

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

Petitioner,

FHFC Case No.: 2009-061 UC
DOAH Case No. _____

v.

Application No. 2009-257C

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, MCP I, Ltd. ("Petitioner"), pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and Rules 28-106.301, *et. seq.*, and 67-48.005(2), Fla. Admin. Code, hereby challenges the final scoring given to its Application in the 2009 Universal Cycle funding application process. The grounds for this Petition are as follows:

INTRODUCTION

Parties

1. Petitioner is a Florida limited partnership whose address is 580 Village Blvd., Suite 360, West Palm Beach, Florida 33409. For purposes of this proceeding, Petitioner's address is that of its undersigned attorney, J. Stephen Menton, Rutledge, Ecenia & Purnell, P.A., 119 South Monroc Street, Suite 202, Tallahassee, FL 32301, Telephone (850) 681-6788, Facsimile (850) 681-6515, e-mail: smenton@rcuphlaw.com.

2. Petitioner is engaged in the development of affordable housing in this state. Petitioner is a "Developer" as defined in Rule 67-48.002(29), Fla. Admin Code. Petitioner possesses the requisite skill, experience and credit-worthiness to successfully produce affordable

housing. Through its General Partner and affiliated entities, Petitioner regularly submits applications for public financing of affordable housing developments. Petitioner's General Partner and its affiliated entities have successfully completed the construction of numerous affordable housing developments in Florida using funding from programs administered by Respondent, Florida Housing Finance Corporation.

3. The affected agency in this proceeding is the Florida Housing Finance Corporation ("Florida Housing" or "Respondent"). Florida Housing's address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

4. 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. See, Sections 420.501-420.55, Florida Statutes.

5. As discussed in more detail below, 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. This Petition challenges the final scoring and ranking given to the Application by Florida Housing. Unless the final scoring and ranking of the Application is modified, Petitioner will not obtain an allocation of Tax Credits necessary to fund the Model City Plaza development. Thus, Petitioner's substantial interests are subject to determination in this proceeding.

6. Petitioner is unaware of any other individuals and/or entities having an interest in the outcome of these proceedings.

Background

Florida Housing's Programs

7. Florida Housing administers several programs aimed at assisting developers to build affordable housing in an attempt to protect financially marginalized citizens in the state from excessive housing costs. The programs through which Florida Housing allocates resources to fund affordable housing in this state include: a federally funded multi-family mortgage revenue bond program established under Section 420.509, *et. seq.*, Fla. Stat.¹; the State Apartment Incentive Loan Program ("SAIL") created pursuant to Section 420.5087, *et. seq.*, Fla. Stat.²; and the federal low income housing tax credit program (the "Tax Credit Program") established in Florida under the authority of Section 420.5093, Fla. Stat. These funding sources are allocated by Florida Housing to finance the construction or substantial rehabilitation of affordable housing.

Tax Credits

8. 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.

9. Developers who receive an allocation of Tax Credits get the awarded amount every year for ten years.³ The developer will often sell the future stream of tax credits to a

¹ Each year, Florida Housing receives a portion of the state's tax exempt bond allocation, some of which it issues to finance the construction of affordable multi-family rental housing. The tax exempt bond proceeds are loaned to developers to finance the construction of a development. The cash flow generated from rental income pays back those bonds over time.

² SAIL. Funds are primarily available through a portion of documentary stamp tax revenues collected on real estate transactions in Florida. For state fiscal year 2009-2010, the Legislature did not appropriate any money for SAIL due to the state's current budget crisis.

³ 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

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

10. Unlike the proceeds from issuance of bonds where there is debt that has to be paid back over time, a developer who is awarded Tax Credits and syndicates those credits receives cash equity with no debt associated with it. Thus, Tax Credits provide an attractive subsidy and, consequently, are a highly sought after funding source.

11. Florida Housing is the designated agency in Florida to allocate Tax Credits to developers of affordable housing in the state.

