

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

PEARL APARTMENTS, LTD.

Petitioner,

v.

FHFC CASE NO.: 2012-047UC
Application No. 2011-158C

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 26, 2013. The matter for consideration before this Board is a recommended order pursuant to Section 120.57(2), Florida Statutes, and Rule 67-48.005(5), Florida Administrative Code.

After a review of the record and otherwise being fully advised in these proceedings, this Board finds:

Pearl Apartments Ltd., (“Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development. Petitioner’s application met all of Florida Housing’s threshold application requirements, received six Ability- to- Proceed and 36 Tie-breaker-Measure-Points.

Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about June 8, 2012. Petitioner was not funded as other Applications, No. 2011-052C (Collins Park, LLC) and 2011-128C (RLI Beneficial Development II, LLC) collectively, the “Challenged Applications” were ranked higher. There was insufficient housing credit allocation remaining to fund Petitioner after the Challenged Applications were funded.

Petitioner timely filed its “Petition for Formal Administrative Proceeding” under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s scoring of the Challenged Applications, alleging that Florida Housing incorrectly scored the Challenged Applications as Collins Park, LLC failed to provide a firm commitment under Part V.D. of the 2011 Application Instructions; and RLI Beneficial Development II, LLC failed to provide evidence of infrastructure availability under Part III.C. of the 2011 Universal Application Instructions.

Florida Housing reviewed the Petition pursuant to Section 120.569(2)(c), Florida Statutes, and determined that the Petition did not raise disputed issues of material fact. Florida Housing filed a Motion to Dismiss for Lack of Standing, alleging that even if Petitioner prevailed in the merits of its Petition, Petitioner would remain unfunded under Florida Housing’s rules governing ranking of projects for funding. Petitioner maintained that it had standing. For the purposes

of the hearing, Florida Housing conceded the merits of the Challenged Applications and proceeded with the hearing, with Petitioner's eligibility for funding remaining as the only issue to be adjudicated.

An informal hearing was held in this case on August 23, 2012, and February 25, 2013, in Tallahassee, Florida, before Florida Housing's designated Hearing Officer, Diane D. Tremor. Following the hearing, Petitioner and Respondent timely filed Proposed Recommended Orders.

After consideration of the evidence and arguments presented at hearing, and the Proposed Recommended Orders, the Hearing Officer issued a Recommended Order. A true and correct copy of the Recommended Order as filed on March 14, 2013 is attached hereto as "Exhibit A." The Hearing Officer recommended that Florida Housing enter a Final Order concluding that Petitioner was eligible for funding and that a Final Order be entered awarding Petitioner its requested amount of low income housing tax credits from the next available allocation.

RULING ON THE RECOMMENDED ORDER

The Board finds that the findings of fact and the conclusions of law of the Recommended Order are supported by competent and substantial evidence and are reasonable and appropriate under the circumstances.

ORDER

In accordance with the foregoing, it is hereby found and ordered:

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

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

Accordingly, it is found and **ORDERED** that Petitioner's application Number 2011-158C is eligible for funding from the next available allocation. The Petition is **AFFIRMED**.

DONE and ORDERED this 26th day of April, 2013.



FLORIDA HOUSING FINANCE CORPORATION

By: _____

Chair

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be the initials "JH".

Copies to:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.