

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

SP SEMINOLE GARDENS LP,

FHFC Case No.: 2012-025UC-SP  
FLORIDA HOUSING APPLICATION  
NO. 2011-144C

Petitioner,

vs.

FLORIDA HOUSING FINANCE  
CORPORATION

Respondent.

\_\_\_\_\_ ,

**CONSENT AGREEMENT**

Petitioner, SP SEMINOLE GARDENS LP ("SP"), and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

**APPEARANCES**

**For Petitioner:**

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For Respondent:

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Tallahassee, Florida 32301-1329  
(850) 488-4197

**PRELIMINARY STATEMENT**

On December 6, 2011, SP submitted an application for competitive 9% low income housing tax credits in Florida Housing's 2011 funding cycle for its proposed Seminole Garden Apartments development ("the Application"). By its scoring summary dated March 28, 2012, Florida Housing notified SP of the results of scoring its Application and provided SP with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. SP timely filed a Petition for Informal Hearing challenging the proposed finding that the ordinance number cited on the Expedited Permitting Form does not pertain to establishing an expedited permitting process for affordable housing and therefore SP was not eligible for one point for the Expedited Permitting incentive. On April 24, 2012, SP filed an Amended Petition for Informal Hearing ("Amended Petition"). Thereafter, Florida Housing determined that the ordinance number cited on the Expedited Permitting Form does pertain to establishing an expedited permitting process for affordable housing and that SP therefore is entitled to one point for the Expedited Permitting incentive.

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

#### **STIPULATED FINDINGS OF FACT**

1. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida.

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

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

4. Florida Housing uses a Qualified Allocation Plan ("QAP"), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code ("Competitive HC Program"). The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(94), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and least populated counties. The QAP also establishes various set-asides and special targeting goals.

5. The 2011 Universal Cycle Application is adopted as Form UA1016 (Rev. 2-11) by Rule 67-48.004(1)(a), Florida Administrative Code, and consists of Parts I through V and Instructions, some of which are not applicable to every Applicant.

6. Florida Housing's scoring process for 2011, found at Rules 67-48.004-.005, Florida Administrative Code, involves the following:

- a) the publication and adoption by rule of an application package;
- b) the completion and submission of applications by developers;
- c) Florida Housing's preliminary scoring of applications;

- d) an initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- e) Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- f) an opportunity for the applicant to submit additional materials to 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) Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- i) an opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- j) final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

7. The 2011 Universal Cycle Application offers a maximum score of 79 points. In the event of a tie between competing applications, the Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority including the use of lottery numbers (randomly assigned during the application process).

8. On or before December 6, 2011, SP submitted its Application.

9. On or around March 6, 2012, Florida Housing received a NOAD in connection with SP's application.

10. On or about March 28, 2012, Florida Housing issued its final scoring and awarded SP 78 points out of a possible 79 points, 30 out of a possible 37 "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 out of 6 ability to proceed tie-breaker points. Florida Housing also concluded that the SP application had passed all threshold requirements. Florida Housing determined that SP failed to achieve the point for Expedited Permitting. Specifically, the scoring summary provides the following reason for this determination:

As a cure for Item 12S, the Applicant provided all 4 of the Local Government Incentives forms (Ex. 40, 41, 42 and 43). Information provided in a NOAD indicates that the ordinance number cited on the Expedited Permitting form (Ex. 40) does not pertain to establishing an expedited permitting process for affordable housing. Therefore, the Application was not eligible for 1 point for the Expedited Permitting incentive.

11. On or before April 19, 2012, SP submitted its Petition pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and on April 24, 2012, SP filed its Amended Petition.

12. The sole issue raised by the Amended Petition was the finding that ordinance number cited on the Expedited Permitting Form does not pertain to establishing an expedited permitting process for affordable housing and therefore SP was not eligible for one point for the Expedited Permitting incentive. Had Florida Housing found that the ordinance number cited on the Expedited Permitting Form did pertain to establishing an expedited permitting process for affordable housing, SP would have achieved a total score of 79 points out of a total possible 79 points, as well as 30 out of a possible 37 proximity tie breaker points and 6 out of 6 ability to proceed tie-breaker points.

13. Following review of the Amended Petition, Florida Housing determined that the ordinance number cited on the Expedited Permitting Form did pertain to establishing an expedited permitting process for affordable housing. Thus, SP is entitled to a total score of 79 points out of a total possible 79 points, as well as 30 out of a possible 37 proximity tie breaker points and 6 out of 6 ability to proceed tie-breaker points. Additionally, SP has satisfied all threshold requirements.

## STIPULATED CONCLUSIONS OF LAW

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

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

## STIPULATED DISPOSITION

SP has met all threshold requirements and is entitled to 79 total points, 6 ability to proceed tie-breaker points, and 30 proximity tie breaker points.

Respectfully submitted, this 30<sup>th</sup> day of May, 2012, by:



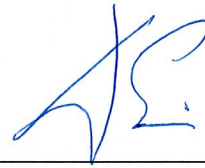
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