The Universal Cycle

12. Florida Housing has historically allocated funding from the Multi-Family Bond, SAIL and Tax Credit Programs through a single annual application process. Since 2002, Florida Housing has administered the three programs through a combined competitive process known as the "Universal Cycle." The Universal Cycle operates like an annual competitive bidding process in which applicants compete against other applicants to be selected for funding.

13. 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.

14. The Universal Cycle and the attendant extensive application review process are intended to equitably and reasonably distribute affordable housing throughout the state.

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. Each year the federal government allocates to every state a specific amount of 9% Tax Credits using a population-based formula. As detailed below, developers in Florida directly compete for an award of 9% credits through the Universal Cycle process. This case relates to Petitioner's Application for 9% Tax Credits in the 2009 Universal Cycle.

15. 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:

- Developers submit applications by a specified date.
- Florida Housing staff reviews all applications to determine if certain threshold requirements are met. 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.
- 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. One of the tiebreakers for the 2009 Universal Cycle is an assessment of the Applicant's "ability to proceed." A copy of the relevant pages from Part III, Section C, Subsection (1) of the 2009 Universal Cycle Application Instructions setting forth the "ability to proceed" tiebreaker is attached as Exhibit A. The final tiebreaker for those applicants that achieve a perfect score and maximum tiebreaker points is a randomly assigned lottery number.

- 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”). 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.”
- After Florida Housing staff has reviewed the NOPSEs, a revised scoring summary (the “NOPSE Scores”) is published.
- 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.
- 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.” Florida Housing staff reviews all of the submitted cures and NOADs and prepares its “final” scoring summary for all applications. 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.

- 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. 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. In the Credit Underwriting process, third party financial consultants (selected by Respondent, but paid for by the individual applicants) determine whether the project proposed in the application is financially sound. The independent third party Credit Underwriter looks at every aspect of the proposed development, including the financing sources, plans and specifications, cost analysis, zoning verification, site control, environmental reports, construction contracts, and engineering and architectural contracts.
- Subsection (10) of Rule 67-48.0072 requires that an appraisal (as defined by the Uniform Standards of Professional Appraisal Practice), and a market study be ordered by the Credit Underwriter at the Applicant’s expense. The Credit Underwriter is required to consider the market study and make a recommendation as to whether to approve or disapprove a funding allocation.

Procedural History and Notice of Agency Decision

16. As indicated above, Petitioner timely submitted its Application in the 2009 Universal Cycle seeking an allocation of Tax Credits for the Model City Plaza development. More than 250 applications were submitted in the 2009 Universal Cycle for the limited funding available.

17. 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 Petitioner'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. A copy of the Local Government Verification Form originally submitted with the Application to confirm site plan/plat approval is attached as Exhibit B.

18. 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. Relevant pages from the NOPSE are attached as Exhibit C. 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. The Local Government Verification Form submitted with the Application included the appropriate local government affirmation that the Petitioner's Model City Plaza development had obtained preliminary or conceptual site plan approval prior to the 2009 Universal Cycle Application Deadline. However, the verification form executed by the local

government included a typographical error with respect to the date of the local government Zoning Board meeting when the site plan approval was obtained.

19. 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. A copy of the relevant page of the NOPSE Scores is attached as Exhibit D.

20. 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. A copy of the relevant pages of the cure submitted by Petitioner is attached as Exhibit E. The "cure" corrected the typographical error on the Local Government Verification Form regarding the date of the meeting when the site plan for Model City Plaza was approved by the local government Zoning Board. The "cure" did not in any way alter or modify the fact that the Petitioner had in fact obtained local government site plan approval for the Model City Plaza development prior to the 2009 Universal Cycle Application Deadline. In other words, the "cure" did not change the underlying facts. The irrefutable fact is that the site plan/plat approval was obtained prior to the Application Deadline. Contrary to the NOPSE Score for the Application, the Application meets the threshold requirement. Thus, the Final Scoring should be corrected to reinstate the conclusion in the Preliminary Scoring that the Application was entitled to 1 full point for the site plan/plat approval element of the ability to proceed tiebreaker because the approval was obtained prior to the Application Deadline.

