site Plan Form. Based upon these undisputed facts, the plain language of the Instructions and accompanying chart indicate that Model City should receive only ½ of an Ability to Proceed Tie-Breaker Point for the Site Plan Form.

7. Likewise, there is no dispute that information originally provided on the Site Plan Form was incorrect, in that it indicated that the local Zoning Board had met on "07/09/2009" to approve the site plan for the Model City development, where information in a NOPSE demonstrated that no such meeting took place on that date. (*Exhibits J-3, J-5*) As the information presented on the originally submitted Site Plan Form was in error, Model City was required to cure it.

8. Florida Housing stated during the informal hearing in this matter that it interprets the language of the Instructions at page 29 as mandating a ½ point penalty for any Applicant that is required to cure one of the indicated forms, including the Site Plan Form, and that per the Instructions it is the *act of curing* a defect that garners an Applicant the ½ point penalty, regardless of whether the Applicant ultimately passed threshold with respect to any issues with a listed form. The plain language of the Instructions on this topic, as well as the chart provided

above that expressly provides for a ½ point penalty for any cured form, regardless of issue, supports Florida Housing's interpretation.

9. Florida Housing further suggested that it would decline to impose such a penalty on an Applicant if that Applicant were to show that Florida Housing erred in determining that a listed form failed threshold in the first place – in other words, if the Applicant could prove that the initial rejection of the form by Florida Housing was in error. Model City cannot demonstrate such a situation here, where it is undisputed that the Site Plan Form contained incorrect information requiring a cure.

10. The change in the Universal Application Package during the 2009 Cycle altered the competitive nature of the Ability to Proceed tie-breaker points by in essence, rewarding those applicants who correctly provided the relevant and correct information the first time.

11. This additional step was included after input from applicants and interested parties in the rule workshops and hearings as an opportunity to cure threshold items which previously were either met or failed, by allowing a cure and a half-point addition to a previously failed threshold item once properly cured.

12. Model City's originally submitted form alleged that a meeting took place on July 9, 2009, and that the Development received some sort of approval at this meeting. A NOPSE subsequently demonstrated that this was impossible, as no such meeting took place on that date. (*Exhibit J-3*) Faced with this evidence in the scoring process, Florida Housing could not know that approval was obtained on some other prior date, but could only conclude that the proposed Development had not received site plan approval, or at the very least, the Applicant had not yet provided proof that it had. Accordingly, Florida Housing could not accept the originally submitted Site Plan Form, and correctly rejected it as failing threshold.

13. Model City vigorously argued, after the completion of the scoring process, that the Hearing Officer find that the error was typographical, citing previous instances where Florida Housing was found to have erred in penalizing Applicants for mere typographical errors. The most pertinent previous Final Order regarding the subject of typographical errors is *Tuscany Village Associates, Ltd. V. Florida Housing Finance Corporation* (FHFC Case No. 2002-048 – hereinafter, “*Tuscany Village*”). A copy of this Final Order is attached hereto as Exhibit A.

14. *Tuscany Village* involved the attempted cure of an infrastructure availability form (roads) that was initially rejected for failing to be properly executed by the appropriate local government official. The Applicant then attempted to cure this defect by submitting a letter from the local government attesting to the availability of roads, but Florida Housing rejected the cure as the letter was not dated within twelve months of Application Deadline. At the informal hearing, Florida Housing conceded that its scoring was in error in that the incorrect date on the letter was obviously a typographical error that could have been seen to be such by examining other parts of the *Tuscany Village* Application.

15. The instant case is distinguishable from *Tuscany Village* as the process has been changed to allow the cure of the failure of threshold items, for whatever reason, but the result is that the Applicant only receives a ½ point instead of a full point as a penalty in the Ability to Proceed Tie-Breaker points. The plain language of the application, and thus the rule, does not allow for any other interpretation unless Florida Housing errantly disqualified factually correct information in the scoring process and the form was correct in the initial application.

16. The plain language of page 29 of the Instructions, as well as its accompanying chart, clearly and unambiguously provide that an Applicant that cures a Site Plan Form is awarded only ½ of a Ability to Proceed Tie-Breaker Point. As Florida Housing is simply


following this plain language and chart, there is no interpretation to be examined or challenged by Model City, and no ambiguity to be resolved. As previously noted, this case is one of first impression and this plain and unambiguous language is not subject to any interpretation found in previous Final Orders of Florida Housing.

17. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation.¹ The interpretation should be upheld even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation.² Given that Florida Housing has in this case simply applied the plain language of its Instructions, this Hearing Officer cannot find that its interpretation was clearly erroneous.

