

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

SAXON CROSSING PARTNERS, LTD.,
2003-151C,

Petitioner,

v.

CASE NO.: 2003-048
FHFC Application No. 2003-151C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Pursuant to Sections 120.569 and 120.57(1), Fla. Stat., and Rules 28-106.201 and 67-48.005(1), Fla. Admin. Code, Petitioner SAXON CROSSING PARTNERS, LTD. ("Saxon Crossing") hereby requests a formal administrative proceeding on Florida Housing Finance Corporation's proposed award of only 7.0 tie-breaker points to Saxon Crossing's application for competitively awarded low income housing tax credits, Application No. 2003-151C, in the Year 2003 Universal Application cycle. In support of this petition, Saxon Crossing states as follows:

Parties

1. The agency affected is the Florida Housing Finance Corporation ("FHFC"), 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. FHFC has assigned Application No. 2003-151C to this matter.

2. The Petitioner is Saxon Crossing Partners, Ltd., ("Saxon Crossing") whose address is 1551 Sandspur Road, Maitland, Florida 32751. For purposes of this proceeding, Saxon Crossing's

address is that of its undersigned attorney M. Christopher Bryant, Oertel, Fernandez & Cole, P.A., 301 S. Bronough Street, 5th Floor, Tallahassee, Florida 32301 (P. O. Box 1110, Tallahassee, Florida 32302-1110), Telephone: (850) 521-0700, Facsimile: (850) 521-0720.

Substantial Interests Affected

3. Saxon Crossing has proposed the construction of a 176-unit multi-family housing development in Volusia County, Florida. Saxon Crossing has proposed to set aside 100% of the units for residents making 60% or less of Area Median Income for a period of 50 years, with 47% of such units to be set aside for persons making 50% or less of Area Median Income. Saxon Crossing has projected its total development costs to be \$15,117,069. Saxon Crossing proposes to finance the majority of these development costs through the sale of federal low income housing tax credits (“housing credits”) distributed by FHFC through a competitive process. Specifically, Saxon Crossing sought an annual allocation of \$1,000,000 in HC for a 10-year period. Saxon Crossing proposed to sell these credits in order to generate \$7,372,620 in equity during the construction period, and \$8,191,800 in equity as part of the permanent financing of the development.

4. As explained more fully in this Petition, Saxon Crossing’s substantial interests are affected by FHFC’s scoring of its application in this competitive application process, including the calculation and award of “tie-breaker” points in the event that Saxon Crossing achieves a score on its application that is tied with other applicants. Currently, Saxon Crossing’s application has a score of 66 points, which, based on score alone, ties it with over 125 of the approximately 150 “Universal Application” applicants submitted and still pending this year (and ties it with all of the other three Developments proposed for Volusia County). Depending on the final ranking of Universal Applications in this cycle, Saxon Crossing’s tie-breaker score may be the deciding factor in whether

the development is selected for receipt of its requested housing credits. If Saxon Crossing does not receive an allocation of housing credits, it will be unable to construct its development.

Background

5. FHFC allocates several forms of financing for affordable housing, including Housing Credits, State Apartment Incentive Loans (“SAIL”), and Multi-Family Mortgage Revenue Bonds (“MMRB”). Applicants compete for the award of these forms of financing, which provide more favorable financial terms than would be available through conventional financing sources. In exchange for the receipt of such financing from FHFC, applicants enter into long-term agreements to set aside all or a portion of the residential units within such developments to low income residents, and, depending on the requirements of the particular program, may also be required to limit the rents charged to such residents.

6. All three of the above-named forms of financing (Housing Credits, SAIL loans, and MMRB) were combined into a single “Universal Application Cycle” for 2003. Financing for any of these programs is sought through the use of a joint Universal Application form. SAIL and Housing Credit applicants are subject to FHFC Rule Chapter 67-48, Fla. Admin. Code, while MMRB applicants are subject to FHFC Rule Chapter 67-21, Fla. Admin. Code. The Universal Application form is incorporated by reference into FHFC’s rules, as are exhibit forms to be used with the applications, and a 90-page document entitled Universal Application Instructions, designated UA1016 (revised 4-03).

7. Applicants in the Universal Application Cycle are scored on the various components of their applications, such as development features and amenities, greater numbers of units set aside, resident programs, and local government support. The maximum score that can be assigned to a

Universal Application is 66 points. Because of the potential for so many applicants to achieve a “perfect” score of 66 points (and, as noted, over 125 of the 150 or so Universal Application applicants currently pending have a “perfect score” of 66), FHFC designed its scoring and ranking system to include a series of “tie-breakers.”