21. On December 3, 2009, Florida Housing issued its Final Scores and Notice of Rights (the "Final Scoring"), and set December 28, 2009 as the deadline to file petitions

contesting the Final Scoring decisions. A copy of the relevant page of the Final Scoring related to the Application is attached as Exhibit F. Petitioner received notice of the Final Scoring through the publication by Florida Housing on December 3, 2009. This Petition is timely filed in accordance with the Notice.

22. 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. 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. As set forth below, the Application should be awarded a full point for the site plan/plat approval element of the “ability to proceed” tiebreaker because the development received site plan/plat approval prior to the Application Deadline. If the Application is awarded full “ability to proceed” tiebreaker points, it will be scored within the funding range and thus would be entitled to receive an allocation of Tax Credits in the 2009 Universal Cycle. As set forth below, the Corporation’s scoring and ranking of the Application was flawed and the scoring should be corrected to reflect a full point for the site plan/plat approval tiebreaker element.

Scoring Error

23. The 2009 Universal Cycle Application Instructions provide that an Applicant is eligible for tiebreaker points for certain specified “ability to proceed” elements, including site plan/plat approval, infrastructure availability and appropriate zoning. Certain of these issues are

also delineated as “threshold” issues. In other words, if the “threshold” element is not satisfied, the application is not eligible for funding.

24. In this case, the Preliminary Scores reflected that the Application met the threshold requirements for the site plan/plat approval element of the “ability to proceed” tiebreaker. The NOPSE raised an issue as to whether the proposed project had in fact obtained site plan/plat approval. More particularly, the NOPSE alleged that the Miami-Dade County Zoning Board did not hold a meeting on the date listed on the Local Government Verification Form submitted with the Application. However, Petitioner’s proposed Model City Plaza development had in fact obtained the site plan/plat approval prior to the 2009 Universal Cycle Application Deadline. This fact was confirmed by the corrected Local Government Verification Form submitted with the “cure” which corrected the typographical error in the reference to the meeting date on which such approval was obtained. See, Exhibit D attached. There was no additional or subsequent review or approval necessary by the local government. The proposed Model City Plaza development had already obtained all of the necessary approvals. The revised Local Government Verification Form simply corrected the reference to the date of the meeting at which that approval was obtained.

25. Page 30 of the 2009 Universal Cycle Application Instructions sets forth the threshold requirement for site plan/plat approval. That instruction provides:

... The Verification Form must demonstrate that on or before the date that signifies the application deadline for the 2009 Universal Cycle either (1) the final site plan/plat has been approved, (2) the preliminary or conceptual site plan/plan has been approved, or (3) the site plan has been reviewed. [emphasis added]

From this instruction, it is clear that the key factor in order to meet threshold is approval by the Application Deadline.

26. The Application Instructions indicate that an applicant can only obtain 1/2 point for the site plan/plat approval element of the “ability to receive” tiebreaker for successfully curing a threshold failure. A threshold failure would be the absence of site plan/plat approval prior to the Application Deadline. Here, there was never an actual threshold violation, just a typographical error on the form. In other words, there was in fact no threshold failure because Petitioner had the necessary approval prior to the Application Deadline. The “cure” only corrected a typographical error.

27. Only 1/2 point for the “ability to proceed” tiebreaker element is warranted when an applicant waits until the cure period after the Application Deadline to obtain the necessary approvals. In such a circumstance, the applicant has gained an advantage vis-à-vis competitors by waiting to see the preliminary scores and lottery numbers before expending the time and effort to obtain the necessary approvals. However, in the current case, Petitioner already had the necessary approval as of the Application Deadline and the cure simply corrected a typographical error.

