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BEFORE THE
FLORIDA HOUSING FINANCE CORPORATION

IN THE MATTER OF
YBOR III, LTD.,
OCHLOCKNEE POINTE

FHFC Application No: 2002-177C

PETITION FOR INFORMAL ADMINISTRATIVE PROCEEDING

COMES NOW Petitioner, YBOR III, LTD. (hereinafter "Ybor III"), pursuant to Sections 120.569 and 120.57(2), Florida Statutes, Rule 67-48.005, Florida Administrative Code and Rule 28-106.301, Florida Administrative Code, files this Petition for Informal Administrative Hearing and as grounds therefore states:

1. Petitioner, Ybor III, Ltd., is a Florida Limited Partnership, and is an Applicant for housing tax credits used for the construction of low and very low income housing units.
2. Respondent, the Florida Housing Finance Corporation ("FHFC") is a public corporation and an "agency," authorized to administer the Housing Tax Credit program in Florida. Tax credits are allocated through a competitive application process. The process for the current year is known as the 2002 Universal Cycle.
3. On July 22, 2002, the Florida Housing Finance Corporation (hereinafter the "FHFC") issued its 2002 Universal Scoring Summary for the Application filed by Ybor III in the 2002 Universal Cycle. A copy of the notice is attached as **Exhibit 1**. The scoring summary notified Ybor III that its Application had been rejected by the FHFC due to the allegation that the check submitted as the Application fee "was returned due to non-sufficient funds." The agency affected by this petition is the Florida Housing Finance Corporation. The agency's file number is 2002-177C.

4. Ybor III's address is 2109 East Palm Avenue, Suite 206, Tampa, Florida 33605, and its telephone number is 813-247-2828. Ybor III's representative is E. Gary Early, Messer, Caparello & Self, P.A., 215 South Monroe Street, Suite 701, Tallahassee, Florida 32301, telephone (850) 222-0720, who shall be Ybor III's representative for service purposes during the course of this proceeding.

Ybor III's substantial interests are affected by the rejection of FHFC Application No. 2002-177C and the FHFC's refusal to score material that was timely submitted to the FHFC pursuant to Rule 67-48.004(6), Fla. Admin. Code. The FHFC's decision adversely affects the ability of Ybor III to meet its corporate responsibility of providing affordable housing.

5. Ybor III received notice of the FHFC scores by Federal Express delivery on July 23, 2002. An Election of Rights was submitted on August 13, 2002. A copy of the Election of Rights is attached as **Exhibit 2**. This petition is timely filed.

6. Ybor III alleges the following facts warranting reversal of the FHFC decision to reject the Ybor III Application, and to fail to score the "cure" materials submitted to the FHFC pursuant to Rule 67-48.004(6), Fla. Admin. Code:

a. With the initial timely submittal of its Application, Ybor III submitted a check drawn on the Huntington Bancshares of Tampa, Florida.

b. Ybor III was a long time customer of Huntington Bancshares, and as such had banking privileges that included immediate crediting of deposits.

c. On February 15, 2002, the acquisition of 141 Huntington Bancshares banking offices by SunTrust Banks of Florida was completed and implemented. Included in the transaction was the branch office at which Ybor III conducted its banking.

d. Unbeknownst to Ybor III, the acquisition of Huntington Bankshares by SunTrust resulted in Ybor III being treated as a new customer of SunTrust. As a new customer of SunTrust, Ybor III did not have the banking privilege of immediate crediting of deposits. Rather, SunTrust held Ybor III deposits until its check cleared before allowing the funds to be drawn upon.

e. On April 15, 2002, Ybor III submitted its application for the 2002 Universal Cycle. The Application was accompanied by a check drawn on Huntington Bancshares, as was allowed during the period of transition to SunTrust.

f. At the approximate time of submission of the Application, Ybor III deposited a check into its account in an amount sufficient to cover the application fee check. Under its banking agreement with Huntington Bancshares, the funds on deposit would have been immediately available.

g. When the Application check was deposited by the FHFC, sufficient funds were on deposit in the Ybor III account to cover the check. However, because the new SunTrust policy did not allow for payment of the check for a period of days, the check was returned to the FHFC marked "Unavailable Funds." The term "Unavailable Funds" means a deposit of funds that has not yet been acknowledged by the bank on which the check was drawn. The term does not mean that there were "non-sufficient funds" in Ybor III's account.

h. The check was and remains a negotiable instrument. In addition, the check is a "document" that evidences a promise to pay a fixed amount.