8. One of the tie-breakers used by FHFC in this year’s Universal Application Cycle involves the assignment of points based on the proximity of the development to certain off-site features. All Universal Application Cycle applicants receive up to 1.25 tie-breaker points for being within specified distances from a grocery store, and up to 1.25 points for being close to a public bus stop or metro-rail stop. In addition, developments proposed as elderly housing can receive up to 1.25 proximity points for their proximity to medical facilities; and developments proposing to house any demographic group other than the elderly can receive up to 1.25 proximity points for location near a public school. Further, if a development is located in a Small or Medium county as designated in the Instructions, and is not an elderly housing development, the Application may receive up to 1.25 tie-breaker points for being close to a pharmacy or medical facility instead of a bus stop or metro-rail stop.

9. Generally, the closer a proposed Development is to these applicable off-site features (grocery store, medical facility, pharmacy, public school, and bus stop or metro-rail stop), the higher its tie-breaker score; Applicants who are farther away lose tie-breaker points incrementally, and at some specified distance receive no tie-breaker points for that feature. For example, an applicant whose proposed development is less than one mile from a public school receives 1.25 points; an applicant between one and two miles receives 1.0 points; and further distances yield fewer points until applicants more than 5 miles from a public school receive zero public school proximity points.

10. In addition, in order for FHFC to avoid concentration of affordable housing in specific areas, and to encourage geographic distribution of affordable housing, all Universal Application Cycle applicants can receive up to 3.75 points for their distance from (rather than proximity to) other FHFC-financed developments serving the same demographic group as the applicant's proposed development, as identified on an FHFC Development Proximity List. Again, the actual number of points awarded depends on the applicant's distance from a listed Development. The total number of proximity tie-breaker points available is 7.5 points, including both distance from listed FHFC developments and proximity to off-site services and features described above.

11. At page 13 of the Universal Application Instructions, copy attached hereto as Exhibit A, FHFC has provided the following definition of "public school:"

Public School - For purposes of tie-breaker points, a Public School means a public elementary, middle, junior and/or high school, including a charter school, except for a charter school that is not generally available to appropriately aged children in the radius area and a public school open and available exclusively to children with exceptional needs. This service may not be selected if the Applicant selected and qualified for the Elderly Demographic Commitment in this Application.

Again, the Instructions in which this definition appears are incorporated by reference into FHFC's rules.

Nature of the Controversy

12. Saxon Crossing timely submitted its 2003 Housing Credit application to FHFC on April 8, 2003. FHFC preliminarily reviewed and scored the 2003 Universal Application Cycle applications, including Saxon Crossing's. On or about May 13, 2003, FHFC notified all applicants

of the preliminary threshold responsiveness, scoring, and tie-breaker score determinations on their applications. FHFC informed Saxon Crossing that its application met the required “threshold” responsiveness requirements, allowing its application to continue to compete for housing credits. FHFC also informed Saxon Crossing, by way of a document labeled Universal Scoring Summary, that its score was 66 points, and that its tie-breaker points totaled 7.5.

13. At Part III, Section A, subsection 11.b.(2) of its application, Saxon Crossing claimed that it was within 1.0 miles of a public school and was thus entitled to 1.25 proximity tie-breaker points for proximity to a public school. Saxon Crossing identified the public school that was within 1.0 miles as Storefront West Public School, and provided the address of this public school as 290 Treemont Drive, Orange City, Florida 32763. A copy of this page (page 8 of the hard copy) of Saxon Crossing’s application identifying this public school and its location is attached hereto as Exhibit B.

14. As previously noted, on or about May 13, 2003, FHFC provided Saxon Crossing a Universal Scoring Summary. On or about the same time that the information was provided to the applicant, it was also posted on FHFC’s web site, at www.floridahousing.org. A copy of that Universal Scoring Summary as posted on the web site, and dated 5/12/2003, is attached hereto as Exhibit C. The Scoring Summary stated that the Application met threshold requirements, that its substantive score was 66 points, and that its tie-breaker score was 7.5 points. As shown on Page 2 of Exhibit C, FHFC awarded Saxon Crossing the full 1.25 tie-breaker points for its proximity to a public school.