RECOMMENDATION

Based on the Findings of Fact and Conclusions of Law stated above, in is hereby RECOMMENDED that Florida Housing enter a Final Order affirming Florida Housing's scoring of Petitioner's application, and denying the relief requested in the Petition.

Respectfully submitted this 2nd day of February, 2010.



David E. Ramba, Hearing Officer

¹ Legal Environmental Assistance Foundation, Inc., v. Board of County Commissioners of Brevard County, 642 So.2d 1081 (Fla. 1994); Miles v. Florida A & M University, 813 So.2d 242 (Fla. 1st DCA 2002).

² Golfcrest Nursing Home v. Agency for Health Care Administration, 662 So.2d 1330 (Fla. 1st DCA 1995).

Copies furnished to:

J. Stephen Menton
Rutledge, Ecenia & Purnell, P.A.
119 South Monroe Street, Suite 202
Tallahassee, Florida 32301

Hugh R. Brown
Deputy General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329

Scoring Summary Report

File #: 2009-123C Development Name: Progreso Point

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
09/21/2009	68.00	N	6.00	7.50
Preliminary	68.00	N	6.00	7.50
NOPSE				
Final				
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	7.00			
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00			
2S	III	B	2.c	All Developments Except SRO	12.00	12.00			
2S	III	B	2.d	SRO Developments	12.00	0.00			
3S	III	B	2.e	Energy Conservation Features	9.00	9.00			
4S	III	B	3	Green Building	5.00	5.00			
Set-Aside Commitment									
5S	III	E	1.b.(2)	Special Needs Households	4.00	4.00			
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00			
7S	III	E	3	Affordability Period	5.00	5.00			
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00			
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00			
8S	III	F	3	Programs for Elderly	6.00	0.00			
9S	III	F	4	Programs for All Applicants	8.00	8.00			
Local Government Contributions									
10S	IV	A		Contributions	5.00	5.00			
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00			

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
1S	Because the Unit Mix chart at Part III.A.7. of the Application does not reflect any 2-bedroom units, the Application is not eligible for 2 points for "At least 1-1/2 bathrooms in all 2-bedroom new construction units."	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The Applicant stated at Exhibit 9 of the Application that the limited partner's interest in the Applicant entity is 99.90%. However, the equity commitment at Exhibit 56 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	
2T	V	D	1	Non-Corporation Funding	Per page 70 of the 2009 Universal Application Instructions, a financing commitment must contain all attachments. The first mortgage financing from JPMorgan Chase Bank, N.A. (Exhibit 55) does not include the due diligence materials attachment. Therefore, it cannot be considered a source of financing.	Preliminary	
3T	V	B		Construction/Rehab. Analysis	The Application has a construction financing shortfall of \$13,211,469.	Preliminary	
4T	V	B		Permanent Analysis	The Application has a permanent financing shortfall of \$13,211,469.	Preliminary	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00			
2A	III	C	3.a	Availability of Electricity	1.00	1.00			
3A	III	C	3.b	Availability of Water	1.00	1.00			
4A	III	C	3.c	Availability of Sewer	1.00	1.00			
5A	III	C	3.d	Availability of Roads	1.00	1.00			
6A	III	C	4	Appropriately Zoned	1.00	1.00			

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	1.25			
2P	III	A	10.b.(2) (b)	Public School	1.25	1.25			
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00			
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00			
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25			
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	3.75			
7P	III	A	10.a	Involvement of a PHA	7.50	0.00			

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	A	10	Proximity	The Applicant qualified for 3.75 automatic proximity points at 6P.	Preliminary	

2009

Universal Application

9%

**Housing Credit (HC)
Program**

By:

**Reliance-Progresso
Associates, Ltd.**

Copy

Exhibit 9

As of August 20, 2009

Applicant

*Reliance-Progresso Associates, Ltd.,
a Florida limited partnership*

Co-General Partner of Applicant (with .051% ownership):

*Reliance-Progresso, LLC, *
a Florida limited liability company*

*There are no officers, directors or shareholders. The Managers of this Co-General Partner are:

Robert O. Jackson
Stephen R. Janton
Michael Capelle

Sole member of Co-General Partner:

*Reliance Housing Foundation, Inc., **
a Florida 501 (c)(3) nonprofit corporation*

**There are no members or shareholders. The officers and directors are:

OFFICERS	DIRECTORS
Robert O. Jackson, President and CEO Michael Capelle, CFO Sandra Martin Seals, VP Kathy Strom, VP	Robert O. Jackson Stephen R. Janton Fred Lutz Marie DiPrinzio Michael Capelle Summer J. Greene Chuck Poole Lucille M. Librizzi

Co-General Partner of Applicant (with .049% ownership):

*Broward Workforce Communities, Inc. **
a Florida corporation*

The sole shareholder of Broward Workforce Communities, Inc. is Building Better Communities, Inc.

