

BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING
FINANCE CORPORATION

THE LOFTS AT TARPON RIVER,
LLC, as Applicant for The Lofts at
Tarpon River - Application No. 2011-
119C; and HTG FORT LAUDERDALE,
LLC, as Applicant for Village Place -
Application No. 2011-105C,
Petitioners,

Application Nos. 2011-185C
2011-191C

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

FHFC File No: 2012-035UC

Respondent.

_____/

**PETITION REQUESTING FORMAL ADMINISTRATIVE PROCEEDING
AND THE GRANT OF THE RELIEF REQUESTED**

Pursuant to §§120.569 and 120.57(1), Florida Statutes (“FS”), Rule 67-48.005, Florida Administrative Code (“F.A.C.”) and Rule 28-106.201, F.A.C., Petitioners THE LOFTS AT TARPON RIVER, LLC, as Applicant for The Lofts at Tarpon River - Application No. 2011-119C, and HTG FORT LAUDERDALE, LLC, as Applicant for Village Place - Application No. 2011-105C (“Petitioners”) request a formal administrative proceeding to challenge the scoring by Respondent, FLORIDA HOUSING FINANCE CORPORATION (“FHFC”) of two competing applications for funding in the 2011 Universal Cycle: Northwest Gardens II, Application No. 2011-185C; and Northwest Gardens IV, Application No. 2011-191C (sometimes referred to individually as “Applicant” or collectively as “Applicants”). The scoring issue being challenged with respect to each of the Applicants is whether each Applicant’s application was eligible for the Proximity Tie-Breaker Tier 1 Score Boost (the “Boost”) under Part III.A.2.e. of the 2011 Universal Application Instructions (“Instructions”) governing the 2011

Universal Application Cycle. FHFC incorrectly determined that each of the Applicant's applications were eligible for the Boost, resulting in an increase in each Applicant's proximity tie-breaker point total. Those determinations resulted in FHFC improperly denying each of the Petitioners requested federal tax credit funding. In support of this Petition, Petitioners state as follows:

PARTIES

1. The name and address of the agency affected by this action are:

Florida Housing Finance Corporation
City Center Building, Suite 5000
227 N. Bronough Street
Tallahassee, Florida 32301-1329

2. The address and telephone number of the Petitioners are:

The Lofts at Tarpon River, LLC
c/o Pinnacle Housing Group, LLC
9400 South Dadeland Blvd., Suite 100
Miami, FL 33156
Telephone: (305) 854-7100

HTG Fort Lauderdale, LLC
c/o Housing Trust Group, LLC
3225 Aviation Avenue, Suite 602
Coconut Grove, FL 33133
Telephone: (305) 860-8188

3. The name, address, telephone number, fax number and e-mail address of the Petitioners' attorney, which shall be the Petitioners' address for service purposes during the course of this proceeding, is:

Gary J. Cohen, Esq.
Shutts & Bowen, LLP
201 S. Biscayne Blvd., Ste. 1500
Miami, Florida 33131
Telephone No. (305) 347-7308
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**STATEMENT OF WHEN AND HOW
THE PETITIONERS RECEIVED NOTICE OF THE AGENCY DECISION**

4. On or about June 8, 2012, Petitioners received formal notice from FHFC of the final rankings and scores, along with notice of their rights under Chapter 120 to challenge them. This Petition is timely filed in response to that notice.

STATEMENT OF MATERIAL FACTS

5. The legal issue in this case is whether FHFC erred in allowing the Boost to Applicants, notwithstanding numerous Notices of Possible Scoring Error (“NOPSE’s”) and Notices of Alleged Deficiencies (“NOAD’s”) filed against the Applicants. There are disputed issues of material fact as to whether the development sites proposed by each of the Applicants were encumbered with an existing Declaration of Trust (“DOT”) between a Public Housing Authority (“PHA”) and U.S. Department of Housing and Urban Development (“HUD”), as is required in order to be eligible for the Boost. In order to clarify these issues, it is important to set out the factual background and legal framework for this challenge at the outset.

The Low-Income Housing Tax Credit Program

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code (“IRC”), by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder’s federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

7. The tax credits allocated annually to each state are awarded by state “housing credit agencies” to single-purpose applicant entities created by real estate developers to construct and operate specific multi-family housing projects. The applicant entity then sells this ten-year

stream of tax credits, typically to a “syndicator,” with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at below-market-rate rents that are affordable to low-income and very-low-income tenants.

8. Pursuant to section 420.5099, Florida Statutes, FHFC is the designated “housing credit agency” for the State of Florida and administers Florida’s low-income housing tax credit program. Through this program, FHFC allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing.¹

The 2011 Universal Application Cycle

9. Because FHFC’s available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, FHFC has established a competitive application process pursuant to Chapter 67-48, F.A.C. As set forth in Rules 67-48.002-.005, F.A.C., FHFC’s application process for 2011 consisted of the following:

- (a) the publication and adoption by rule of a “Universal Application Package,” which applicants use to apply for a variety of FHFC-administered funding programs, including federal tax credits;
- (b) the completion and submission of applications by developers;
- (c) FHFC’s preliminary scoring of applications;

¹FHFC is a public corporation created by law in section 420.504, Florida Statutes, to provide and promote the financing of affordable housing and related facilities in Florida. FHFC is an “agency” as defined in section 120.52(1), Florida Statutes, and is therefore subject to the provisions of Chapter 120, Florida Statutes.

(d) an initial round of administrative challenges in which an applicant may take issue with FHFC's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");

(e) FHFC's consideration of the NOPSE's submitted, with notice to applicants of any resulting change in their scores;

(f) an opportunity for the applicant to submit additional materials to FHFC 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) FHFC's consideration of the NOAD's submitted, with notice to applicants of any resulting change in their scores;

(i) an opportunity for an applicant to challenge, via informal or formal administrative proceedings, FHFC's evaluation of any item in their own application for which the applicant received less than the maximum score;

(j) final scores, ranking, and allocation of tax credit funding to applicants, adopted through final orders; and

(k) an opportunity for applicants to challenge, via informal or formal administrative proceedings, FHFC's final scoring and ranking of competing applications where such scoring and ranking resulted in a denial of FHFC funding to the challenger.²

²This Petition initiates such a challenge. Notably, if successful in such a challenge, FHFC funding is not taken away from the competing applicant who was scored or ranked in error and given to the challenger. Instead, the competing applicant keeps its funding, and the challenger receives its requested funding "off-the-top" from the next available source of such funds allocated to FHFC. Rule 67-48.005(7), F.A.C.

CONCISE STATEMENT OF THE ULTIMATE FACTS WARRANTING RELIEF

10. On or about December 6, 2011, numerous applications were submitted to FHFC seeking tax credit and HOME funding. Petitioner The Lofts at Tarpon River, LLC (Application No. 2011-119C) applied for \$2,561,000 in annual tax credits to help finance its project, a 100-unit apartment complex in Fort Lauderdale, Florida. Petitioner HTG Fort Lauderdale, LLC (Application No. 2011-105C) applied for \$2,300,000.00 in annual tax credits to help finance its project, a 111-unit apartment complex also located in Fort Lauderdale, Florida.

11. At its June 8, 2012 meeting, FHFC's Board adopted final scores and rankings. Each of Petitioner's projects met all of FHFC's threshold application requirements, and received the maximum application scores of 79 points. All of Petitioners' applications competed for tax credits in the Non-Preservation Set-Aside.³ As between competing applicants in the Non-Preservation Set-Aside with "perfect" scores of 79 total points and 6 ability to proceed tie-breaker points, the next tie-breaker (subject to the Set-Aside Unit Limitation rules described below) is that the applicant with the greater amount of proximity tie-breaker points ("Proximity Points") prevails.

12. Petitioner The Lofts at Tarpon River, LLC ("Lofts") received 33.75 Proximity Points, which would have resulted in it being the highest ranked Broward County application, but for the higher Proximity Points erroneously awarded to each of the Applicants (34.25 in each case), both of whose applications involved Broward County sites. By virtue of application of the "Set-Aside Unit Limitation" rules, Petitioner Lofts could not be funded due to the existence of

³Aside from applicants proposing projects targeted to specific tenant populations (e.g., the Homeless) or located in specific areas (e.g., the Florida Keys), applicants generally compete against each other for funding within two specified categories (Preservation and Non-Preservation) based on the nature of the proposed development (Preservation involves the rehabilitation of certain HUD assisted projects and Non-Preservation involves all applications not participating in the Preservation Set-Aside).

the two higher ranked Applicants in Broward County.⁴ But for FHFC's erroneous scoring of the Applicant, Petitioner Lofts would have been the highest ranked Broward County applicant and would have been funded.