i. On June 26, 2002, in accordance with Rule 67-48.004(6), Fla. Admin. Code, Ybor III timely submitted additional documentation, revised pages and other information that Ybor III deemed appropriate to address the issues raised by the FHFC's evaluation and preliminary scoring

and the written Notices of Possible Scoring Error that could have resulted in rejection of the Application or a score less than the maximum available. The documentation included a Cashiers Check drawn on Capital City Bank in the amount of \$2,000.00 representing the Application fee.

j. The failure to submit a fee as required by the rules of the FHFC has been determined to be a “curable” item in the 2002 Universal Cycle. Rule 67-21.007, Fla. Admin. Code, which applies to Applicants for the Multifamily Mortgage Revenue Bond component of the Universal Cycle, provides with specificity that:

In addition to the fees specified in the Universal Application Package, Florida Housing shall collect the following fees and charges in conjunction with the Program:

(1) TEFRA Fee: At the time of submission of the Application, Applicants shall submit a non-refundable TEFRA fee to Florida Housing in the amount of \$500.

Despite the requirement that the TEFRA fee be submitted “at the time of submission of the Application,” the FHFC allowed, and even encouraged, Applicants that failed to comply with the rule to submit the TEFRA fee at a later time, within the “cure” period. A representative copy of the notice sent only to applicants that failed to file the fee at the time of submission of the Application is attached as **Exhibit 3**. There is no rational basis for the FHFC to treat the application fee and the TEFRA fee, both of which are required by rule to be submitted with the Application, in different manners. The precedent of acknowledging that fees required to be submitted at the time of submission of the Application are subject to being “cured,” which precedent is consistent with the FHFC rule and Application instructions, may not be ignored by the FHFC.

7. Ybor III alleges that the following facts, rules and statutes entitle it to the relief requested herein:

a. Rule 67-48.004(3), Fla. Admin. Code, provides that:

Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Application Package and these rules. Preliminary scores shall be transmitted to all Applicants along with the scoring sheets and threshold report.

The preliminary scoring sheet provided to Ybor III included a notice that the FHFC intended to reject the Application due to the return of the Application fee check, although the basis for the preliminary score on that point, i.e. “non-sufficient funds” was incorrect.

b. Rule 67-48.004(5), Fla. Admin. Code, provides that:

The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation’s decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant.

The NOPSE notice provided to Ybor III included a notice that the FHFC intended to reject the Application due to the return of the Application fee check, although the basis for the preliminary score on that point, i.e. “non-sufficient funds” was incorrect.

c. Rule 67-48.004(6), Fla. Admin. Code, provides in pertinent part that:

Within 15 Calendar Days of receipt of the notice set forth in paragraph (5) above, each Applicant shall be allowed to submit additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to paragraphs (3) and (5) above that could result in rejection of the Application or a score less than the maximum available. (e.s.)

Ybor III timely submitted documentation in the form of a Cashier’s Check to address the issue raised by the FHFC pursuant to Rules 67-48.004(3) and (5), Fla. Admin. Code that could have resulted in

rejection of the Application. Ybor III also submitted revised pages to address other non-fee issues raised in the scoring sheets.

d. Rule 67-48.004(13), Fla. Admin. Code, provides that:

The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate as described in paragraph (6) above:

(a) The Development is inconsistent with the purposes of the SAIL, HOME and/or HC Program(s) or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application, and Application instructions;

(c) The Applicant fails to provide all required copies and file all applicable Application pages and exhibits which are provided by the Corporation and adopted under this rule chapter;

(d) An Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation and/or any agent or assignee of the Corporation. For purposes of the SAIL and/or HOME Program, this rule subsection does not include permissible deferral of SAIL and/or HOME interest. (e.s.)

Following the submission of the Cashiers Check, the Ybor III Application was not deficient in any of the areas set forth in Rule 67-48.004(13), Fla. Admin. Code.

e. Rule 67-48.004(14), Fla. Admin. Code, provides that:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Name of the Applicant;

(b) Name of the Developer;

(c) Program(s) applied for;

(d) Designation of Applicant as a Non-Profit or for-profit

entity;

- (e) Site for the Development;
- (f) Type of Development category;
- (g) Whether the Development design constitutes a High Rise;
- (h) County;
- (i) Demographic or Area Commitment;
- (j) Total number of units;
- (k) The total set-aside percentage of the Total Set-Aside Commitment unless, with regard to the HOME Program, the change results from the revision allowed under (m) below;
- (l) CHDO election for the HOME Program;
- (m) Funding Request (except for Taxable Bonds) amount; notwithstanding the foregoing, requested amounts exceeding the Corporation and Program funding limits can be reduced by the Applicant to reflect the maximum request amount allowed (and no other changes to this amount will be allowed).