** The officers and directors are:

OFFICERS	DIRECTORS
Joseph M. Cobo, President Mercedes J. Nunez, Treasurer Juan Selaya, Secretary	Juan Selaya John E. Aurelius Joseph M. Cobo Sharon Day Mercedes J. Nuñez

Limited Partner of Applicant (with 99.90% ownership):

*Reliance Housing Foundation, Inc., ***
a Florida 501 (c)(3) nonprofit corporation*

***There are no members or shareholders. The officers and directors are:

OFFICERS	DIRECTORS
Robert O. Jackson, President and CEO Michael Capelle, CFO Sandra Martin Seals, VP Kathy Strom, VP	Robert O. Jackson Stephen R. Janton Fred Lutz Marie DiPrinzio Michael Capelle Summer J. Greene Chuck Poole Lucille M. Librizzi

Co-Developers

Reliance Housing Services, LLC, a Florida limited liability company (RHS)

There are no officers, directors or shareholders of RHS. The Managers of RHS are:

Robert O. Jackson
Stephen R. Janton
Michael Capelle

Sole Member of RHS is:

*Reliance Housing Foundation, Inc., *
a Florida 501 (c)(3) nonprofit corporation*

*There are no members or shareholders. The officers and directors of Reliance Housing Foundation, Inc. are:

OFFICERS	DIRECTORS
Robert O. Jackson, President and CEO Michael Capelle, CFO Sandra Martin Seals, VP Kathy Strom, VP	Robert O. Jackson Stephen R. Janton Fred Lutz Marie DiPrinzio Michael Capelle Summer J. Greene Chuck Poole Lucille M. Librizzi

Co-Developers – cont'd

Building Better Communities, Inc., a Florida 501 (c)(3) nonprofit corporation*

There are no members or shareholders. The officers and directors are:

OFFICERS	DIRECTORS
Joseph M. Cobo, President Mercedes J. Nunez, Treasurer Juan Selaya, Secretary	Juan Selaya John E. Aurelius Joseph M. Cobo Sharon Day Mercedes J. Nuñez

*Building Better Communities, Inc. is an affiliate or instrumentality of the Broward County Housing Authority

Brief Statement of Explanation regarding
Application 2009 – 123C

Provide a separate brief statement for each Cure

The Applicant included within its application an Exhibit 9 which listed the percentage interest held by the limit partner. See Exhibit 9 of the application.

In scoring the application, Florida Housing Finance Corporation (FHFC) preliminarily determined that the Applicant's Exhibit 56 failed to achieve threshold for the following reason:

"The Applicant stated at Exhibit 9 of the Application that the limited partner's interest in the Applicant entity is 99.90%. However, the equity commitment at Exhibit 56 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing."

Attached is a revised Exhibit 9 demonstrating that the ownership interest held by the limit partner is 99.99% which is the same as shown in the equity commitment included in Exhibit 56. In light of the foregoing, the Applicant's equity financing commitment should be scored firm and therefore the HC equity should be considered as a source of financing.

As of August 20, 2009

Applicant

*Reliance-Progresso Associates, Ltd.,
a Florida limited partnership*

Co-General Partner of Applicant (with .0051% ownership):

*Reliance-Progresso, LLC, *
a Florida limited liability company*

*There are no officers, directors or shareholders. The Managers of this Co-General Partner are:

Robert O. Jackson
Stephen R. Janton
Michael Capelle

Sole member of Co-General Partner:

*Reliance Housing Foundation, Inc., **
a Florida 501 (c)(3) nonprofit corporation*

**There are no members or shareholders. The officers and directors are:

OFFICERS	DIRECTORS
Robert O. Jackson, President and CEO Michael Capelle, CFO Sandra Martin Seals, VP Kathy Strom, VP	Robert O. Jackson Stephen R. Janton Fred Lutz Marie DiPrinzio Michael Capelle Summer J. Greene Chuck Poole Lucille M. Librizzi

Co-General Partner of Applicant (with .0049% ownership):

*Broward Workforce Communities, Inc. **
a Florida corporation*

The sole shareholder of Broward Workforce Communities, Inc. is Building Better Communities, Inc.