13. Petitioner Village Place (Application No. 2011-105C) received 33.25 Proximity Points, which would have resulted in it being the second highest ranked Broward County application, but for FHFC's erroneous award of 34.25 Proximity Points to the same two developments referenced above (Northwest Gardens II and Northwest Gardens IV). By virtue of application of the SAUL rules described above, Petitioners Lofts and Village Place could not be funded due to the existence of the two higher-ranked Applicants in Broward County, since the Broward County SAUL limit was met by the Applicants. Had FHFC correctly scored the applications of the Applicant, Petitioners Lofts and Village Place would have been funded instead of Applicants Northwest Gardens II and Northwest Gardens IV, since the Proximity Points which should have been awarded to those two Applicants would have been less than those awarded to Petitioners Lofts and Village Place. Had FHFC not erroneously scored the Proximity Points for Applicants Northwest Gardens II and Northwest Gardens IV, there would have been sufficient funding remaining in the Non-Preservation Set-Aside to fund Petitioners Lofts and Village Place, and the SAUL rules would have permitted such funding.

14. If FHFC had not improperly scored the two applications identified above, each of the Petitioners would have received its requested tax credit funding. Each Petitioner's substantial interests are therefore materially and adversely affected by FHFC's improper actions, and each of Petitioners has standing to challenge those actions in this proceeding.

⁴In an effort to distribute its available tax credits across the state, FHFC uses a Set-Aside Unit Limitation ("SAUL") that restricts the number of units it will fund in any given county. Thus, an application ranked higher than applications in other counties may nonetheless be skipped over for funding if the SAUL for its county has been met under FHFC's rules.

15. FHFC should have found that, with respect to the scoring of Proximity Points for each of the Applicants, the Boost was not available. Such finding would have resulted in Applicant Northwest Gardens II receiving 31.75 Proximity Points, and Applicant Northwest Gardens IV receiving 32.25 Proximity Points. Page 17 of the Instructions (Part III.A.2.e.) clearly requires that, in order to be eligible to receive the Boost, "...that there is an existing Declaration of Trust between the PHA and HUD for the proposed Development site." (emphasis added) Each Applicant submitted as a "scattered site" development, consisting of numerous parcels some of which are non-contiguous. In neither case are all of the parcels comprising the scattered site development encumbered by a DOT between HUD and a PHA. As such, the requirements for eligibility for the Boost (as set forth on page 17 of the Instructions) have not been met, and the Boost should not have been awarded. An award of the correct amount of Proximity Points without the Boost (31.75 for Northwest Gardens II and 32.25 for Northwest Gardens IV) would have resulted in each of those two applications falling out of the funding range for tax credits. As a result, each of the Petitioners would have been within the funding range for an award of low-income housing credits.

Chronology of the Case

16. Each Applicant answered "Yes" to the question in Part III.A.2.e. ("Does the Application involve a site with an existing Declaration of Trust between a Public Housing Authority and HUD?") of its Universal Application. The Universal Application states (immediately after the above-referenced question) as follows: "If 'Yes', to be eligible for the Proximity Tie-Breaker Tier I Score Boost the Applicant must meet the criteria outlined in Part IIIA.2.e. of the Instructions and provide the required documentation behind the tab labeled Exhibit 20". The preliminary scoring for each Applicant (evidenced by the Preliminary Scoring Summary Report to each Applicant issued on or about January 19, 2012) awarded Proximity

Points to each Applicant indicating that the Boost had been applied. As is explained more fully below, the eligibility criteria for the Boost were not met and the Boost was erroneously applied.

17. Each application submitted by the Applicants was then subject to one or more NOPSE challenges (including NOPSE challenges submitted by both of the Petitioners), asserting that the development proposed by each Applicant was not entitled to the Boost. In the NOPSE Scoring Summary Report issued on or about February 22, 2012 by FHFC for each Applicant, FHFC determined that each Applicant was entitled to the Boost, as no reduction in Proximity Points resulted after consideration of the aforementioned NOPSE's.

18. On or about February 29, 2012, each of the Applicants submitted "cure" documentation. Each Applicant submitted, as part of its "cure" documentation, a revised Exhibit 25 (Surveyor Certification for Competitive HC Application). Exhibit 25 indicates the location of an applicant's "tie-breaker measurement point" ("TMP") (which must, per FHFC instructions in a scattered site development, be located on that scattered site which will contain the most units in the proposed development), and also the location of the various services with respect to which Proximity Points are awarded (transit services; Tier 1 services (grocery store, medical facility, senior center (for elderly deals), and public school (for non-elderly deals); must select three of the four services) and Tier 2 services (public park, community center, pharmacy and public library)) by virtue of their proximity to the TMP. In each instance, each of the Applicants repositioned its TMP in its cure documentation to a location different from that contained in the Exhibit 25 submitted as part of its original application on or about December 6, 2011. In each instance, the Applicant specifically requested an increase in Proximity Points attributable to the distance between the repositioned TMP and the bus stop, public park, community center and pharmacy listed on the revised Exhibit 25.

19. On or about March 6, 2012, various competitors in the Universal Cycle (including one or both of the Petitioners) filed NOAD's against the cure documentation filed by each of the two Applicants. Several of the NOAD's (including those submitted by Petitioners) once again contended that neither of the Applicants were entitled to the Boost, for reasons set forth more fully later in this Petition.

20. On or about March 27, 2012, FHFC issued final scores and notices of rights. With respect to the final Scoring Summary Reports issued to each of the Applicants, FHFC made the identical finding that each Applicant was entitled to receive the Boost with respect to its Proximity Points, as once again (as was the case with respect to the NOPSE's referenced above), no reduction in Proximity Points resulted after consideration of the NOAD's. In fact, the Proximity Points for each of the Applicants were increased from 33.00 to 34.25, awarding an additional 1.25 Proximity Points as a result of repositioning the TMP to a location closer to the aforementioned services (.5 increase for bus stop, .25 increase for public park, .25 increase for community center, and .25 increase for pharmacy). As is evidenced by the attached Final Scoring Summary Reports for each Applicant (Exhibit "A"), without the Boost Northwest Gardens II would have been entitled to 9.5 (out of a possible 12) Proximity Points for Tier I Services, and Northwest Gardens IV would have been entitled to 10 (out of a possible 12) Proximity Points attributable to Tier I Services. Had the Boost not been granted, Northwest Gardens II would have suffered a 2.50 point reduction in total Proximity Points (to 31.75 total Proximity Points), and Northwest Gardens IV would have suffered a 2.00 point reduction in total Proximity Points (to 32.25 total Proximity Points). These amounts would have been less than the total Proximity Points awarded to each of the Petitioners and, as a result, each of the Petitioners would have been funded but for FHFC's erroneous award of the Boost to each of the Applicants.

21. At the June 8, 2012 FHFC Board meeting, the FHFC Board approved all final Scoring Summary Reports and approved final rankings for the 2011 Universal Cycle. As a result of its adoption of the final Scoring Summary Reports, each of the two Applicants fell within the funding range for tax credits, and each of the Petitioners (as a direct result of the Board's actions in approving such final Scoring Summary Reports) fell outside the funding range.

22. FHFC did not provide an explanation for its rejection of the NOPSE's and NOAD's referenced herein (pertaining to eligibility of each of the Applicants to receive the Boost), nor did FHFC provide any rationale for its conclusion that each of the Applicants were entitled to the Boost (notwithstanding that the requirements of Part III.A.2.e of the Instructions were clearly not met).

23. One must surmise that FHFC determined that the aforementioned Instructions (setting forth criteria for eligibility for the Boost) (a) did not require that the Declaration of Trust ("DOT") between a PHA and HUD apply to and encumber each of the scattered sites comprising each of the Applicant's scattered site developments, and (b) did not require that the TMP (utilized for purposes of determining proximity of various services and correspondingly awarding Proximity Points) be located on a scattered site covered or encumbered by a DOT. As was clearly set forth in the aforementioned NOPSE's and NOAD's, the repositioned TMP's (submitted as part of the cure documentation of each Applicant) were each located on a "scattered site" parcel which was not encumbered by a DOT.

Eligibility for Boost

24. Under Part III.A.10. of the Universal Cycle Application ("Application") and Instructions, an Applicant is eligible to receive up to a maximum of 37 Proximity Points, arrived at by reference to the distance between the location of the TMP on the proposed development site and certain listed services. In a Scattered Site development, the TMP must be located on the

scattered site parcel on which the most residential units (of any of the scattered site parcels) are located. Up to 7 Proximity Points are available for proximity of the TMP to transit services, up to 12 Proximity Points are available for proximity of the TMP to Tier 1 Services, up to 8 Proximity Points are available for proximity of the TMP to Tier 2 Services, and up to 10 Proximity Points are available for proximity (or lack thereof) of the TMP to other FHFC funded developments located on the FHFC Development Proximity List.