The Application fee is not one of the “non-curable” items listed in Rules 67-48.004(14)(a)-(m), Fla. Admin. Code.

- f. The FHFC Application for the 2002 Universal Cycle provides that:

The Application fee must be paid by check or money order, payable to Florida Housing Finance Corporation and submitted with the completed “Original Hard Copy” Application. Failure to submit the correct fee with the “Original Hard Copy” Application by the Application Deadline or failure to submit the Application by the Application Deadline will result in automatic rejection of the Application and no action will be taken to score the Application.

If that paragraph of the Application was the only provision related to the materials to be submitted in support of an Application, the FHFC rejection would not be so clearly erroneous. However, in rejecting the Ybor III Application, and refusing to consider the timely submitted “cure,” the FHFC has ignored not only its own rules as set forth above, but has ignored its own Application instructions. In a clear and unambiguous paragraph located on the same page as the “Application fee” paragraph cited above, the FHFC provided that:

Notwithstanding anything in this Application and all instructions in this Application Package to the contrary and except for those items listed in Rule Chapters 67-21.003 and/or 67-48.004, F.A.C., Applicants shall be provided with an opportunity to submit additional documentation and revised pages, as well as other information in accordance with the applicable rules. (e.s.)

A copy of the General Instructions is attached as **Exhibit 4**. The Application fee is not an item listed in Rule 67-48.004, Fla. Admin. Code. In addition, the Ybor III Application does not seek Multifamily Mortgage Revenue Bonds, thereby making Rule 67-21.003, Fla. Admin. Code inapplicable to the Ybor III Application. Therefore, under the terms of the FHFC rules and application instructions themselves, the failure to submit the correct fee is a defect that can be cured.

g. The action of the FHFC in rejecting Application No. 2002-177C, and failing to score timely filed “cure” information submitted pursuant to Rule 67-48.004(6), Fla. Admin. Code is directly contrary to the FHFC’s rule and Application instructions.

h. The rule and the Application instructions allow an Applicant to submit additional information and documents during the “cure” period that will allow the Application to be complete. Ybor III submitted all such information.

i. The only items that cannot be “cured” are identified with specificity in Rule 67-48.004(14)(a)-(m), Fla. Admin. Code. Neither the Application fee, nor any other fee required to be submitted with an Application, e.g. the TEFRA fee, is identified in Rule 67-48.004(14)(a)-(m), Fla. Admin. Code. The listing, by rule, of specific items that cannot be “cured” prohibits the FHFC from applying, by non-rule policy, a different set of “non-curable” items.

j. Following the submission of the additional documentation by Ybor III, including resubmission of the Application fee, the Ybor III Application was not insufficient in any of the listed

categories in Rule 67-48.004(13)(a)-(d), Fla. Admin. Code. Once the resubmission of the Application fee was made, Ybor III met all threshold requirements, and Ybor III was not in arrears for any financial obligation it had to the FHFC.

k. Based on the foregoing, Ybor III has met all standards and criteria established by FHFC rule, and is entitled to have its Application, along with all “cure” items, fairly and completely scored.

8. Ybor III is entitled to the following relief:

a. that the FHFC rejection of the Application of Ybor III, No. 2002-177C be rescinded;

b. that the Application of Ybor III, No. 2002-177C, be accepted with all “cure” materials considered, applied and scored by the FHFC;

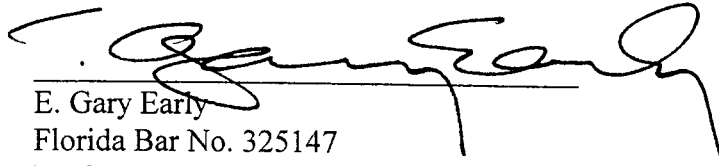
c. that the Application of Ybor III, No. 2002-177C be credited with all points for Item Nos. 1T, 2T, 3T, 4T, 1P, 2P, 3P, 4P, and 1C, and that the FHFC amend or reissue its 2002 Universal Scoring Summary for the Ybor III Application.

d. that Ybor III be found to be eligible for receipt of tax credits for the Ochlockonee Pointe Development that is the subject of Application No. 2002-177C.

e. that in the event the FHFC determines that this Petition contains any disputed issue of material fact, the matter be forwarded to the Division of Administrative Hearings for the assignment of an Administrative Law Judge; and

f. that Ybor III be granted such other and further relief, both general and special, at law and equity, to which it may be justly entitled.