28. Failing to award the Application a full point for the site plan/plat approval element of ability to proceed tiebreaker would effectively eliminate Petitioner’s project from the funding range. The failure to award a full point to Petitioner’s Application for the ability to proceed tiebreaker element would effectively elevate form over substance for no material reason. To impose a 1/2 point penalty on the Application under these circumstances would be a reversion to the hyper-technical, formalistic scoring process that Florida Housing has deliberately abandoned.

29. Florida Housing precedents in recent Universal Cycles recognize funding decisions should be based upon the merits of the proposals rather than hyper-technicalities or

typographical errors. Petitioner's Application should not be denied funding for a mere typo that was easily corrected with advantage gained.

30. It is well established in Florida Law that a non-material, minor irregularity in a response submitted during a competitive application process can be disregarded. Harry Pepper & Assoc., Inc. v. City of Cape Coral, 352 So. 2d 1190, 1193 (Fla. 2d DCA 1978); Robinson Electrical Co. v. Dade County, 417 So. 2d 1032 (Fla. 3d DCA 1982). The curing of a non-material, typographical error in an application should not be a basis for eliminating a project from funding.

Disputed Issues of Material Fact and Law

31. Disputed issues of material fact and law exist and entitle Petitioner to a formal administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes. The disputed issues of material fact and law include, but are not limited to, the following:

- a. Whether Petitioner had obtained site plan/plat approval for the Model City Plaza development prior to the Application Deadline;
- b. Whether the Application would be in the funding range if it received 1 point for the site plan/plat plan approval element of the ability to proceed tiebreaker;
- c. Whether Petitioner gained any material advantage as a result of the typographical error in the original Local Government Verification Form and/or the "cure" correcting it;
- d. Whether Florida Housing has previously allowed applicants to correct typographical errors without penalty when the error did not provide any competitive advantage;

e. Such other issues as may be revealed during discovery and the deposition process.

Statutes and Rules Entitling Relief

32. The statutes and rules which are applicable in the case and that require correction of the scoring of the Application to reflect a full point for the site plan/plat approval element of the ability to proceed tiebreaker include, but are not limited to, Sections 120.57(3) and 420.5093, Florida Statutes, and Rules 67-48.0072, 67-48.004 and 67-48.005, Fla. Admin Code.

Coneise Statement of Ultimate Fact and Law, Including the Specific Facts Warranting Reversal of Agency's Intended Action

33. The Final Scoring of the Application should include 1 full point for the tiebreaker category "ability to proceed." Petitioner obtained site plan/plat approval for its proposed development prior to the Application Deadline and should not be penalized for a typographical error as to the meeting date referenced in the Local Government Verification Form.

CONCLUSION

WHEREFORE, pursuant to Section 120.569 and 120.57, Florida Statutes, and Rules 28-110.004 and 67-48.005, Florida Administrative Code, Petitioner requests the following relief:

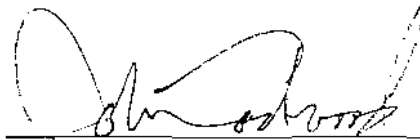
a) That the matter be referred to the Division of Administrative Hearings for a formal hearing to be conducted before an Administrative Law Judge pursuant to Sections 120.57(1) and (3), Florida Statutes.

b) That Recommended and Final Orders be entered concluding that the Application was entitled to a full point for the site plan/plat approval element of the ability to proceed tiebreaker and that the Application should be ranked in the funding range for the 2009 Universal Cycle.

c) That the Application is entitled to an award of Tax Credits as a result of its position in the funding range for the 2009 Universal Cycle.

d) Such further relief as may deemed necessary and appropriate.

RESPECTFULLY SUBMITTED this 28th day of December 2009.



J. Stephen Menfon

Fla. Bar No. 331181

John M. Lockwood

Fla. Bar No. 028056

Rutledge, Ecenia & Purnell, P.A.