25. In order to receive the maximum 12 Proximity Points available for proximity of the TMP to Tier 1 Services, an applicant's TMP must be located within .25 miles of the three selected Tier 1 Services (grocery store, medical facility, senior center (for elderly developments) and public school (for non-elderly developments)) (4 Proximity Points maximum for each of the three services selected). If the TMP is located more than .25 miles from a Tier 1 Service, a lower amount of Proximity Points are awarded. However, if the criteria for receiving the Boost are met, then an applicant's total Tier 1 Proximity Points are multiplied by 1.5, up to the maximum Tier 1 score of 12 points. Thus, an applicant which is eligible for the Boost only needs to be entitled to receive (without the Boost) eight (8) Proximity Points for Tier 1 Services in order to be awarded (after application of the Boost) the maximum Tier 1 Score of 12 Proximity Points ($8 \times 1.5 = 12$). Northwest Gardens II was entitled to receive (before application of the Boost) 9.5 Tier 1 Proximity Points and Northwest Gardens IV was entitled to receive (before application of the Boost) 10 Tier 1 Proximity Points. After application of the Boost, each was awarded the maximum 12 Proximity Points. Absent a determination of eligibility for the Boost, neither Northwest Gardens II nor Northwest Gardens IV would have received the maximum 12 Proximity Points for Tier 1 Services.

26. With respect to each of the Applicant's scattered site developments, the DOT's in question do not apply to, cover or encumber all of the scattered site parcels comprising each scattered site development. In Northwest Gardens II, only the two of the six scattered site parcels (containing only 18 of the proposed 128 units) were encumbered by a DOT. Furthermore, the TMP for each application is located on a scattered site parcel which is not covered or encumbered by a DOT. See Exhibit "B". Assuming the foregoing to be accurate, the sole issue in this case is, given the preceding facts, whether either Applicant is entitled to the Boost.

27. Part III.A.2.e. sets forth the criteria for eligibility for the Boost. Subsection (2) of that Instruction specifically provides as follows:

Provide, behind the tab labeled "Exhibit 20", a letter from the PHA dated within 12 months of the Application Deadline and signed by the Executive Director or Chairman of the Board, certifying that there is an existing Declaration of Trust between the PHA and HUD for the proposed Development site." (Emphasis added).

28. Based upon a clear and logical reading of the Instruction in question, and after consideration of FHFC's intent in providing for the Boost (new for the first time in the 2011 Universal Cycle), and also based upon the definition of "Scattered Site" development per Rule 67-48.002(105) F.A.C., it is clear that eligibility for the Boost requires that the DOT apply to, cover and encumber the entire proposed Development site (and all the scattered site parcels such Development is comprised of), and not just a portion thereof.

"For the Proposed Development Site"

29. This issue is a matter of first impression, since FHFC added provisions pertaining to the Boost for the first time in the 2011 Universal Application Cycle. However, FHFC's intent in offering a scoring boost for development sites with respect to which a Declaration of Trust exists between a PHA and HUD is clear. FHFC (in formulating its rule for the 2011 Universal

Application Cycle) understood that PHA sites encumbered with Declarations of Trust are frequently located in areas which will not score well with respect to proximity to Tier 1 Services. Since a high total Proximity Point score is required in order to win the tax credits (this year, the cut-off for funding in the Non-Preservation set-aside was 33.25 Proximity Points), FHFC realized that in order for these “PHA sites” to be competitive, a scoring advantage/boost was necessary. As such, FHFC determined to award the Boost to such sites, provided they were encumbered by a Declaration of Trust.

30. To allow an applicant (such as each of the Applicants) to submit an application for a Scattered Site development and select a site upon which to place its TMP which is not encumbered with a Declaration of Trust, and then to allow such applicant (such as each of the Applicants) to combine such unencumbered site with other scattered sites (at least one of which is encumbered with a DOT) is to allow such applicant to “game the system,” and to subvert and frustrate FHFC’s clear intent in providing for the Boost, and should not be allowed. For example, an applicant could locate a site which (by itself) scores less than the maximum amount of 12 Tier 1 Proximity Points, place 99 residential units and the TMP on such site, and then locate a separate non-contiguous .2 acre site (encumbered with a DOT) upon which one residential unit will be placed. The applicant could then submit the two sites as a scattered site development, and claim eligibility for the Boost. Based on FHFC’s scoring of the Applicant, it appears that FHFC would score such an outrageous application as eligible for the Boost.

31. With respect to each of the Applicants, the scattered site parcel upon which the most units and the TMP is located is not encumbered by a DOT. See materials attached as Exhibit “B”. With respect to Northwest Gardens II, only two of the six scattered sites are encumbered by a DOT, and the TMP is located on the largest parcel, which is not encumbered

by a DOT. Similarly, in Northwest Gardens IV, not all of the four scattered sites are encumbered by a DOT, and the largest site (upon which the TMP and the most units are located) is not encumbered by a DOT.

32. Page 17 of the Instructions requires, in order to be eligible for the Boost, that a letter from the PHA be provided certifying that there is an existing DOT between the PHA and HUD “for the proposed Development site”. Attached as Exhibit “C” are the letters provided by the PHA for each Applicant. Please note that in the first paragraph of each letter, the PHA Executive Director states that there is a DOT (or DOT’s) “...on the site for the proposed Development referenced above (see attached for location).” This statement (in each letter, which letter is a prerequisite to eligibility for the Boost) is factually inaccurate. The “site for the proposed development” referenced in each PHA letter is described in the attachment to the letter, which attachment lists all of the scattered site parcels (six (6) for Northwest Gardens II and four (4) for Northwest Gardens IV). As is evidenced in Exhibit “B”, the DOT’s referenced in each application in fact do not encumber the site described in the attachment (which described site is comprised of all the parcels) to the letter, but rather only certain of the scattered site parcels comprising a portion of the development site described in the attached letter. As such, the letters are factually inaccurate and should be disregarded, and as a result the Boost should not have been applied.

33. Rule 67-48.002(105), F.A.C. defines “scattered sites” as follows:

“As applied to a single Development, means a Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, a “Scattered Site”).” (Emphasis added).

34. When a proposed development is a “Scattered Site Development,” the “Development site” cannot be read to mean a portion or part of the “Development site”. Rule

67-48.002(105), F.A.C. requires that Development site to be taken as a whole; i.e., each Scattered Site comprises a portion of the entire proposed Development site. Therefore, references in the Instructions to the “proposed Development site” must mean and include each scattered site parcel which comprises the proposed Development site of a Scattered Site development.

35. Pages 18 and 19 of the Instructions sets forth the criteria which must be met in order for an applicant to apply as a “TOD” (Transit Oriented Development). Part III.A.2.h. of the Instructions (pages 18 and 19) provide that, in order to qualify as a TOD, the applicant must (if the proposed development will consist of Scattered Sites) “... indicate which of the Scattered Sites is at least partially located within the designated TOD area...” FHFC specifically provided, in the context of a Scattered Site development applying for TOD status, that only a portion of the proposed Development site (i.e. some but not all of the Scattered Site parcels) was required to satisfy eligibility requirements. Contrast that with the Instructions at Part III.A.2.e.(2) (Page 17 of the Instructions), wherein no such directive or instruction from FHFC exists with respect to Scattered Site Developments seeking the Boost. The contrast is striking and evident; FHFC in its Instructions specifies in this instance (a Scattered Site Development seeking TOD status) that only a portion or part of the Scattered Site Development is necessary to satisfy eligibility criteria. In the absence of the above-described specific directive or instruction, where the Instructions require that a DOT exist “for the proposed Development site” in a Scattered Site context, it is clear that the DOT must exist for the entire Development site, including all of the Scattered Site parcels comprising the entire Development site.

36. The factual scenario in the instant case is not dissimilar to that in FHFC Case No. 2010-009UC (Oak Ridge Estates, LLC and Avery Glen, LLC v. Florida Housing Finance

Corporation). That case involved the issue of whether competitors' sites (divided by utility easements) constituted Scattered Site Developments. The Rule in question (Rule 67-48.002(106), F.A.C., adopted for the 2009 Universal Cycle) defined a "Scattered Site" Development as "...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")." (Emphasis added) In that case, FHFC ultimately determined (reversing its original scoring of such application in an agreed final order with such competing applicants) that such sites did not constitute Scattered Site Developments. Petitioners Oak Ridge Estates, LLC and Avery Glen, LLC filed a post-final rank petition, alleging that the agreed final order in favor of the other applicants (concluding that the development sites in question were not Scattered Sites) was erroneous, in view of the literal language of the Rule. Ultimately, FHFC entered into a consent agreement with the Petitioners Oak Ridge Estates, LLC and Avery Glen, LLC. The Consent Agreement (see attached Exhibit "D") stated that, while awarding tax credit funds (pursuant to the agreed final order) to the challenged applications was "fair, reasonable and proper under the particular facts and circumstances involved", FHFC recognized that their action in approving the agreed final orders in those cases was inconsistent with the manner in which such applications should have been scored based on the literal language in the Rule definition and effectively forced petitioners Oak Ridge Estates and Avery Glen out of funding range. FHFC (in the Consent Agreement with petitioners Oak Ridge Estates, LLC and Avery Glen, LLC) agreed that the ranking of the Oak Ridge Estates and Avery Glen applications should not be adversely impacted as a result of FHFC's determination (in the agreed final order with the competitors), and awarded credits to each of the petitioners. A similar result should apply in this case.