Respectfully submitted,

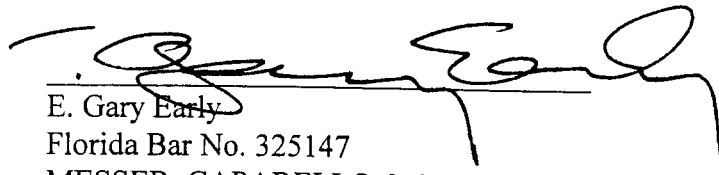


E. Gary Early
Florida Bar No. 325147
MESSER, CAPARELLO & SELF, P.A.
215 South Monroe Street, Suite 701
Tallahassee, Florida 32301
Telephone : (850) 222-0720
Facsimile: (850) 224-4359

Counsel for Ybor III, Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one copy of the foregoing has been delivered to the Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, and a copy has been delivered to Wellington H. Meffert, General Counsel, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, by hand delivery this 13th day of August, 2002.



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**FLORIDA
HOUSING
FINANCE
CORPORATION**

MEMORANDUM

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Governor

ROBERT JAY TAYLOR
Chairman

ORLANDO J. CABRERA
Vice Chairman

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MARK KAPLAN
Executive Director

TO: Applicants for the 2002 Universal Application Cycle

FROM: Kerey Carpenter, Deputy Development Officer *(C)*

DATE: July 22, 2002

SUBJECT: Final Scores and Notice of Rights

Enclosed is a 2002 Universal Scoring Summary reflecting the Corporation's decision regarding any revisions ("Cures") and Notices of Alleged Deficiencies ("NOAD") and the leveraging groups A and B, together with an Election of Rights Form with attachments. NOADs and program spreadsheets are now available on Florida Housing's web site at www.floridahousing.org.

Applicants who wish to contest the decision relative to their own Application must petition the Corporation for review of the decision in writing within 21 Calendar Days of the date of receipt of this notice. Only petitions received by this deadline will be considered. The petition must specify in detail each issue and score sought to be reviewed. Unless the appeal involves disputed issues of material fact, the appeal will be conducted on an informal basis pursuant to section 120.57(2), Florida Statutes. If the appeal raises disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57 (1), Florida Statutes. Failure to timely file a petition shall constitute a waiver of the right of the Applicant to such an appeal. Written notifications, petitions or requests for review will NOT be accepted via telefax or other electronic means. No Applicant or other person or entity will be allowed to intervene in the appeal of another Applicant.

Petitions must be received by 5:00 p.m. Eastern Time, on Tuesday, August 13, 2002. Petitions must comply with the provisions of Rule 28-106.201 or 28-106.301, Florida Administrative Code, and must be filed with:

Corporation Clerk
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Memorandum to Applicants

Page Two

July 22, 2002

An Applicant that requests a hearing will have the right to be represented by counsel or other qualified representative. Pursuant to section 120.573, Florida Statutes, mediation is not available.

Please complete and submit the enclosed Election of Rights Form as soon as possible to facilitate the scheduling of hearings. This form may be submitted prior to the submission of petitions. Florida Housing will make every effort to have a hearing schedule completed and posted on the Corporation web site by August 14, 2002.

Applicants will not be permitted to make oral presentations to the board in response to recommended orders. An Applicant may submit written arguments in response to a recommended order for consideration by the board. Any written argument should be typed, double-spaced with margins no less than one (1) inch, in either Times New Roman 14-point font or Courier New 12-point font, and may not exceed five (5) pages. Any written argument must be received by Florida Housing's Corporation Clerk at the above address no later than 5:00 p.m. Eastern Time, on Friday, October 4, 2002. Failure to timely file a written argument shall constitute a waiver of the right of the Applicant to be heard on the recommended order.

Enc.

ELECTION OF RIGHTS

Application Number: 2002-_____ Development Name: _____

- 1. I do not desire a proceeding.
- 2. I elect an informal proceeding to be conducted in accordance with Sections 120.569 and 120.57(2), Florida Statutes. In this regard I desire to (Choose one):

submit a written statement and documentary evidence; or

attend an informal hearing to be held in Tallahassee.