119 South Monroe Street, Suite 202

Tallahassee, Florida 32301

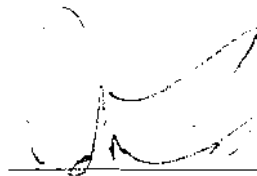
(850) 681-6788

(850) 681-6515 (facsimile)

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this original has been hand delivered to the Agency Clerk, Florida Housing Finance Corporation, and a copy to Wellington Meffert, General Counsel, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000 Tallahassee, Florida 32301; this 28th day of December 2009.



Attorney

- Low VOC paint (less than 50 grams per gallon) in all units and common areas
- Reduced Heat-Island Effect paving (use light colored or porous paving materials)
- Energy Star rating for all refrigerators, dishwashers and washing machines that are provided by the Applicant
- Energy Star rating for all windows in each unit
- Carpet and Rug Institute Green Label certified carpet and pad for all carpeting provided
- Florida Yards and Neighborhood certification on all landscaping
- Install daylight sensors or timers on all outdoor lighting

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 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	1/2
Availability of Electricity	1	0	1/2
Availability of Water	1	0	1/2
Availability of Sewer	1	0	1/2
Availability of Roads	1	0	1/2
Appropriately Zoned	1	0	1/2
Total Available Tie-Breaker Points	6	0	3



For example, at preliminary scoring Application A passes threshold for all of the Infrastructure elements and zoning, but fails threshold for site plan approval. The Application is eligible for 5 Ability to Proceed tie-breaker points (1 point each for electricity, water, sewer, roads and zoning). At NOPSE scoring it is determined that Application A's water verification form is incomplete, so the Application fails threshold for water and the 1 point for water (awarded during preliminary scoring) is deducted, leaving the Application with 4 Ability to Proceed tie-breaker points. During the cure period, the Applicant successfully cures the site plan and water threshold failures, resulting in the Application meeting threshold for all of these Ability to Proceed elements and achieving a total of 5 Ability to Proceed tie-breaker points (the 4 points achieved at NOPSE scoring, plus ½ point for site plan approval and ½ point for water achieved during the cure period).

1. Status of Site Plan Approval or Plat Approval (Threshold)

To achieve threshold, the Applicant must provide the applicable Local Government verification form, properly completed and executed, behind a tab labeled "Exhibit 26". If the proposed Development involves any new construction work or involves rehabilitation work that requires additional site plan approval or similar process or additional plat approval, the verification form must demonstrate that on or before the date that signifies the Application Deadline for the 2009 Universal Cycle either (1) the final site plan/plat plan has been approved, (2) the preliminary or conceptual site plan/plat plan has been approved, or (3) the site plan has been reviewed. Site plan approval or plat approval, as applicable, must be demonstrated for all sites if the proposed Development consists of Scattered Sites.

a. Site Plan Approval for Multifamily Developments

- (1) If the final site plan has been approved, the verification form reflecting an approval date that is on or before the Application Deadline must be provided.
- (2) If the jurisdiction provides either preliminary or conceptual site plan approval and the preliminary or conceptual site plan has been approved, the verification form reflecting an approval date that is on or before the Application Deadline must be provided.
- (3) If the jurisdiction provides neither preliminary nor conceptual site plan approval, nor any other similar process prior to issuing final site plan approval, the verification form reflecting a review date that is on or before the Application Deadline must be provided.
- (4) If the Development is rehabilitation without any new construction and does not require additional site plan approval or similar process, the verification form reflecting this must be provided.

b. Plat Approval for Single-Family Rental Developments

- (1) If the final plat has been approved, the verification form reflecting an approval date that is on or before the Application Deadline must be provided.
- (2) If the preliminary or conceptual plat has been approved, the verification form reflecting an approval date that is on or before the Application Deadline must be provided.
- (3) If the Development is rehabilitation without any new construction and does not require additional plat approval, the verification form reflecting this must be provided.