37. In the instant case, FHFC's determination that a DOT need not encumber all of the scattered sites comprising a proposed Development site in order to receive the Boost (in response to numerous NOPSE's and NOAD's filed on the issue) resulted in each of the Petitioners not being funded. The clear intent and correct reading of page 17 of the Instructions (pertaining to eligibility for the Boost) mandates a finding that Petitioners' arguments herein should be accepted. Petitioners should not be adversely impacted as a result of FHFC's determination (contrary to FHFC's intent in formulating the Boost concept) that a Declaration of Trust need not encumber all of the scattered sites comprising a Development site in order to be eligible for the Boost. This is particularly true when the site upon which the TMP is located in a Scattered Site Development (that is, the site upon which the greatest number of units are located and which it is arguably the most important scattered site parcel in the Development) is not encumbered by a Declaration of Trust. See, for example, Exhibit 25 and page 17 of the Instructions, each of which provide in part that "if the Development consists of scattered sites, a part of the boundary of each scattered site must be located within one-half mile of the scattered site with the most units". See also page 47 of the Instructions, providing that "... if the proposed Development will consist of Scattered Sites, to be eligible for points (for construction features and amenities), the applicant must commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16th mile from the Scattered Site with the most units, or a combination of both." (Emphasis added) The TMP must be located on the site with the most units (see footnote 1 to Exhibit 25). Clearly, FHFC attaches paramount importance, in a Scattered Site Development, to the scattered site upon which the TMP is located (that is, the site with the most units). To allow the Boost to be awarded to a Scattered Site

Development wherein the site upon which the TMP is located is not encumbered with the Declaration of Trust would be clearly contrary to FHFC's intent.

38. Thus, to be consistent with the definition of "Scattered Sites", in the context of a Scattered Site Development seeking to be awarded the Boost, FHFC must find (in order for a Scattered Site development to be eligible for the Boost) that each of the scattered site parcels comprising the entire development must be encumbered a Declaration of Trust (including the scattered site upon which the TMP is located).

STATEMENT OF THE SPECIFIC RULES AND STATUTES WARRANTING RELIEF

39. The scoring issue being challenged with respect to each of the Applicants is whether each Applicant's development was entitled to the Boost. FHFC incorrectly determined that each Applicant's application was entitled to receive the Boost.

40. Those determinations resulted in FHFC improperly denying each of the Petitioners requested federal tax credit funding.

41. By rule, FHFC has sought to limit the types of scoring errors that an applicant may challenge via Chapter 120 proceedings. FHFC's rule in this regard, Rule 67-48.005(5)(b), states as follows:

For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-48.004(6).

42. The error in scoring in this case involves an issue the cure to which was not solely within the control of the Applicants. As discussed herein, without the Boost, Applicants'

Proximity Points would have decreased and they would not have been in the funding range. The cure is not within the control of the Applicants since they could not, at the relevant stage of the Universal Cycle's competitive process, have changed the identification of the real estate over which it had site control to contain only scattered sites encumbered by a Declaration of Trust. Therefore, it would have been impossible for any of the Applicants to "cure" the defect of mischaracterizing their developments as eligible for the Boost and remain in the funding range.

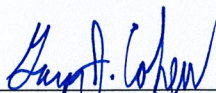
RELIEF SOUGHT BY PETITIONERS

43. The specific action which each Petitioner seeks is a determination that each of the Applicants should not have been entitled to the Boost with respect to their Proximity Points, and as a result of such error each of the Applicants would have fallen outside of the funding range by virtue of receiving fewer Proximity Points than either of the Petitioners. Petitioners further request FHFC to determine that, but for the error by FHFC in determining that the Applicants were entitled to the Boost, each of Petitioners' applications would have been allocated tax credits in the 2011 Universal Cycle. Finally, Petitioners request FHFC to provide the allocation requested by each Petitioner in its 2011 Universal Cycle application from the next available allocation of low income housing tax credits.

WHEREFORE, Petitioners request the following:

- (a) FHFC award each Petitioner its requested tax credits from the next available allocation;
- (b) FHFC enter a final order awarding each Petitioner its requested tax credits; and
- (c) each Petitioner be granted such other and further relief as may be deemed just and proper.

Respectfully submitted on this 2nd day of July, 2012.

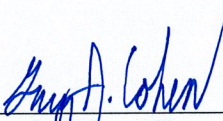
By:  _____

GARY J. COHEN, ESQ.
Florida Bar No. 353302
Shutts & Bowen LLP
201 S. Biscayne Boulevard
1500 Miami Center
Miami, Florida 33131
(305) 347-7308 (telephone)
(305) 347-7808 (facsimile)

Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a true and correct copy of the foregoing document were served via Federal Express to the **CORPORATION CLERK**, Florida Housing Finance Corporation, 227 N. Bronough Street, City Center Building, Suite 5000, Tallahassee, Florida, 32301-1329, on this 2nd day of July, 2012.



Gary J. Cohen, Esq.

EXHIBIT A

FINAL SCORING SUMMARY REPORTS

Scoring Summary Report

File #: 2011-185C Development Name: Northwest Gardens II

As of: 06/08/2012

	Maximum Points/Eligibility	Preliminary	NOPSE	Final	Final Ranking
Met Threshold	Y/N	N	N	Y	Y
Total Points	79	79.00	79.00	79.00	79.00
Ability to Proceed Tie-Breaker Points	6	6.00	4.00	6.00	6.00
Proximity Tie-Breaker Points	37	33.00	33.00	34.25	34.25
Eligible for 1/8th Mile Ranking Preference	Y/N	N	N	N	N
Eligible for Age of Development Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Concrete Construction Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Florida General Contractor Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
RA Level Classification (preference given to the lowest RA Level Classification)	1 - 6	5	5	5	5

Scores:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
Developer									
1S	II.	B.	1.c.	Housing Credit Development Experience	3.00	3.00	3.00	3.00	3.00
Construction Features and Amenities									
2S	III.	B.	3.a.	Optional - NC & Rehab. Units	9.00	9.00	9.00	9.00	9.00
3S	III.	B.	3.b.	Optional - All Developments Except SRO	12.00	12.00	12.00	12.00	12.00
3S	III.	B.	3.c.	Optional - SRO Developments	12.00	0.00	0.00	0.00	0.00
4S	III.	B.	3.d.	Optional - Universal Design & Visitability	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.a.(1)	Green Building Features (NC & Redev.)	7.00	0.00	0.00	0.00	0.00
5S	III.	B.	5.a.(2)	Green Building Certification (NC & Redev.)	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.b.	Green Building Features (Rehab. & Preserv.)	10.00	0.00	0.00	0.00	0.00
Set-Aside Commitments									
6S	III.	E.	1.b.(2)	Special Needs Households	4.00	4.00	4.00	4.00	4.00
7S	III.	E.	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	3.00
8S	III.	E.	3.	Affordability Period	5.00	5.00	5.00	5.00	5.00
Resident Programs									
9S	III.	F.	1.	Programs for Non-Elderly & Non-Homeless	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	2.	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	3.	Programs for Elderly	6.00	6.00	6.00	6.00	6.00
10S	III.	F.	4.	Programs for All Applicants	8.00	8.00	8.00	8.00	8.00
Local Government Contributions									
11S	IV.	A.		Contributions	5.00	5.00	5.00	5.00	5.00
Local Government Incentives									
12S	IV.	B.		Incentives	4.00	4.00	4.00	4.00	4.00

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V.	B.		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$15,223,864.	Preliminary	NOPSE
2T	V.	B.		Permanent Analysis	The Applicant has a permanent financing shortfall of \$18,023,864.	Preliminary	NOPSE

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
3T	V.	D.	2.	HC Equity	The Applicant provided an equity commitment reflecting an annual Housing Credit allocation amount of \$2,306,568. However, because the Applicant only requested an annual allocation of \$2,170,036 at Part V.A. (1) of the Application, the equity commitment was not considered a source of financing.	Preliminary	Final
4T	V.	D.	2.	HC Equity	The Applicant provided an equity commitment from Raymond James Tax Credit Funds, Inc. The stated amount to be paid for each Housing Credit dollar being purchased is inconsistent with the stated amount of equity to be provided. Because of this inconsistency the HC Equity could not be used as a source of financing.	Preliminary	Final
5T	V.	D.	1.	Non-Corporation Funding	The Applicant submitted a Local Government Verification of Contribution - Loan form from Broward County. However, the commitment form is not effective through at least September 7, 2012 (a date that is nine (9) months after the Application Deadline). Therefore the loan commitment was not considered a source of financing.	Preliminary	Final
6T	III.	C.	4.	Zoning	Information provided by a NOPSE included a Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form for the proposed Development, signed by Greg Brewton, that was obtained from the City of Fort Lauderdale which reflects a zoning designation of RMM-25, RM-15, RC-15. This information is inconsistent with the Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form, signed by Greg Brewton, that is included in the Application, which reflects a zoning designation of RMM-25.	NOPSE	Final
7T	III.	C.	1.	Site Plan Approval/Plat Approval	The inconsistent zoning designation information on the Local Government Verification that Development is Consistent with Zoning and Land Use Regulations forms (see Item 6T above), calls into question whether the zoning designation reflected on the Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (RMM-25) is correct.	NOPSE	Final
8T	V.	B.		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$15,223,814.	NOPSE	Final
9T	V.	B.		Permanent Analysis	The Applicant has a permanent financing shortfall of \$18,023,814.	NOPSE	Final