Note: Rule 28-106.301, Florida Administrative Code, requires Applicant to submit a petition in a prescribed format. (attached)

- 3. I elect a formal proceeding at the Division of Administrative Hearings. This option is available only if there are disputed issues of material fact.

Note: Applicant must submit an appropriate petition in accordance with Rule 28-106.201, Florida Administrative Code. (attached)

Following are my top eight preferences, in order from 1-8 (with 1 being my first choice, etc.) for scheduling my informal hearing. Formal hearings will be scheduled by the Division of Administrative Hearings.

Hearing Dates:	A.M.	P.M.	Hearing Dates:	A.M.	P.M.	Hearing Dates:	A.M.	P.M.
August 29, 2002	___	___	September 9, 2002	___	___	September 17, 2002	___	___
August 30, 2002	___	___	September 10, 2002	___	___	September 18, 2002	___	___
September 3, 2002	___	___	September 11, 2002	___	___	September 19, 2002	___	___
September 4, 2002	___	___	September 12, 2002	___	___	September 20, 2002	___	___
September 5, 2002	___	___	September 13, 2002	___	___			
September 6, 2002	___	___	September 16, 2002	___	___			

Please fax a Hearing Schedule to me at this fax number: (_____) _____

DATE: _____

Signature of Petitioner

Name: _____

Address: _____

Phone: _____

TO PRESERVE YOUR RIGHT TO A PROCEEDING, YOU MUST RETURN THIS FORM WITHIN (21) DAYS OF RECEIPT OF THIS NOTICE TO THE FLORIDA HOUSING FINANCE CORPORATION AT THE ADDRESS INDICATED IN THE NOTICE OF RIGHTS. TO FACILITATE THE SCHEDULING OF HEARINGS, THIS FORM MAY BE SUBMITTED PRIOR TO FILING A PETITION.

**PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT
28-106.201 Initiation of Proceedings.**

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98.

**PART III PROCEEDINGS AND HEARINGS NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

28-106.301 Initiation of Proceedings.

- (1) Initiation of a proceeding shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document which requests a proceeding. Each petition shall be legible and on 8 1/2 by 11 inch white paper or on a form provided by the agency. Unless printed, the impression shall be on one side of the paper only and lines shall be doubled-spaced.
- (2) All petitions filed under these rules shall contain:
 - (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
 - (e) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
 - (f) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.
- (3) If the petition does not set forth disputed issues of material fact, the agency shall refer the matter to the presiding officer designated by the agency with a request that the matter be scheduled for a proceeding not involving disputed issues of material fact. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.
- (4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this Rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.
- (5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

Specific Authority 120.54(5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98.

2002 Universal Scoring Summary

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit *	SAIL as Percentage of Total Development Cost
07 - 22 - 2002	71	N	0	\$49,743.91	%
Preliminary	71	N	0	\$49,743.91	%
NOPSE	71	N	0	\$49,743.91	%
Final	71	N	0	\$49,743.91	%
Post-Appeal	0	N	0		0

*Corporation funding includes Local Government-issued tax-exempt bond financing

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
1S	III	A	2.b	If SAIL Application for Development in one of these counties where no SAIL Application has ever been funded: Bay, Citrus, Leon, Nassau, Okaloosa, Okechobee, St. Lucia or Santa Rosa	2	0	0	0	0
Optional Features & Amenities:									
2S	III	B	2.a	New Construction	9	9	9	9	0
2S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
3S	III	B	2.c	All Developments Except SRO	12	12	12	12	0
3S	III	B	2.d	SRO Developments	12	0	0	0	0
4S	III	B	2.e	Energy Conservation Features	9	9	9	9	0
Demographic or Area Commitment:									
5S	III	D	1.	Florida Keys Area	7	0	0	0	0
5S	III	D	2.	RD 515 or RD 514/516	5	0	0	0	0
5S	III	D	3.	Elderly	5	0	0	0	0
5S	III	D	4.	Farmworker/Commercial Fishing Worker	5	0	0	0	0
5S	III	D	5.	Homeless	5	0	0	0	0
5S	III	D	6.	Urban In-Fill	5	0	0	0	0
5S	III	D	7.	Large Family	5	5	5	5	0
5S	III	D	8.	HOPE VI	5	0	0	0	0
5S	III	D	9.	Front Porch Florida	5	0	0	0	0

2002 Universal Scoring Summary

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit *	SAIL as Percentage of Total Development Cost
07 - 22 - 2002	71	N	0	\$49,743.91	
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NOPSE	71	N	0	\$49,743.91	%
Final	71	N	0	\$49,743.91	%
Post-Appeal	0	N	0		0