** The officers and directors are:

OFFICERS	DIRECTORS
Joseph M. Cobo, President Mercedes J. Nunez, Treasurer Juan Selaya, Secretary	Juan Selaya John E. Aurelius Joseph M. Cobo Sharon Day Mercedes J. Nuñez

Limited Partner of Applicant (with 99.99% ownership):

*Reliance Housing Foundation, Inc., ***
a Florida 501 (c)(3) nonprofit corporation*

***There are no members or shareholders. The officers and directors are:

OFFICERS	DIRECTORS
Robert O. Jackson, President and CEO Michael Capelle, CFO Sandra Martin Seals, VP Kathy Strom, VP	Robert O. Jackson Stephen R. Janton Fred Lutz Marie DiPrinzio Michael Capelle Summer J. Greene Chuck Poole Lucille M. Librizzi

Co-Developers

Reliance Housing Services, LLC, a Florida limited liability company (RHS)

There are no officers, directors or shareholders of RHS. The Managers of RHS are:

Robert O. Jackson
Stephen R. Janton
Michael Capelle

Sole Member of RHS is:

Reliance Housing Foundation, Inc., *
a Florida 501 (c)(3) nonprofit corporation

*There are no members or shareholders. The officers and directors of Reliance Housing Foundation, Inc. are:

OFFICERS	DIRECTORS
Robert O. Jackson, President and CEO Michael Capelle, CFO Sandra Martin Seals, VP Kathy Strom, VP	Robert O. Jackson Stephen R. Janton Fred Lutz Marie DiPrinzio Michael Capelle Summer J. Greene Chuck Poole Lucille M. Librizzi

Co-Developers – cont'd

Building Better Communities, Inc., a Florida 501 (c)(3) nonprofit corporation*

There are no members or shareholders. The officers and directors are:

OFFICERS	DIRECTORS
Joseph M. Cobo, President Mercedes J. Nunez, Treasurer Juan Selaya, Secretary	Juan Selaya John E. Aurelius Joseph M. Cobo Sharon Day Mercedes J. Nunez

*Building Better Communities, Inc. is an affiliate or instrumentality of the Broward County Housing Authority

EXHIBIT 1

OMNIBUS AMENDMENT TO RELIANCE-PROGRESSO ASSOCIATES, LTD. LIMITED PARTNERSHIP AGREEMENT

THIS OMNIBUS AMENDMENT TO RELIANCE-PROGRESSO ASSOCIATES, LTD. LIMITED PARTNERSHIP AGREEMENT (this "Amendment") is made and entered into as of this ___ day of March, 2008, by and among the undersigned (the "Partners").

RECITALS:

WHEREAS, on November 30, 2005 Reliance Progresso, LLC, a Florida limited liability company ("Original GP"), as general partner, and Reliance Housing Foundation, Inc., a Florida not for profit corporation ("LP"), as limited partner, entered into that certain Reliance-Progresso Associates, Ltd. Limited Partnership Agreement (the "Existing Agreement") for the operation of Reliance-Progresso Associates, Ltd., a Florida limited partnership (the "Partnership");

WHEREAS, on December 19, 2007 LP and Building Better Communities, Inc., a Florida non-profit corporation ("BBC"), entered into that certain Co-Developer Agreement (the "Co-Developer Agreement") pursuant to which LP and BBC agreed to be co-developers of the development of the certain real property located in the City of Fort Lauderdale, Broward County, Florida known as Progresso Apartments and that LP, or an affiliate thereof, and BBC, or an affiliate thereof, will be co-general partners of the Partnership;

WHEREAS, prior to the date hereof Original GP, an affiliate of LP, assigned a 0.049% general partnership interest to Broward Workforce Communities, Inc., a Florida for-profit corporation ("Additional GP"), an affiliate of BBC; and

WHEREAS, the parties hereto desire to amend the Agreement as set forth herein to reflect that there are two co-general partners;

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. DEFINITIONS

1.1. Definitions. For purposes of this Amendment, the term "Agreement" shall include the Existing Agreement as modified by this Amendment. All other capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

II. GENERAL PARTNER

2.1. General Partner. The General Partner as set forth in the Agreement shall mean, in aggregate, Original GP and Additional GP, as co-general partners which own a 0.051% and a 0.049% general partner interest respectively. The rights and obligations of each co-general partner are set forth in the Co-Developer Agreement.