Ability To Proceed Tie-Breaker Points:

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

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 7T above.	NOPSE	Final
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 6T above.	NOPSE	Final

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
Transit Services									
1P	III.	A.	10.a	Public Bus Stop	2.00	0.00	0.00	0.00	0.00
1P	III.	A.	10.a	Public Bus Transfer Stop or Public Bus Transit Stop	6.00	5.00	5.00	5.50	5.50
1P	III.	A.	10.a	Public Rail Station	7.00	0.00	0.00	0.00	0.00
Tier 1 Services									
2P	III.	A.	10.a	Grocery Store	4.00	3.00	3.00	3.50	3.50
3P	III.	A.	10.a	Public School	4.00	0.00	0.00	0.00	0.00
3P	III.	A.	10.a	Senior Center	4.00	3.00	3.00	3.00	3.00
4P	III.	A.	10.a	Medical Facility	4.00	3.00	3.00	3.00	3.00
Eligible for Tier 1 Service Score Boost (Yes/No)							Y	Y	Y
Total Tier 1 Service Score					12.00	12.00	12.00	12.00	12.00
Tier 2 Services									
5P	III.	A.	10.a	Public Park	2.00	1.75	1.75	2.00	2.00
6P	III.	A.	10.a	Community Center	2.00	1.75	1.75	2.00	2.00
7P	III.	A.	10.a	Pharmacy	2.00	1.50	1.50	1.75	1.75
8P	III.	A.	10.a	Public Library	2.00	1.00	1.00	1.00	1.00
FHFC Proximity List									
9P	III.	A.	10.b	Proximity to Developments on FHFC Development Proximity List	10.00	10.00	10.00	10.00	10.00

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III.	A.	10.b.	Proximity to Developments on FHFC Development Proximity List	The Application qualifies for 10 automatic proximity points at Part III.A.10.b.(1) of the Application.	Preliminary	
2C	V.	B.		Pro Forma	The loan commitment provided states a loan commitment fee of 1% of both the construction and permanent loan amounts. However, the amounts listed on the proforma for loan origination fees exceed these amounts. Therefore, the Total Development Cost was reduced by \$50.	NOPSE	

Scoring Summary Report

File #: 2011-191C Development Name: Northwest Gardens IV

As of: 06/08/2012

	Maximum Points/Eligibility	Preliminary	NOPSE	Final	Final Ranking
Met Threshold	Y/N	Y	N	Y	Y
Total Points	79	79.00	79.00	79.00	79.00
Ability to Proceed Tie-Breaker Points	6	6.00	4.00	6.00	6.00
Proximity Tie-Breaker Points	37	33.00	33.00	34.25	34.25
Eligible for 1/8th Mile Ranking Preference	Y/N	N	N	N	N
Eligible for Age of Development Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Concrete Construction Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Florida General Contractor Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
RA Level Classification (preference given to the lowest RA Level Classification)	1 - 6	5	5	5	5

Scores:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
Developer									
1S	II.	B.	1.c.	Housing Credit Development Experience	3.00	3.00	3.00	3.00	3.00
Construction Features and Amenities									
2S	III.	B.	3.a.	Optional - NC & Rehab. Units	9.00	9.00	9.00	9.00	9.00
3S	III.	B.	3.b.	Optional - All Developments Except SRO	12.00	12.00	12.00	12.00	12.00
3S	III.	B.	3.c.	Optional - SRO Developments	12.00	0.00	0.00	0.00	0.00
4S	III.	B.	3.d.	Optional - Universal Design & Visitability	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.a.(1)	Green Building Features (NC & Redev.)	7.00	0.00	0.00	0.00	0.00
5S	III.	B.	5.a.(2)	Green Building Certification (NC & Redev.)	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.b.	Green Building Features (Rehab. & Preserv.)	10.00	0.00	0.00	0.00	0.00
Set-Aside Commitments									
6S	III.	E.	1.b.(2)	Special Needs Households	4.00	4.00	4.00	4.00	4.00
7S	III.	E.	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	3.00
8S	III.	E.	3.	Affordability Period	5.00	5.00	5.00	5.00	5.00
Resident Programs									
9S	III.	F.	1.	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	6.00
9S	III.	F.	2.	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	3.	Programs for Elderly	6.00	0.00	0.00	0.00	0.00
10S	III.	F.	4.	Programs for All Applicants	8.00	8.00	8.00	8.00	8.00
Local Government Contributions									
11S	IV.	A.		Contributions	5.00	5.00	5.00	5.00	5.00
Local Government Incentives									
12S	IV.	B.		Incentives	4.00	4.00	4.00	4.00	4.00

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	III.	C.	4.	Zoning	Information provided by a NOPSE included a Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form, signed by Greg Brewton, that was obtained from the City of Fort Lauderdale which reflects a zoning designation of RMM-25, RM-15, RC-15. This information is inconsistent with the zoning designation listed on the Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form, signed by Greg Brewton that is included in the Application, which reflects a zoning designation of RMM-25, RM-15.	NOPSE	Final
2T	III.	C.	1.	Site Plan Approval/Plat Approval	The inconsistent zoning designation information on the Local Government Verification that Development is Consistent with Zoning and Land Use Regulations forms (see Item 1T above), calls into question whether the zoning designation reflected on the Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (RMM-25, RM-15) is correct.	NOPSE	Final

Ability To Proceed Tie-Breaker Points:

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

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 above.	NOPSE	Final
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use approval. See Item 1T above.	NOPSE	Final

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
Transit Services									
1P	III.	A.	10.a	Public Bus Stop	2.00	0.00	0.00	0.00	0.00
1P	III.	A.	10.a	Public Bus Transfer Stop or Public Bus Transit Stop	6.00	5.00	5.00	5.50	5.50
1P	III.	A.	10.a	Public Rail Station	7.00	0.00	0.00	0.00	0.00
Tier 1 Services									
2P	III.	A.	10.a	Grocery Store	4.00	3.00	3.00	3.50	3.50
3P	III.	A.	10.a	Public School	4.00	3.50	3.50	4.00	4.00
3P	III.	A.	10.a	Senior Center	4.00	0.00	0.00	0.00	0.00
4P	III.	A.	10.a	Medical Facility	4.00	3.00	3.00	2.50	2.50
Eligible for Tier 1 Service Score Boost (Yes/No)						Y	Y	Y	Y
Total Tier 1 Service Score					12.00	12.00	12.00	12.00	12.00
Tier 2 Services									
5P	III.	A.	10.a	Public Park	2.00	1.75	1.75	2.00	2.00
6P	III.	A.	10.a	Community Center	2.00	1.75	1.75	2.00	2.00
7P	III.	A.	10.a	Pharmacy	2.00	1.50	1.50	1.75	1.75
8P	III.	A.	10.a	Public Library	2.00	1.00	1.00	1.00	1.00
FHFC Proximity List									
9P	III.	A.	10.b	Proximity to Developments on FHFC Development Proximity List	10.00	10.00	10.00	10.00	10.00

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	V.	D.	1.	Non-Corporation Funding	The Applicant provided The Local Government Verification of Contribution - Loan form behind Exhibit 38. Because the commitment is not effective through September 7, 2012 (a date that is nine (9) months after the Application Deadline), it cannot be considered a source of financing. However, this did not result in any financing shortfalls because the Applicant has sufficient other financing sources.	Preliminary	
2C	III.	A.	10.b.	Proximity to Developments on FHFC Development Proximity List	The Application qualifies for 10 automatic proximity points at Part III.A.10.b.(1) of the Application.	Preliminary	

EXHIBIT B
SITE INFORMATION

NORTHWEST GARDENS II

NW Gardens II

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

TMP site

File No.: 1062-2672163

Prepared For: Becker and Polliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

*765 NW 12 Ave
NW Gardens II*

Legal Description:

The East 215 feet of Lot 25 and strip 70 feet wide lying East of and adjacent to said Lot 25, all in Block "A", of Citrus Park Farms, according to the Plat thereof, as recorded in Plat Book 1, Page 138, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Fort Lauderdale, by virtue of Warranty Deed recorded in Book 7787, Page 381; by virtue of Quit Claim Deed recorded in Book 7787, Page 385; by virtue of Quit Claim Deed recorded in Book 10466, Page 596; and by virtue of Special Warranty Deed recorded in Book 29905, page 815.