*Corporation funding includes Local Government-issued tax-exempt bond financing

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
1S	III	A	2b	If SAIL Application for Development in one of these counties where no SAIL Application has ever been funded: Bay, Citrus, Leon, Nassau, Okaloosa, Okeechobee, St. Lucie or Santa Rosa	2	0	0	0	0
Optional Features & Amenities:									
2S	III	B	2a	New Construction	9	9	9	9	0
2S	III	B	2b	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
3S	III	B	2c	All Developments Except SRO	12	12	12	12	0
3S	III	B	2d	SRO Developments	12	0	0	0	0
4S	III	B	2e	Energy Conservation Features	9	9	9	9	0
Demographic or Area Commitment:									
5S	III	D	1.	Florida Keys Area	7	0	0	0	0
5S	III	D	2.	RD 515 or RD 514/516	5	0	0	0	0
5S	III	D	3.	Elderly	5	0	0	0	0
5S	III	D	4.	Farmworker/Commercial Fishing Worker	5	0	0	0	0
5S	III	D	5.	Homeless	5	0	0	0	0
5S	III	D	6.	Urban In-Fill	5	0	0	0	0
5S	III	D	7.	Large Family	5	0	0	0	0
5S	III	D	8.	HOPE VI	5	5	5	5	0
5S	III	D	9.	Front Porch Florida	5	0	0	0	0

2002 Universal Scoring Summary

As of: 07/22/2002

File # 2002-177C

Development Name: Ochlocknee Pointe

Scores:

Item #	Part Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
6S	III	E	2. Set-Aside Commitment: Commitment to Serve Lower AMI	5	5	5	5	0
7S	III	E	3. Total Set-Aside Commitment	3	3	3	3	0
8S	III	E	4. Affordability Period	5	5	5	5	0
Resident Programs:								
9S	III	F	1. Programs for Non-Elderly & Non-Homeless	6	6	6	6	0
9S	III	F	2. Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
9S	III	F	3. Programs for Elderly	6	0	0	0	0
10S	III	F	4. Programs for All Developments	8	8	8	8	0
Local Government Support								
11S	IV	a	Contributions	5	5	5	5	0
12S	IV	b	Incentives	4	4	4	4	0

Reason(s) Scores Not Maxed:

Reason(s)

1S Applicant did not request SAIL.

5S The proposed Development is not located in the Florida Keys Area.

Threshold(s) Failed:

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	V		Equity Commitment	The equity commitment was not scored firm because it states it is conditioned upon approval by an Investment committee.	Preliminary	
2T	V		Mortgage Loan Commitment	Scorer is unaware that Munitize Midland LLC is a regulated institution. Therefore the Applicant was required to provide the appropriate evidence of ability to fund. The Applicant failed to provide the required evidence. As such, the commitment was not scored firm and was not used as a source of financing.	Preliminary	
3T	V		Equity reference letters	Letters provided have not been signed by a General Partner of a Ltd Partnership. There is no reference made to a tax credit property showing that it is a completed development. As such, the equity commitment was not scored firm and was not counted as a source of financing. Applicant does not have enough sources to cover uses.	Preliminary	

As of: 07/22/2002

File # 2002-177C

Threshold(s) Failed:

Development Name: Ochlockonee Pointe

2002 Universal Scoring Summary

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
4T				Rejection of Application	This Application is rejected for failure to pay the Application fee as of the Application Deadline because the check submitted was returned due to non-sufficient funds. No further action will be taken to score this Application and Florida Housing will disregard the scores reflected in this report.	Preliminary	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NO	PO	SE	Final	Post-Appeal
1P	III	A	11.b.(1).	Grocery Store	1.25	0	0	0	0	0	0
2P	III	A	11.b.(2).	Public School	1.25	0	0	0	0	0	0
2P	III	A	11.b.(3).	Medical Facility	1.25	0	0	0	0	0	0
3P	III	A	11.b.(4).	Bus Stop or Metro-Rail Stop	1.25	0	0	0	0	0	0
4P	III	A	11.c.	Address/Location on FHFC Development Proximity List	3.75	0	0	0	0	0	0

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

Reason(s)