III. MISCELLANEOUS

3.1. Gender and Context. As used herein, all terms shall include the singular and plural, and all genders as the context may reasonably require.

3.2. Counterparts. This Amendment may be executed in multiple counterparts each of which said executed counterparts shall be deemed an original for all purposes.

3.3. Controlling Law. This Amendment shall be interpreted, governed and construed pursuant to the laws of the State of Florida.

3.4. Severability. In the event that any provisions or clauses of this Amendment conflict with or are contrary to applicable law, such conflicting or contrary provisions shall not affect any other provisions which can be given effect without the conflicting provisions, and to this end, the provisions of this Amendment are declared to be severable to allow the striking of any and all provisions which conflict with or are contrary to law while all other provisions of this Amendment shall continue to be effective and fully operable.

3.5. Effect on Existing Agreement. Except as specifically amended by this Amendment, the Existing Agreement shall remain in full force and effect as heretofore written.

[Signatures appear on following pages.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

GENERAL PARTNERS:

BROWARD WORKFORCE COMMUNITIES, INC., a Florida for-profit corporation

By: _____

Name: Joseph M. Cobo
Title: President/Director

RELIANCE PROGRESSO, LLC, a Florida limited liability company

By: _____

Robert O. Jackson, President

LIMITED PARTNER:

RELIANCE HOUSING FOUNDATION, INC., a Florida not for profit corporation

By: _____

Robert O. Jackson, President

EXHIBIT 2

AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT OF RELIANCE-PROGRESSO ASSOCIATES, LTD.

THIS Amended and Restated Limited Partnership Agreement of Reliance-Progresso Associates, Ltd. ("Amended Agreement") is made and entered into as of this 30th day of October, 2009, by and among the undersigned (the "Partners").

RECITALS:

WHEREAS, on November 30, 2005 Reliance Progresso, LLC, a Florida limited liability company ("Original GP"), as general partner, and Reliance Housing Foundation, Inc., a Florida not for profit corporation ("LP"), as limited partner, entered into that certain Reliance-Progresso Associates, Ltd. Limited Partnership Agreement (the "Existing Agreement") for the operation of Reliance-Progresso Associates, Ltd., a Florida limited partnership (the "Partnership");

WHEREAS, on December 19, 2007, Original GP, an affiliate of LP, assigned a 0.049% general partnership interest to Broward Workforce Communities, Inc., a Florida not-for-profit corporation ("Additional GP"); and

WHEREAS, due to a scrivener's error, the partnership interests of the LP and the Original GP were erroneously stated in the Existing Agreement and the parties hereto desire to amend the Agreement to reflect the correct partnership interests of the Partners,

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Formation. Reliance-Progresso, LLC, a Florida limited liability company, and Broward Workforce Communities, Inc., a Florida not-for-profit corporation, as General Partners, and Reliance Housing Foundation, Inc., a Florida not-for-profit corporation, hereby form a limited partnership pursuant to the Florida Revised Uniform Limited Partnership Act, and the terms and conditions of this Agreement.

2. Name. The name of the limited partnership shall be: Reliance-Progresso Associates, Ltd. (the "Partnership").

3. Offices.

(a) The address of the principal office of the Partnership is: 805 E. Broward Boulevard, Suite 200, Fort Lauderdale, Florida 33303; and

(b) The address of the chief executive office of the Partnership is: 805 E. Broward Boulevard, Suite 200, Fort Lauderdale, Florida 33301.

4. Termination Date. The latest date upon which the limited partnership is to be dissolved is December 31, 2055.

5. Capital. The partners shall contribute capital to the Partnership in the following amounts:

- | | | |
|-----|------------------|----------|
| (a) | Original GP: | \$0.0051 |
| (b) | Additional GP: | \$0.0049 |
| (c) | Limited Partner: | \$99.99 |

6. Profits and Losses. The profits and losses of the Partnership shall be allocated as follows:

- | | | |
|-----|------------------|---------|
| (a) | Original GP: | 0.0051% |
| (b) | Additional GP: | 0.0049% |
| (c) | Limited Partner: | 99.99% |

7. Distributions. Distribution of cash or other assets of the Partnership shall be allocated among the partners as follows:

- | | | |
|-----|------------------|---------|
| (a) | Original GP: | 0.0051% |
| (b) | Additional GP: | 0.0049% |
| (c) | Limited Partner: | 99.99% |

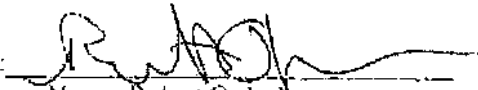
8. Assignment of Limited Partner Interest. No interest of a Limited Partner in the Partnership may be assigned without the consent of the General Partners.