2. Encumbrances/Matters Affecting Title (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

() Exhibit Attached (X) Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Easement	1949	616
Resolution	2184	259
Quit Claim Deed	5298	768
Warranty Deed	5298	769
Quit Claim Deed	5298	770

no Deed of Trust

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 504204-02-0100 for tax year 2011

Gross Tax: \$ 0.00 (No Taxes Due for 2011) Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): None

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from July 10, 1960 to January 10, 2012 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

A handwritten signature in cursive script that reads "John T. LaJole".

John T. LaJole, as Vice President

Dated: 01/20/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672169

Prepared For: Becker and Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

1050 NW
7th St

Legal Description:

Lots 1, 2, 3, 46, 47, 48 Block 331 of the Townsite of Progresso, according to the Plat thereof recorded in Plat Book 2, Page 18, of the Public Records of Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Fort Lauderdale, by virtue of Warranty Deed recorded in OR Book 9482, Page 484, of the Public Records of Broward County, Florida.

2. **Encumbrances/Matters Affecting Title** (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

Exhibit Attached Exhibit Not Attached

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Resolution	2209	320
Resolution	3746	670
<u>Declaration of Trust</u>	<u>10049</u>	<u>348</u>
Ordinance	30387	534

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title are are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 19234-07-8750 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 Paid Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from May 15, 1980 to December 30, 2011 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

John T. LaJole, as Vice President

Dated: 01/17/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672176

Prepared For: Becker and Pollakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

713 WW
10th Terrace

Legal Description:

Lot 17, Less N1/2, 18, 19 Block 274 of Progresso, according to the Plat thereof, recorded in Plat Book 2, Page 18, of the Public records of Dade County, Florida, said lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the city of Fort Lauderdale, by virtue of Warranty Deed recorded in OR Book 27121, Page 496, of the Public Records of Broward County, Florida.

2. Encumbrances/Matters Affecting Title (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary));

Exhibit Attached Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Resolution	2209	320
Resolution	3746	670
Mortgage	28437	523

No Deed of Trust

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 19234-06-7440 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 () Paid () Not Paid.

Unpaid Taxes for Prior Years (If none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from November 2, 1981 to December 30, 2011 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

A handwritten signature in cursive script, reading "John T. LaJole", is written over a horizontal dotted line.

John T. LaJole, as Vice President

Dated: 01/17/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672182

Prepared For: Becker and Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

741 NW 18th
Terrace

Legal Description:

Lots 3, 4 and 5, Block 274, of Progresso, according to the Plat thereof as recorded in Plat Book 2, Page 18, Public Records of Dade County, Florida, said lands lying, situate and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Ft Lauderdale, by virtue of Warranty Deed recorded in OR Book 27667, Page 715, of the Public Records of Broward County, Florida.

2. **Encumbrances/Matters Affecting Title** (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

(X) Exhibit Attached () Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Resolution	2209	320
Resolution	3746	670

no Bell of
Trust

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 19234-06-7360 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 () Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from May 15, 1980 to December 30, 2011 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

John T. LaJoie, as Vice President

Dated: 01/17/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672208

Prepared For: Becker and Pollakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

720 NW 10th
Terrace

Legal Description:

Lots 34 to 36 Block 275 of Progresso, according to the Plat thereof, recorded in Plat Book 2, Page 18, of the Public Records of Dade County, Florida, said lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Fort Lauderdale, by virtue of Warranty Deed recorded in OR Book 27121, Page 496, of the Public Records of Broward County, Florida.

2. Encumbrances/Matters Affecting Title (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

(X) Exhibit Attached () Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Resolution	2209	320
Resolution	3746	670

No Decl. of Trust

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not Included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 19234-06-7920 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 () Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from November 2, 1981 to December 30, 2011 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

A handwritten signature in cursive script, reading "John T. LaJole", is written over a background of small dots.

John T. LaJole, as Vice President

Dated: 01/17/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672225

Prepared For: Becker and Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

015 NW
11th Avenue

Legal Description:

Lots 14, 15, 16, 17 and 18, in Block 332 of Progresso, according to the Plat thereof at Plat Book 2, Page 18, Records of Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Fort Lauderdale, by virtue of Warranty Deed recorded in OR Book 10569, Page 790, of the Public Records of Broward County, Florida.

2. **Encumbrances/Matters Affecting Title** (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

(X) Exhibit Attached () Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Resolution	2209	320
Resolution	3746	670
<u>Declaration of Trust</u>	<u>10049</u>	<u>348</u>
Amendment to Declaration of Trust	11035	645
Amendment to Declaration of Trust	11208	342
<u>Declaration of Trust</u>	<u>18855</u>	<u>377</u>

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 19234-07-9030 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 () Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from December 20, 1982 to December 30, 2011 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

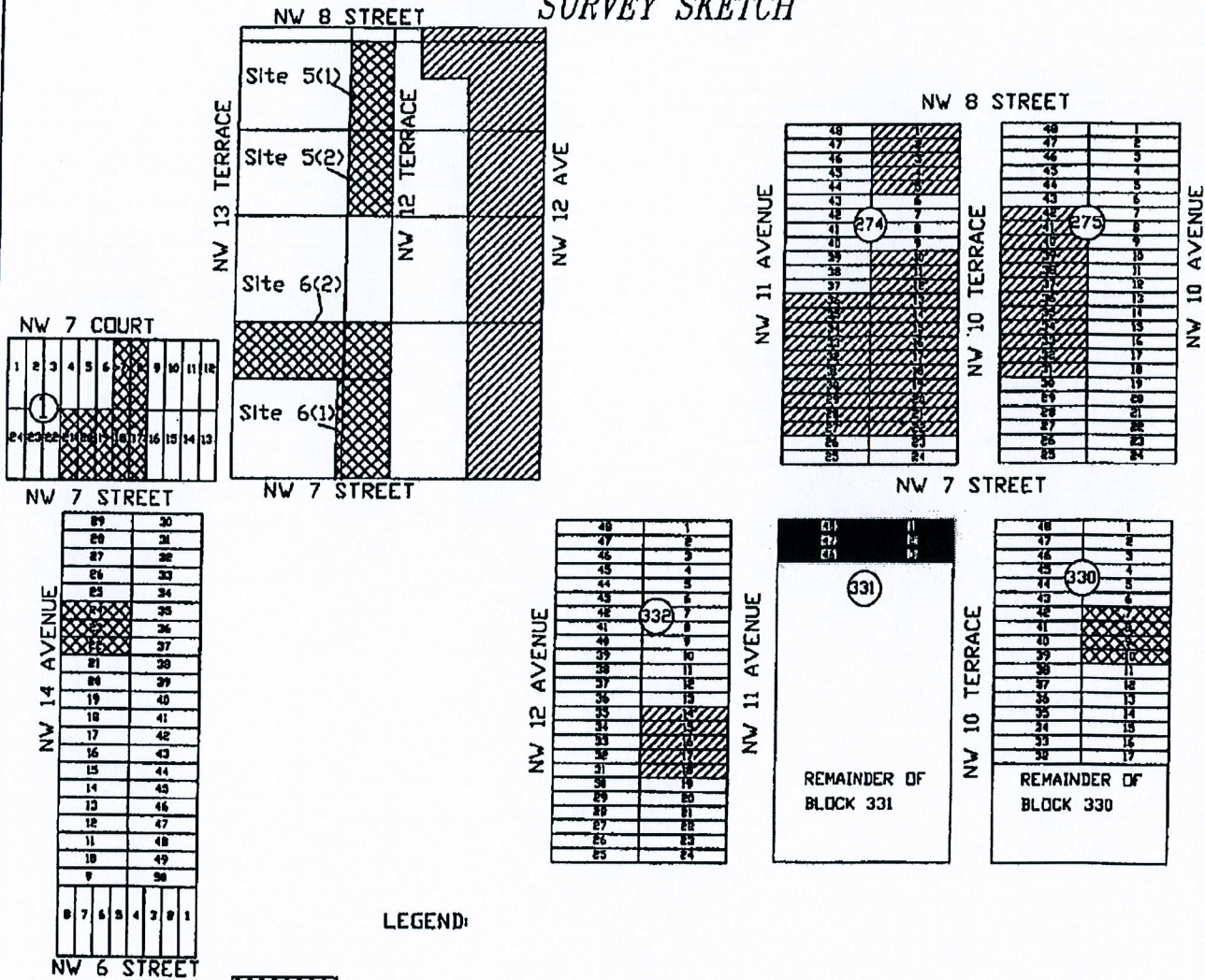


John T. LaJoie, as Vice President

Dated: 01/17/2012

NW Gardens II

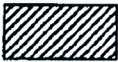
SURVEY SKETCH



LEGEND:



Property described in OR Book 10049, Page 349 Description



Property described in Exhibit 'A' Legal Description



Property described in both OR Book 10049, Page 349 and Exhibit 'A' Legal Description



Schwabke-Shiskin & Associates, Inc.
 LAND SURVEYORS • ENGINEERS • LAND PLANNERS • SOILS

3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025

TEL: BROWARD: (954) 435-7070 FAX: (954) 438-3288

THIS IS NOT A "LAND SURVEY." DATE: January 25, 2012

ORDER NO. 199570

SHEET 1 OF 3 SHEET(S) F.B.: N.A.