2. Evidence of Site Control (Threshold)

To achieve threshold, the Applicant must demonstrate site control by providing the documentation required in Section a., b. or c. as indicated below. The required documentation, including any attachments or exhibits referenced in any document, must be attached to that document regardless of whether that attachment or exhibit has been provided as an attachment or exhibit to another document or whether the information is provided elsewhere in the Application or has been previously provided. Such documentation, including any attachments or exhibits, must be provided behind a tab labeled “**Exhibit 27**”. Site control must be demonstrated for all sites if the proposed Development consists of Scattered Sites. A legal description of the Development site must be provided behind a tab labeled “**Exhibit 27**”.

- a. Provide a Qualified Contract - For purposes of the Universal Application, a qualified contract is one that has a term that does not expire before the last expected closing date of October 31, 2009 or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date not earlier than October 31, 2009; specifically states that the buyer’s remedy for default on the part of the seller includes or is specific performance; and the buyer **MUST** be the Applicant unless a fully executed assignment of the qualified contract which assigns all of the buyer’s rights, title and interests in the qualified contract to the Applicant, is provided. If the owner of the subject property is not a party to the qualified contract, all documents evidencing intermediate contracts, agreements, assignments, options, or conveyances of any kind between or among the owner, the Applicant, or other parties, must contain every exhibit and attachment referenced therein, and must contain the following elements of a qualified contract: (i) have a term that does not expire before the last expected closing date of October 31, 2009 or contain extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date not earlier than October 31, 2009, and (ii) specifically state that the buyer’s remedy for default on the part of the seller includes or is specific performance.

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

Name of Development: Model City Plaza
740 NW 71st Street, Miami, FL 33150

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: 100
(Part III.A.6 of 2009 Universal Cycle Application)

Zoning Designation: R-3 and C-2

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 _____
(Legally Authorized Body*) 01 07/09/2009
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 Zoning Board 01 07/09/2009
(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 _____
(Legally Authorized Body*) 01 07/09/2009
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. Applicants 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.

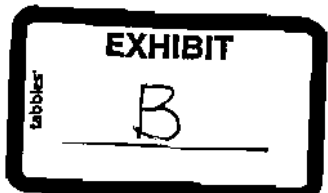
CERTIFICATION

I certify that the City/County of Miami 01 07/09/2009
(Name of City or County) Date (mm/dd/yyyy)** 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.

Lourdes Slazyk
Signature
8/19/09

Lourdes Slazyk
Print or Type Name
Zoning Administrator
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.



Brief Statement of Explanation regarding
Application No. 2009 – 257C

Provide a separate brief statement for each NOPSE

Part III.C.2, Exhibit 26

The Verification of Status of Site Plan Approval form was not properly completed by the Applicant, and therefore the Applicant should fail threshold and not earn an Ability to Proceed tie-breaker point.

Subpart (2) of the form states that "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 Zoning Board on 07/09/2009."

However, no record exists of the Zoning Board meeting on 07/09/2009 according to the public records of the City of Miami. These public records can be accessed by following this link: <http://www.miamigov.com/cms/> (click the link the "Legislative Hub" within the "Your Government" box – this brings you to Legistar). Once on Legistar, select "Meetings and Events" from the top menu, and then the month in question. Or, please see Exhibit A to this NOPSE, which is the public calendar for the month of July 2009 showing no Zoning Board meeting. Finally, the City of Miami Hearing Boards confirms that no Zoning Board meeting occurred on 07/09/2009 (please see exhibit B to this NOPSE).

Furthermore, the only Zoning Board meeting in the month of July 2009 was on 7/13/2009, but no evidence of site plan approval for the development exists within the minutes of the meeting (attached hereto as Exhibit B of this NOPSE – please note these minutes are publicly available using the website URL above).

Since there is no evidence of a Zoning Board resolution on the date specified by the Applicant, this form was not properly and completely filled out, and therefore the application should fail threshold and not earn one tie-breaker point for Ability to Proceed.