IN WITNESS WHEREOF, this Amended Agreement has been made and executed on the date first written above.

GENERAL PARTNERS:

RELIANCE-PROGRESSO, LLC, a Florida limited liability company, as Co-General Partner

By: _____


Name: Robert D. Jackson
Title: Manager

BROWARD WORKFORCE COMMUNITIES, INC., a Florida not-for-profit corporation, as Co-General Partner

By: 

Name: Joseph M. Cobo
Title: President

LIMITED PARTNER:

RELIANCE HOUSING FOUNDATION, INC., a Florida not-for-profit corporation

By: 

Name: Robert O. Jackson
Title: President

Deatra Glaser

From: Parnell Joyce
Sent: Friday, November 06, 2009 10:57 AM
To: Deatra Glaser
Subject: FW: Reliance Progresso Point Project

Attachments: Rev_Corp_PtnshpDocs-Oct2009.pdf



Rev_Corp_PtnshpD
ocs-Oct2009.p...

Dee, lets make it out to the address below. I left Sandra a message and told her if she had a better address to call me during the luncheon. Bring a blank fed X slip w/ our acct # and we can fill in an alternate address if she calls.

Parnell Joyce
Vice President Development
Broward County Housing Authority
4780 North State Road 7
Lauderdale Lakes, FL. 33319
954-739-1114 x 2342

-----Original Message-----

From: Sandra Seals [mailto:sseals@reliancehousing.org]
Sent: Thursday, November 05, 2009 11:08 AM
To: Parnell Joyce
Subject: FW: Reliance Progresso Point Project

Hi Parnell,

Have you been able to help get this document signed?

Sandra Martin Seals
Vice President
RELIANCE HOUSING FOUNDATION, INC.
Office: 954-927-4545, ext. 237
Mobile: 786-863-2442

516 NE 13th Street
Fort Lauderdale, FL 33304

-----Original Message-----

From: Sandra Seals [mailto:sseals@reliancehousing.org]
Sent: Tuesday, November 03, 2009 11:03 AM
To: 'Parnell Joyce'
Cc: 'Samuel Hornsby'; 'Bob Jackson'
Subject: FW: Reliance Progresso Point Project

Hi Parnell,

Good speaking with you.

The attached document was prepared by our Counsel in connection with a NOPSE that we were required to CURE in our recent Tax Credit Application.

In the application for Reliance-Progresso Associates, Ltd, we listed:

Limited Partner of the Applicant at: 99.90% Co-GP of Applicant - Reliance-Progresso, LLC
(.051%) Co-GP of Applicant - Broward Workforce Communities (.049%)

In our tax credit application, we included an Equity Letter from RBC Bank and in that letter, they listed the Limited Partner percentage at 99.99%

FHFC noted this inconsistency. The easiest way to CURE the inconsistency was to amend our Partnership documents to be consistent with the percentage interest shown in the Equity Letter.

Attached are the revised Corporate Docs. Can you please help facilitate getting this document signed as quickly as possible? Thank you.

Let me know if you have any questions.

Sandra Martin Seals
Vice President
RELIANCE HOUSING FOUNDATION, INC.
Office: 954-927-4545, ext. 237
Mobile: 786-863-2442

516 NE 13th Street
Fort Lauderdale, FL 33304

-----Original Message-----

From: Patricia Green [mailto:PGreen@stearnsweaver.com]
Sent: Tuesday, November 03, 2009 8:47 AM
To: 'Sandra Seals'
Cc: Brian McDonough; 'Bob Jackson'; Michael Syme
Subject: RE: Reliance Progresso Point Project

Attached s the amended and restated agreement required to bring the actual percentages of ownership into alignment with the investor letter (99.99% and .01%, LP and GP, respectively, instead of 99.9 and 1%). Please have it signed and e-mail the pages back to me. I'll be sure that each party gets a copy of the other's signature page. Sandra, I am sending this to counsel for the Co-GP but do not have the Co-GP contact info to send it directly to them. Thanks.

-----Original Message-----

From: Sandra Seals [mailto:sseals@reliancehousing.org]
Sent: Monday, November 02, 2009 11:55 AM
To: Patricia Green
Cc: Brian McDonough; 'Bob Jackson'
Subject: RE: Reliance Progresso Point Project

Hi Patty,

I am just checking on the status of this? The CURES are due to FHFC by November 3rd, 2009. We need to have the changes take place prior to the CURES due date.