JOSE L. SAMPAY, P.S.M.
 PROFESSIONAL SURVEYOR AND MAPPER
 STATE OF FLORIDA #5636

(LB-87)

NORTHWEST GARDENS IV

First American Title Insurance Company

Ownership and Encumbrance Report

Temp Site

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672231

Prepared For: Becker and Pollakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

*781 NW 12 Sunrise
NW Gardens IV*

Legal Description:

The South 127.5 feet of the North 147.5 feet of Lot 25, less the West 159 feet and less the East 215 feet of Lot 25, in Block "A", of Citrus Park Farms, according to the Plat thereof, as recorded in Plat Book 1, Page 138, of the Public Records of Dade County, Florida; saids lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

The Housing Authority of the City of Fort Lauderdale, by virtue of Warranty Deed recorded in Book 9482, Page 469.

2. Encumbrances/Matters Affecting Title (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

Exhibit Attached Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Easement	1999	359
Resolution	2184	259

A

no Decl. of Trust
4.478 acres

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (x) are () are not Included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 504204-02-0060 for tax year 2011

Gross Tax: \$ 0.00 (NO TAXES DUE FOR THE YEAR OF 2011) Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): NONE

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from January 29, 1960 to January 10, 2011 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

A handwritten signature in cursive script, reading "John T. LaJoie". The signature is written in black ink on a light-colored background.

John T. LaJoie, as Vice President

Dated: 01/20/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672242

Prepared For: Becker and Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

NW Gardens/V

705 NW 12th St

Legal Description:

(Intersection of NW 7th St & NW 12th Terrace)

The East 75 feet of the West 225 feet of the South 140 feet of Lot 25, and the North 80 feet of the South 220 feet of the West 225 feet of Lot 25, in Block "A", of Citrus Park Farms, according to the Plat thereof, as recorded in Plat Book 1, at Page 138, of the Public Records of Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

The Housing Authority of the City of Fort Lauderdale, by virtue of Warranty Deed recorded in Book 9482, Page 477.

2. Encumbrances/Matters Affecting Title (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

Exhibit Attached Exhibit Not Attached.

Type of Instrument

Easement
Easement
Resolution
Declaration of Trust

O.R. Book

1999
2010
2184
10049

Page

359
972
259
348

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (x) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 504204-02-0090 for tax year 2011

Gross Tax: \$ 0.00 (NO TAXES DUE FOR THE YEAR OF 2011) Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): NONE

Map Code:

Assessment:

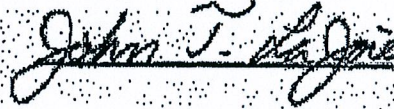
First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from JULY 29, 1960 to JANUARY 10, 2012 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and Indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company



John T. LaJole, as Vice President

Dated: 01/20/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672260

Prepared For: Becker and Pollakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

NW Gardens IV
1334 NW 85 St

Legal Description:

Lots 1- 16 in Block 3 of Lauderdale Homesites, Section "A", according to the Plat thereof, recorded in Plat Book 3 at Page 44 of the Public Records of Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Fort Lauderdale, Florida, by virtue of the following Warranty Deeds recorded in Broward County, Florida:

OR Book 904, Page 452; OR Book 912, Page 69, OR Book 920, Page 301; OR Book 925, Page 352; OR Book 941, Page 113. *Note: Order of Taking recorded in Book 59 Page 300 was unavailable through the Public Records of Broward County. This was part of the Eminent Domain proceedings under case 10562 C conveying lots 5, 8-10, and 13-16 to the Housing Authority of the City of Fort Lauderdale.

2. **Encumbrances/Matters Affecting Title** (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

(X) Exhibit Attached () Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Lis Pendens	953	61
Declaration of Trust	1568	419
Resolution	2184	259
Resolution	4112	447
Easement	9882	510
Final Judgment	15811	444

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 10204-08-0220 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 () Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from April 19, 1957 to January 10, 2012 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

A handwritten signature in cursive script, which appears to read "John T. LaJole", is written over a dotted rectangular background.

John T. LaJole, as Vice President

Dated: 01/20/2012

First American Title Insurance Company

Ownership and Encumbrance Report

First American Issuing Office: First American Title Insurance Company
13450 West Sunrise Blvd., Suite 300
Sunrise, FL 33323

File No.: 1062-2672266

Prepared For: Becker and Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, FL 33312

1436 NW 6th
SA

Legal Description:

Tract "A" of Tuskegee Nova, according to the Plat thereof, as recorded in Plat Book 85, Page 42 of the Public Records of Broward County, Florida.

1. Grantee(s) In Last Deed of Record:

Housing Authority of the City of Fort Lauderdale, Florida, by virtue of Warranty Deed recorded in OR Book 6626, Page 935, of the Public Records of Broward County, Florida.

2. **Encumbrances/Matters Affecting Title** (Includes only mortgages, liens and claims of lien (if not specifically affecting other property only), judgments (certified only), federal tax liens, bankruptcy petitions, death certificates, court orders and decrees, divorce decrees, property settlement agreements, tax warrants, incompetency proceedings and probate proceedings which may affect the title to the property described above (attach an exhibit, if necessary)):

(X) Exhibit Attached () Exhibit Not Attached.

<u>Type of Instrument</u>	<u>O.R. Book</u>	<u>Page</u>
Easement	6160	955
Easement	6201	737
<u>Declaration of Trust</u>	6628	<u>371</u>
Easement	12440	220
<u>Declaration of Trust</u>	16785	<u>725</u>
Revocable License Agreement	18234	559
Notice of Commencement	46908	872
Notice of Commencement	46969	1850
Notice of Commencement	47063	1703
Notice of Commencement	47746	228

First American Title Insurance Company

Copies of the Encumbrances/Matters Affecting Title (X) are () are not included with this Report.

Ad Valorem Real Estate Taxes for Tax Parcel Number 10204-43-0010 for tax year 2011

Gross Tax: \$ 0.00 None due for 2011 () Paid () Not Paid.

Unpaid Taxes for Prior Years (if none, state "none"): "NONE"

Map Code:

Assessment:

First American Title Insurance Company

Certificate

This Ownership and Encumbrance Report ("Report") is a search limited to the Official Records Books as defined in Sections 28.001(1) and 28.222, Florida Statutes, from April 7, 1975 to January 5, 2012 at 8:00 a.m.. The foregoing Report accurately reflects matters recorded and indexed in the Official Records Books of Broward County, Florida, affecting title to the property described therein. Liability for any incorrect information contained in this Report is limited (1) to the person or entity to whom the Report is directed, and (2) to a maximum of \$1,000.00 pursuant to Section 627.7843(3), Florida Statutes. This Report is not an opinion of title, title insurance policy, warranty of title, or any other assurance as to the status of title and shall not be used for the purpose of issuing title insurance.



First American Title Insurance Company

A handwritten signature in black ink, which appears to read "John T. LaJole". The signature is written over a dotted background.

John T. LaJole, as Vice President

Dated: 01/17/2012

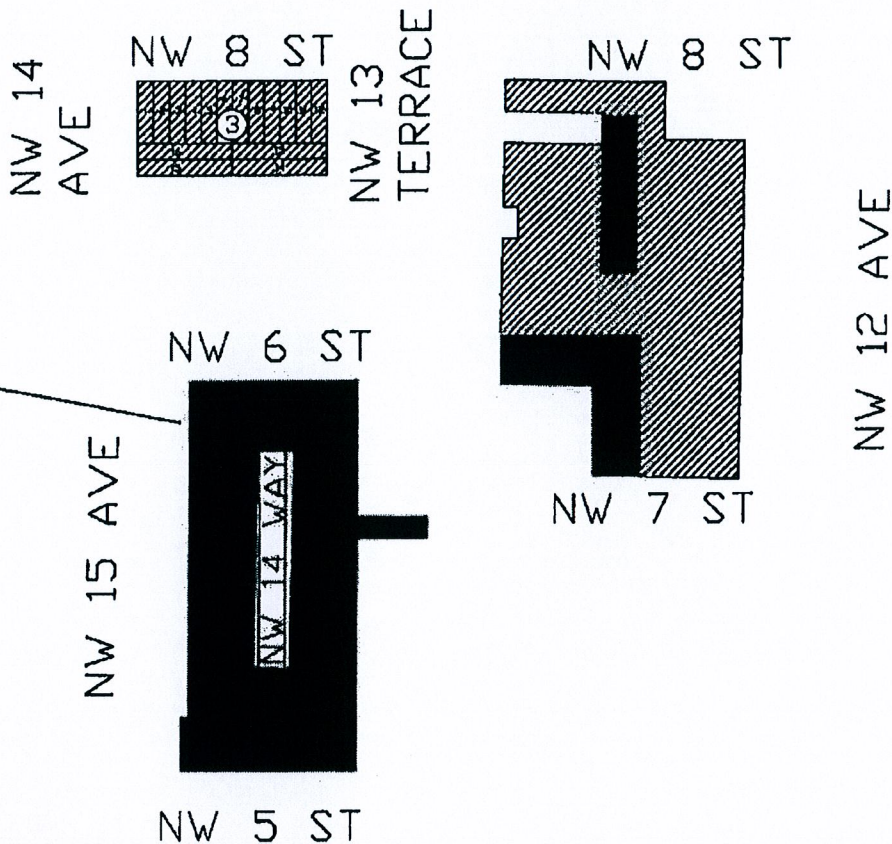


Blue Shaded Areas:
NW Gardens IV Legal Description
NOT Encumbered by Declarations of Trust