City of Miami

City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com



Meeting Minutes

Monday, July 13, 2009

7:00 PM

Miami City Hall

Zoning Board

Mr. Juvenal Pina, Chairperson
Mr. Charles Garavaglia, Vice Chair
Mr. Ron Cordon, Member
Mr. Angel Urquiola, Member
Mr. Bret Berlin, Member
Mr. Cornelius Silver, Member
Ms. Reana Hernandez-Acosta, Member
Mr. Lazaro J. Lopez, Member
Mr. Miguel Gabela, Member
Mr. Richard Tapia, Alternate Member

Present: Member Urquiola, Vice Chairperson Garavaglia, Member Hernandez-Acosta,
Chairperson Pine, Member Lopez, Member Gabela and Alternate Member Tapia
Absent: Member Cordon, Member Berlin and Member Shiver.

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES

SWEARING IN OF PUBLIC

AGENDA ITEMS (RESOLUTIONS)

2009 Universal Application Cyc
 HC and HC/HOME NOPSE Scores R
 (Subject to Further Certification and Ve

Application File Number	Name of Development*	Name of Developer(s)*	County*	County Size	Urban In-Fill Development*	HOPE VI Development*	FP or NP*	Set-Aside Units	Set-Aside Location A*
2009-249C	Boggy Creek Townhomes	Atlantic Housing Partners, L.L.P., Housing and Neighborhood Development Services of, Centra	Osceola	M	N	N	NP	50	N
2009-250C	Oakland Preserve	OP - Better Communities Development, LLC, ,	Broward	L	Y	N	NP	78	N
2009-251C	Jazz Village I	UDG V, LLC, .	Miami-Dade	L	Y	N	FP	72	N
2009-252C	Hope Haven	Picernie Affordable Development, LLC, The Village of Orlando, Inc.,	Orange	L	Y	N	NP	104	N
2009-253C	Altamonte Gardens	Eastwind Development, LLC, NuRock Development Group, Inc., Florida Real Estate Foundation, Inc.	Seminole	M	Y	N	NP	106	N
2009-254C	Riverbend Pointe	Eastwind Development, LLC, NuRock Development Group, Inc.,	Broward	L	Y	N	FP	140	N
2009-255C	Town Park Crossing	Eastwind Development, LLC, NuRock Development Group, Inc.,	Broward	L	Y	N	FP	100	N
2009-256C	Brickell View Terrace	East Little Havana Community Development Corporat, Wifredo Gort, Principal of Developer/Director, F	Miami-Dade	L	Y	N	NP	119	N
2009-257C	Model City Plaza	The Richman Group of Florida, Inc., Model City Plaza, LLC, Rebuilding Together Miami - Dade, Inc.	Miami-Dade	L	Y	N	NP	100	N
2009-258C	Colonial Lakes Apartments	The Richman Group of Florida, Inc.	Palm Beach	L	Y	N	FP	120	N
2009-259C	Bellair Place Apartments II	The Richman Group of Florida, Inc	Pinellas	L	Y	N	FP	144	N
2009-260C	East Lake Apartments	The Richman Group of Florida, Inc., ,	Broward	L	Y	N	FP	88	N
2009-261C	Fort King Colony Apartments	The Richman Group of Florida, Inc., Corporation to Develop Communities of Tampa, Inc.,	Pasco	M	N	N	NP	120	N

FP = For Profit, NP = Non-Profit, E = Eldery, F = Family, FF = Farm/Fish, H = Homeless, P = Preservation, FK = Florida Keys, RF = R

2009 CURE FORM

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

This Cure Form is being submitted with regard to **Application No. 2009-257C** and pertains to:

Part III Section C Subsection I Exhibit No. 26 (if applicable)

The attached information is submitted in response to the 2009 Universal Scoring Summary Report because:

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

	2009 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____S	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Ability to Proceed Score Not Maxed	Item No. ____A	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. 2T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. ____C	<input type="checkbox"/>	<input type="checkbox"/>

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

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



Brief Statement of Explanation regarding
Application 2009 – 257C

Provide a separate brief statement for each Cure

In response to NOPSE scoring Item #2T, the Applicant is submitting the Local Government Verification of Status of Site Plan Approval. The submitted NOPSE did not dispute the status of the site plan approval, only the meeting date. The Zoning Administrator's signature confirms that the preliminary or conceptual site plan was approved by the Zoning Board on 7-9-2007. The Applicant has corrected the scrivener error affecting one digit of the year on the verification form. The Applicant should now pass threshold for this item.