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1P				Applicant did not include the completed and executed Surveyor Certification and land survey map. Additionally, Applicant did not indicate the service name or address/latitude and longitude.		Preliminary	
2P				Applicant did not include the completed and executed Surveyor Certification and land survey map. Additionally, Applicant did not indicate the distance to the selected service, the service name or address/latitude and longitude.		Preliminary	
3P				Applicant did not include the completed and executed Surveyor Certification and land survey map. Additionally, Applicant did not indicate the latitude and longitude for the public bus stop or metro-rail stop.		Preliminary	
4P				Applicant did not include the completed and executed Surveyor Certification and land survey map.		Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C							
				Cura 4T	Cura not acceptable for reason stated in item 4T.	Final	

ELECTION OF RIGHTS

Application Number: 2002- 177C Development Name: Ochlockonee Pointe

- 1. I do not desire a proceeding.
- 2. I elect an informal proceeding to be conducted in accordance with Sections 120.569 and 120.57(2), Florida Statutes. In this regard I desire to (Choose one):

submit a written statement and documentary evidence; or

attend an informal hearing to be held in Tallahassee.

Note: Rule 28-106.301, Florida Administrative Code, requires Applicant to submit a petition in a prescribed format. (attached)

- 3. I elect a formal proceeding at the Division of Administrative Hearings. This option is available only if there are disputed issues of material fact.

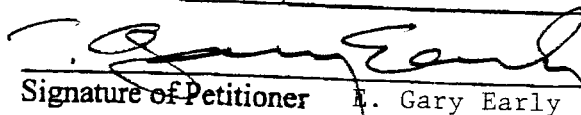
Note: Applicant must submit an appropriate petition in accordance with Rule 28-106.201, Florida Administrative Code. (attached)

Following are my top eight preferences, in order from 1-8 (with 1 being my first choice, etc.) for scheduling my informal hearing. Formal hearings will be scheduled by the Division of Administrative Hearings.

Hearing Dates:	A.M.	P.M.	Hearing Dates:	A.M.	P.M.	Hearing Dates:	A.M.	P.M.
August 29, 2002	___	___	September 9, 2002	<u>9</u>	<u>7</u>	September 17, 2002	___	___
August 30, 2002	___	___	September 10, 2002	___	___	September 18, 2002	___	___
September 3, 2002	___	___	September 11, 2002	___	___	September 19, 2002	___	___
September 4, 2002	___	___	September 12, 2002	___	___	September 20, 2002	<u>2</u>	<u>1</u>
September 5, 2002	___	___	September 13, 2002	<u>6</u>	<u>5</u>			
September 6, 2002	___	___	September 16, 2002	<u>4</u>	<u>3</u>			

Please fax a Hearing Schedule to me at this fax number: (850) 224-4359

DATE: August 13, 2002

 on behalf of
Signature of Petitioner E. Gary Early

Name: Thomas J. McMullen, Jr.

Address: 2109 E. Palm Ave., Suite 206

Tampa, Florida 33605

Phone: (813) 247-2828 (McMullen)

(850) 222-0720 (Early)

TO PRESERVE YOUR RIGHT TO A PROCEEDING, YOU MUST RETURN THIS FORM WITHIN (21) DAYS OF RECEIPT OF THIS NOTICE TO THE FLORIDA HOUSING FINANCE CORPORATION AT THE ADDRESS INDICATED IN THE NOTICE OF RIGHTS. TO FACILITATE THE SCHEDULING OF HEARINGS, THIS FORM MAY BE SUBMITTED PRIOR TO FILING A PETITION.



May 7, 2002

VIA FACSIMILE AND U.S. MAIL

JES BUSH
Governor

ROBERT JAY TAYLOR
Chairman

ORLANDO J. CABRERA
Vice Chairman

BOARD OF DIRECTORS

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STEVEN SEIBERT
Ex Officio

MARK KAPLAN
Executive Director

Lisa M. Stephens
Davis Heritage, Ltd.
20725 South West 46th Avenue
Newberry, FL 32669

Re: Bimini Bay
Application #2002-098B

Dear Ms. Stephens:

We are in receipt of your 2002 Universal Application for Multifamily Mortgage Revenue Bonds. In order to timely process this application for TEFRA approval, the \$500 TEFRA fee called for in Rule Chapter 67-21.007(1), F.A.C., must now be submitted. If TEFRA approval is not obtained from the Governor by June 30, 2002, the above-referenced application will not be in the priority listing filed with the Division of Bond Finance for carry-forward of private activity bond allocation.

In order to allow sufficient time for the required publications and consideration by the Governor, please submit the \$500 fee to Florida Housing, attention Jean Amison, Multifamily Bonds, for receipt no later than Tuesday, May 14, 2002. Thank you for your cooperation and should you have any questions, feel free to call me at (850) 488-4197.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wayne Conner".