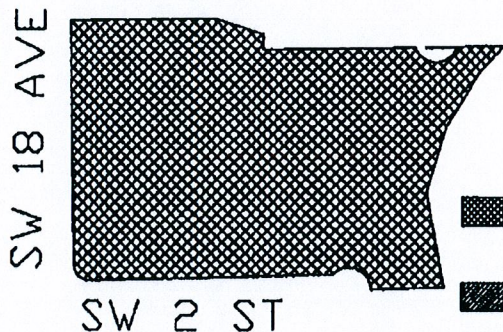
Green Shaded Areas:
OVERLAP of NW Gardens IV and
Declarations of Trust

1436 NW 6th St, Fort Lauderdale, FL 33311

SURVEY SKETCH



Note* Subject property includes that portion of Right of Way of N.W. 14th Way See Legal Description.



LEGEND:

- Property described in OR Book 6628, Pages 372-374 Description
- Property described in Exhibit "A" Legal Description
- Property described in Exhibit "A" Legal Description and either (I) OR Book 6628, Pages 372-374 or (II) OR Book 10049 Page 349

Schwebke-Shiskin & Associates, Inc.
 LAND SURVEYORS • ENGINEERS • LAND PLANNERS • SOILS

(LB-87)

3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025

TEL: BROWARD: (954) 435-7010 FAX: (954) 438-3288

THIS IS NOT A "LAND SURVEY."

DATE: January 25, 2012

ORDER NO: 199570

SHEET 1 OF 4 SHEET(S)

F.B.: N.A.

Jose L. Samuel
 JOSE L. SAMUEL, P.S.M.
 PROFESSIONAL SURVEYOR AND MAPPER
 STATE OF FLORIDA #5636

EXHIBIT C

PHA LETTERS



HOUSING AUTHORITY
of the City of Fort Lauderdale

Established 1938 • www.hacfl.com

October 13, 2011

Mr. Steven P. Auger, Executive Director
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: Northwest Gardens II

Dear Mr. Auger:

Pursuant to the Universal Application Cycle Instructions, I am writing to certify that there is an existing Declaration of Trust between the Housing Authority of the City of Fort Lauderdale ("HACFL") and the United States Department of Housing and Urban Development ("HUD") on the site for the proposed Development referenced above (see attached for location).

The existing Declaration of Trust between HACFL and HUD first recorded in the Official Records of Broward County, Florida at Book 10049, Page 348 has been in place since February 17, 1982.

Should you have any questions or require additional information, please feel free to contact me.

Sincerely,

Tam English, Executive Director

Central Office:
437 Southwest 4th Avenue
Fort Lauderdale, FL 33315
(954) 525-6444

Robert P. Kelley Building:
500 W. Sunrise Boulevard
Fort Lauderdale, FL 33311
(954) 556-4100

Northwest Gardens II	
Sites	Address
1	765 NW 12th AVE, Ft. Lauderdale, FL
2	1050 NW 7 ST, Ft. Lauderdale, FL
3	713 NW 10 TER, Ft. Lauderdale, FL
4	741 NW 10 TER, Ft. Lauderdale, FL
5	720 NW 10 TER, Ft. Lauderdale, FL
6	615 NW 11 AVE, Ft. Lauderdale, FL



HOUSING AUTHORITY
of the City of Fort Lauderdale

Established 1938 • www.hacfl.com

October 13, 2011

Mr. Steven P. Auger, Executive Director
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: Northwest Gardens IV

Dear Mr. Auger:

Pursuant to the Universal Application Cycle Instructions, I am writing to certify that there are two existing Declarations of Trust between the Housing Authority of the City of Fort Lauderdale ("HACFL") and the United States Department of Housing and Urban Development ("HUD") on the site for the proposed Development referenced above (see attached for location).

The existing Declaration of Trust between HACFL and HUD first recorded in the Official Records of Broward County, Florida at Book 10049, Page 348 has been in place since February 17, 1982.

The existing Declaration of Trust between HACFL and HUD first recorded in the Official Records of Broward County, Florida at Book 6628, Page 371 has been in place since June 18, 1976.

Should you have any questions or require additional information, please feel free to contact me.

Sincerely,

Tam English, Executive Director

Central Office:
437 Southwest 4th Avenue
Fort Lauderdale, FL 33315
(954) 525-6444

Robert P. Kelley Building:
500 W. Sunrise Boulevard
Fort Lauderdale, FL 33311
(954) 556-4100

	NORTHWEST GARDENS IV	
	<u>Scattered Site Addresses</u>	
1	781 NW 12 Terrace, Fort Lauderdale, FL	
2	Intersection of NW 7th Street and NW 12th Terrace, on NW 12th Terrace, Fort Lauderdale, FL	
3	1334 NW 8 ST, Fort Lauderdale, FL	
4	1436 NW 6 ST, Fort Lauderdale, FL	

EXHIBIT D

CONSENT AGREEMENT FOR

OAK RIDGE ESTATES AND AVERY GLEN

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

OAK RIDGE ESTATES, LLC, and
AVERY GLEN, LLC,

Petitioner,

v.

FHFC CASE NO.: 2010-009UC
Application No. 2009-171C
Application No. 2009-139C

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 April 30, 2010. Oak Ridge Estates, LLC (“Oak Ridge”), and Avery Glen, LLC (“Avery Glen”) (each, a “Petitioner” and collectively, the “Petitioners”), each submitted a 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 Petitioners’ applications each met all of Florida Housing’s threshold application requirements, received the maximum application score, the maximum proximity tie-breaker points and ability to proceed points. However, based on the

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell / DATE 5/4/20

11. Subsequently, when the applicants in the Challenged Applications filed their respective petitions contesting Florida Housing's scoring determination that each of their development sites was a Scattered Site, Florida Housing reconsidered that scoring determination and, in each case, agreed that the easement(s) in question did not divide the development site within the *intended* meaning of a Scattered Site as defined in Rule 67-48.002(106). Emphasis added. The agreement in each case is evidenced by a consent agreement between Florida Housing and the applicant, and adopted by Final Order (collectively, the "Challenged Applications Final Orders").¹

12. Florida Housing intends to consider revisions to the definition of Scattered Sites and related rules as part of the rule making in connection with its next universal application cycle. In the meantime, Florida Housing is of the opinion that the disposition of the petitions filed by the applicants in the Challenged Applications as set forth in the Challenged Applications Final Orders is fair, reasonable and proper under the particular facts and circumstances involved. However, Florida Housing recognizes that the determination set forth in the Challenged Applications Final Orders is inconsistent with the manner in which it

¹ RST Lodges at Pinellas Park, LP v. Florida Housing Finance Corporation, FHFC Case No. 2009-068UC (Final Order February 26, 2010); Dr. Kennedy Homes, Ltd. v. Florida Housing Finance Corporation, FHFC Case No. 2009-073UC (Final Order February 26, 2010); and Ehlinger Apartments, Ltd. v. Florida Housing Finance Corporation, FHFC Case No. 2009-074UC (Final Order February 26, 2010). In actuality, the decision represented by these Final Orders is the scoring decision being challenged by the Petitioners in this proceeding.

scored the Challenged Applications based on the literal language in the rule definition. The determination made by Florida Housing in the Challenged Applications Final Orders effectively forced Petitioners' applications out of the funding range, a position they would have otherwise occupied based on Florida Housing's initial scoring of the Challenged Applications. Because of the facts and circumstances unique to the Challenge Applications' development sites and for purposes of the Petition filed by Petitioners, Florida Housing agrees that the ranking of Petitioners' applications should not be adversely impacted as a result of Florida Housing's subsequent determination that the easement(s) in question did not divide each of the Challenge Applications' development sites within the *intended* meaning of a Scattered Site as defined in Rule 67-48.002(106).

CONCLUSIONS OF LAW

13. 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.

14. Petitioners have standing to challenge the scoring of the Challenged Applications pursuant to Rule 67-48.005(5), F.A.C.

15. Because of the facts and circumstances unique to the Challenge Applications' development sites and for purposes of the Petition filed by Petitioners, Florida Housing agrees that the ranking of Petitioners' applications