Thank you.

Sandra Martin Seals
Vice President
RELIANCE HOUSING FOUNDATION, INC.
Office: 954-927-4545, ext. 237
Mobile: 786-863-2442

516 NE 13th Street
Fort Lauderdale, FL 33304

-----Original Message-----

From: Patricia Green [mailto:PGreen@stearnsweaver.com]
Sent: Wednesday, October 28, 2009 4:10 PM
To: 'Sandra Seals'
Cc: Brian McDonough; 'Bob Jackson'

Subject: RE: Reliance Progresso Point Project

I did advise that you will need to amend the entity documents but maybe you did not catch that. I'll have someone work on it tomorrow. However, I was out of the loop when the new Co-GP got brought on board so I will have to see whether we have a proper set of current docs for the entity...not to worry, we'll get it all to match.

-----Original Message-----

From: Sandra Seals [mailto:sseals@reliancehousing.org]
Sent: Wednesday, October 28, 2009 4:04 PM
To: Patricia Green
Cc: Brian McDonough; 'Bob Jackson'
Subject: RE: Reliance Progresso Point Project

Thanks Patty. We know that we definitely need to submit a revised Exhibit 9, because that is the only way to have it match the Equity Letter. However, you did answer the important question for us which is we should amend the entity documents. How quickly can we have the entity documents amended? We are going to submit the revised Exhibit 9 to FHFC on Friday.

Sandra Martin Seals
Vice President
RELIANCE HOUSING FOUNDATION, INC.
Office: 954-927-4545, ext. 237
Mobile: 786-863-2442

516 NE 13th Street
Fort Lauderdale, FL 33304

-----Original Message-----

From: Patricia Green [mailto:PGreen@stearnsweaver.com]
Sent: Wednesday, October 28, 2009 3:57 PM
To: 'Sandra Seals'
Cc: Brian McDonough
Subject: RE: Reliance Progresso Point Project

In my opinion, since you do not want to amend the investor letter, you will need to amend the entity documents so that the interim limited partner has a 99.99% interest, which is what you will eventually need to assign to the investor. Then you should submit a revised Exhibit 9, showing the new percentages. The GP will now have .01% and not .1%

Then your entity documents, Exhibit 9 and equity investor commitment will all be the same. But I do not handle this aspect of applications on any routine basis, so I need Brian to confirm that you can in fact submit a revised Exhibit 9; i.e., that the cure is to make the documents and application match to the investor letter, and not vice-versa.

If Brian concurs we can do the assignment of partnership interest documents for you.

-----Original Message-----

From: Sandra Seals [mailto:sseals@reliancehousing.org]
Sent: Wednesday, October 28, 2009 3:44 PM
To: Patricia Green
Subject: Reliance Progresso Point Project

Hi Patty,

I need your help. We have a little situation. We have submitted the attached Exhibit 9 to FHFC in our recent Progresso Point Tax Credit Application. In the Exhibit, we show the limited partnership interest at 99.90%. Our Equity Letter from RBC Bank shows the limited partnership interest at 99.99% interest. FHFC noticed this discrepancy and asked us to CURE it. As we've proceeded to do so, we noticed that in our Corporate Docs (please see the attached), we show the limited partnership interest at 99.90%. Bob's concern is if anyone finds out (i.e., a competitor) that Exhibit 9 doesn't match this document, we are in trouble. He suggested that I run this dilemma by you. At this stage, we don't want to change the Equity Letter. Should we consider having the Corporate documents changed, or

is there no rush as this point?

Thank you.

Sandra Martin Seals
Vice President
RELIANCE HOUSING FOUNDATION, INC.
Office: 954-927-4545, ext. 237
Mobile: 786-863-2442

516 NE 13th Street
Fort Lauderdale, FL 33304

-----Original Message-----

From: Bob Jackson [mailto:rjackson@reliancehousing.org]
Sent: Wednesday, October 28, 2009 7:54 AM
To: 'Sandra Seals'
Subject: FW: Scanned from MFP-06934592 10/28/2009 07:47

I think we may need to do additional clean up with the Progresso 99.99% issue. Attached are the corporate documents, which all show the 99.9% limited partner share. If anyone checks they may find that we don't have the correct backup.

You should talk with Patty Green to see if we need to amend the documents. SWM can probably do it quickly if it is needed.