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

Name of Development: Model City Plaza
740 NW 71st Street, Miami, FL 33150

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, corner designated intersection and city.)

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

Total Number of Units in Development: 100
(Part III.A.6. of 2009 Universal Cycle Application)

Zoning Designation: R-3 and C-2

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 Zoning Board on 07/09/2007.
(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 _____.
(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 Miami 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)

Lourdes Slaryk
 Signature

Lourdes Slaryk
 Print or Type Name
Zoning Administrator
 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 signatures. 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. This certification may be photocopied.

2009 Universal Application Cycle
 HC and HC/HOME Final Scores Report
 (Subject to Further Certification and Verification)

12/4/09

Application File Number	Competitive HC Request Amount	HOME Request Amount	Total of Other Corporation Funds*	Corporation Funding Per Set-Aside	Demographic Commitment	Designation Selection	Total Development Cost*	Development Cost*	CHDO*	Final Scores							Lottery Numbers	
										As of Final Scores - Withdrawn?	Threshold Met	Priority I/II Classifications	Score Groups	Total Score	A/B Leveraging**	Proximity Score		Ability To Proceed Score
2009-249C	953,000.00		N/A	109,957.14	F	None	11,145,253.00	8,401,081.00		N	Y	I	1	70	A	7.50	6	97
2009-250C	1,260,000.00		N/A	93,191.54	F	None	13,373,359.00	11,296,093.00		N	Y	I	1	70	A	7.50	6	115
2009-251C	1,200,988.00		N/A	75,539.89	E	None	10,914,966.00	9,409,454.00		N	N	I	1	70	A	7.50	3	145
2009-252C	1,998,550.00		N/A	110,801.87	E	None	19,352,436.00	15,857,933.00		N	N	I	1	70	A	3.75	6	100
2009-253C	1,476,814.00		N/A	80,374.91	F	None	16,006,730.00	12,172,625.00		N	N	II	2	65	A	7.50	5	57
2009-254C	2,561,000.00		N/A	82,842.22	F	None	29,126,423.00	21,094,874.00		N	N	II	2	66.89	A	7.50	6	22
2009-255C	1,735,993.00		N/A	100,149.44	F	None	19,528,710.00	14,230,382.00		N	N	II	3	47	A	0.00	0	56
2009-256C	2,561,000.00		N/A	78,217.46	F	None	32,522,632.00	22,864,338.00	Y	N	N	I	1	70	A	5.25	6	31
2009-257C	2,541,000.00		N/A	92,351.88	F	None	25,448,866.00	19,481,781.00		N	Y	I	1	70	A	7.50	5.5	18
2009-258C	1,740,490.00		N/A	83,674.06	F	None	19,442,945.00	13,588,745.00		N	Y	I	1	70	A	7.50	6	131
2009-259C	1,660,000.00		N/A	66,503.75	F	None	18,702,490.00	13,019,388.00		N	Y	I	1	70	A	7.50	6	144
2009-260C	1,300,000.00		N/A	85,223.86	F	None	15,689,239.00	11,068,311.00		N	N	II	2	65	A	7.50	6	83
2009-261C	1,503,270.00		N/A	72,269.71	F	None	16,157,811.00	12,222,251.00		N	Y	I	1	70	A	7.50	6	24

EXHIBIT

11

FP = For Profit, NP = Non-Profit, E = Eldery, F = Family, FF = Farm/Fish, H = Homeless, P = Preservation, FK = Florida Keys, RF = Rural Development 514/516, R = Rural Development 515