Wayne Conner
Deputy Development Officer

WC/jma

Universal Application Instructions
Multifamily Mortgage Revenue Bonds (MMRB) Program
State Apartment Incentives Loan (SAIL) Program
Housing Credit (HC) Program

Applicants are encouraged to review Rule Chapters 67-21 and/or 67-48, F.A.C., and the following Instructions before completing and submitting this Application. Unless otherwise provided in these Instructions and the Application, capitalized terms are as defined in the rule chapters. Program requirements do not necessarily meet all non-FHFC funding or allocation requirements. Applicants are responsible for ensuring that their developments meet all applicable laws and regulations.

GENERAL INSTRUCTIONS

The following instructions must be followed by Applicants in preparing, assembling, and submitting the Application:

Applications may be submitted online at www.floridahousing.org. Regardless of whether an Applicant chooses to submit an Application online, all Applicants must submit:

- one printed version of the completed Application, including applicable exhibits and the Applicant Certification and Acknowledgement exhibit with an original signature. The Applicant must label this printed version of the Application as the “Original Hard Copy”;
- Three photocopies of the “Original Hard Copy”;
- MMRB Applicants that anticipate participating in HUD Risk Sharing must submit one additional photocopy of the “Original Hard Copy”.

The Applicant must ensure that the online Application (if applicable), the “Original Hard Copy” and the photocopies of the Application are all identical. Florida Housing will first consider the Application submitted online (if applicable). If for any reason all or part of the information in the online Application is inaccessible, Florida Housing will consider the “Original Hard Copy” of the Application. Florida Housing will only consider the exhibits submitted as part of the “Original Hard Copy”. Notwithstanding the foregoing, if the Executive Director of Florida Housing, in his sole discretion, determines that issues substantially and adversely impact the actual or perceived efficiency, reliability, or accuracy of the online Application process, then he may require Corporation staff to consider only the “Original Hard Copy” of an Application, of a group of Applications, or of all Applications.

Applications for non-competitive HC in conjunction with tax-exempt bonds: Submit one original Application labeled “Original Hard Copy” and only one photocopy of the “Original Hard Copy” containing all completed information in the Application using Florida Housing’s Electronic Application Template.

Florida Housing will reject any competitive Application submittal and no action will be taken to score the Application if:

- the “Original Hard Copy” of the Application fails to contain the Applicant Certification and Acknowledgement exhibit with an original signature and the applicable exhibits, and/or;
- less than one “Original Hard Copy” and three photocopies of the completed Application, including applicable exhibits, are submitted.

The Application labeled “Original Hard Copy” and the photocopies must be bound in separate three-ring binders with a clear plastic front pocket with numbered index tabs for each exhibit. Open plastic sleeve tabs will NOT be acceptable. It is important that each Application be legible and in proper order to ensure accurate scoring by the Corporation. Each page of the Application must be accurately completed, and Applicants must include all requested information. Failure to provide the requested information and documentation shall result in failure to meet threshold and/or failure to achieve maximum points.

Applications must be received by the Corporation and clocked in by 5:00 p.m., Eastern Time, on the Application Deadline. No Applications will be Received at the Corporation’s offices via facsimile or other electronic transmissions, except for on-line submission. The Application fee must be paid by check or money order, payable to Florida Housing Finance Corporation and submitted with the completed “Original Hard Copy” Application. Failure to submit the correct fee with the “Original Hard Copy” Application by the Application Deadline or failure to submit the Application by the Application Deadline will result in automatic rejection of the Application and no action will be taken to score the Application.

Do not retype, scan, image, or alter any page in the Application Package. This will cause the Application to be rejected. Additional information that is placed on the face of a page that does not obscure the printed words is NOT considered an alteration of the page. However, the additional information cannot change the meaning or intent of the page. Additional information should be presented in an asterisk or footnote format or presented as an explanatory addendum to the page.

Notwithstanding anything in this Application and all instructions in this Application Package to the contrary and except for those items listed in Rule Chapters 67-21.003 and/or 67-48.004, F.A.C., Applicants shall be provided with an opportunity to submit additional documentation and revised pages, as well as other information in accordance with the applicable rules.

IMPORTANT: Periodically throughout the Application, scoring and appeals process, all Applicants should check Florida Housing’s web site for updated information concerning the Universal Application cycle. The web site address is www.floridahousing.org