Bob

Robert O. Jackson, President
Reliance Housing Foundation

Direct Line: 828-225-3885
Cell: 305-458-1965

North Carolina Regional Office:

20 Battery Park Avenue, Suite 305
Asheville, NC 28804
828-225-6800

Fort Lauderdale Regional Office:

516 NE 13th Street
Fort Lauderdale, FL 33304
954-927-4545

<http://www.reliancehousing.org/>

-----Original Message-----

From: Reliance Asheville e-Studio Copier [mailto:asheville_estudio@reliancehousing.org]
Sent: Wednesday, October 28, 2009 8:47 AM
To: Bob Jackson
Subject: Scanned from MFP-06934592 10/28/2009 07:47

Scanned from MFP-06934592.
Date: 10/28/2009 07:47
Pages:8
Resolution:300x300 DPI

Please do not reply to this email. Because this email been machine generated, our reply will not receive attention.

Notice: My email address has changed. The domain name has changed from swmwas.com to

stearnsweaver.com. Please make a note of it.

CONFIDENTIALITY NOTICE: The information contained in this E-mail message is attorney privileged and confidential information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Thank you.

CIRCULAR 230 DISCLOSURE: To ensure compliance with recently-enacted U.S. Treasury Department Regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including any attachments, is not intended or written by us to be used, and cannot be used, by anyone for the purpose of avoiding federal tax penalties that may be imposed by the federal government or for promoting, marketing or recommending to another party any tax-related matters addressed herein.

Brief Statement of Explanation regarding
Application 2009 – 123C

Provide a separate brief statement for each NOAD

In FHFC's preliminary scoring of the Application, the Corporation determined that the Applicant had a construction and permanent financing shortfall of \$13,211,469. One of the reasons for the financing shortfall is because the equity commitment in Exhibit 56 failed to meet threshold for the following reason:

"The Applicant stated at Exhibit 9 of the Application that the limited partner's interest is 99.90%. However, the equity commitment at Exhibit 56 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing."

The HC equity commitment was not properly cured therefore the Applicant has a construction and permanent financing shortfall and should fail threshold.

Rather than revising their equity commitment, the applicant chose to cure their Application by revising their Exhibit 9 to suggest that the Limited Partner had 99.99% ownership of the limited partnership; the applicant made corresponding reductions in the General Partners' percent of ownership interest on Exhibit 9 (changing the GP ownership splits from .051/.049 to .0051/.0049).

The Applicant included a header on their revised Exhibit 9 which stated that the Applicant's structure was in place "as of August 20, 2009."

A Public Records Request was sent to the Broward County Housing Authority, "BCHA" (an affiliate of the General Partner), asking for any documents on file related to the admission of BCHA's affiliate entities into the Reliance-Progresso Associates, Ltd. partnership, and any subsequent documents that change the percentage of ownership of the General Partner entities. BCHA provided the attached documents, which show that:

1. As of the Application Deadline, the GP interests were .051% and .049%. (See Exhibit 1, the Omnibus Amendment to Reliance-Progresso Associates, Ltd. Limited Partnership Agreement, dated March, 2008).
2. Changes were made to the Applicant Entity after the Application Deadline by Amendment to the Limited Partnership Agreement (See Exhibit 2, dated October 30, 2009). This document acknowledges the existing .051% and .049% GP ownership interests (as of the Application Deadline), and modifies those interests to .0051% and .0049% (after the Application Deadline).

These documents show that Applicant's assertion that the ownership structure set forth in their revised Exhibit 9 were in place "as of August 20, 2009" is simply false. Furthermore, this modification of ownership interest after the Application deadline runs contrary to FHFC's Instructions, which state: "For a Limited Partnership, provide a list, as of Application Deadline [emphasis supplied], of the following: (i)

the Principals of the Applicant, including percentage of ownership interest of each, and (ii) the Principals for each Developer.”

This Applicant has submitted this Application for four years running; in each of those applications – indeed in all eight of the applications submitted by the Applicant’s 51% general partner in the past four years – the limited partner was listed as having a 99.90% ownership interest, NOT 99.99%. In this case, the Applicant would likely prefer to dismiss this inconsistency as a “scrivener’s error” but the fact remains that the applicant made a change in the legal structure of the applicant (a 90% change in the GP ownership interest) after the Application Deadline had passed. Florida Housing’s Instructions provide an explicit list of allowed and disallowed ownership changes, stating: “Changes to the Applicant entity prior to the execution of a Carryover Allocation Agreement or without Board approval prior to the issuance of the Final Housing Credit Allocation Agreement will result in a disqualification from receiving funding and shall be deemed a material misrepresentation.”

For the reasons listed above, the Applicant should fail threshold.