15. Subsequent to the issuance of “preliminary” scores in May, 2003, all applicants were provided the opportunity to notify the FHFC of possible scoring errors in other applications. Another applicant filed a Notice of Possible Scoring Error (“NOPSE”) against Saxon Crossing, contending that Storefront West is not a public school. Among the arguments presented by the NOPSE filer against the Saxon Crossing application was that Storefront West was a “correctional high school.” A copy of the NOPSE against Saxon Crossing raising this issue is attached hereto as Exhibit D. (The NOPSE also raised another issue concerning the award of tie-breaker points to Saxon Crossing; FHFC did not agree with the NOPSE filer’s argument regarding that other issue, so it is not relevant to this proceeding.)

16. Following the submission of NOPSE’s, FHFC issued a subsequent Universal Scoring Summary, on or about June 9, 2003. This Scoring Summary was also posted on FHFC’s web site, and a copy of the posted Scoring Summary for Saxon Crossing, dated 6/9/2003, is attached hereto as Exhibit E. The June 9 Scoring Summary again showed that the application received a score of 66.0, but also reflected an award of only 6.25 total tie-breaker points. As shown on Page 2 of Exhibit E, FHFC cited as its reason for Saxon Crossing’s failure to achieve proximity tie-breaker points for a public school that “School does not meet definition of public school as it is not generally available for use by the general public because it is a ‘correctional’ high school available exclusively to children with exceptional needs.”

17. Pursuant to Rule 67-48.004(6), Fla. Admin. Code, Saxon Crossing took the opportunity to provide additional documentation to FHFC to address its alleged failure to achieve full proximity tie-breaker points. This additional documentation is generally referred to as a “cure.” The documentation submitted by Saxon Crossing as a cure on the school issue is attached hereto as

Exhibit F. In its cure, Saxon Crossing provided information about Storefront West School, and an address for the School's web site (<http://schools.volusia.k12.fl.us/deltonahigh>) and explained how Storefront West meets FHFC's definition of public school.

18. On or about July 21, 2003, FHFC released "final" Universal Scoring Summaries for all applicants. (Although designated "final," the scoring summaries are accompanied by points of entry to request formal or informal administrative hearings.) FHFC's final Universal Scoring Summary for Saxon Crossing, as posted on FHFC's web site and bearing the date "07/18/2003," which was received by Saxon Crossing via overnight delivery on July 22, 2003, is attached hereto as Exhibit G.

19. FHFC's final scoring summary for Saxon Crossing reflects that the application meets FHFC's threshold requirements; and has a final substantive score of 66 points, which, based on score alone, ties it with about 125 of the approximately 150 Universal Cycle applications submitted and still pending this year. The final scoring summary also reflects a restoration of some tie-breaker points to Saxon Crossing's application. Saxon Crossing's "final" tie-breaker score is shown as 7.0 points, which includes .75 of a possible 1.25 points for proximity to a public school. Apparently, FHFC still maintains that Storefront West is not a public school, but FHFC appears to have awarded Saxon Crossing 0.75 points for the proximity of an alternate public school identified in Saxon Crossing's cure: DeBary Elementary School located at 88 West Highbanks Road, DeBary, Florida 32713, between 2 and 3 miles from the proposed development.

Inconsistent Treatment

20. FHFC's proposed refusal to recognize the Storefront West School as a public school is also inconsistent with its "final" staff position on a public school designated by another Applicant

in this cycle. Application No. 2003-010BS, Lake Shore Apartments in Palm Beach County, identified Bak Middle School of the Arts as its public school. FHFC initially proposed to award the applicant 1.25 proximity tie-breaker points for being within one mile of this school. However, a NOPSE filed against Lake Shore Apartments asserted that the Bak Middle School of the Arts did not meet the definition of “public school” because it was “available exclusively to applicants who pass an art audition,” and thus was a school “not generally available to appropriately aged children in the radius area.” FHFC responded by proposing to not award Lake Shore Apartments any public school proximity points on the Scoring Summary for that development dated 6/09/03.

21. The Applicant, Lake Shore, responded with a “cure” that argued that the Bak Middle School of the Arts was “open to the general school population.” The cure attached a letter from the Chief Counsel to the Palm Beach County School Board which included the same statement just quoted, as well as an invitation to review information from the School Board’s web site, www.palmbeach.k12.fl.us.

22. Pursuant to the mechanism established by FHFC Rule 67-48.004(7), a Notice of Alleged Deficiency (“NOAD”) was subsequently filed against the Lake Shore Development, challenging the acceptability of the Bak Middle School of the Arts, and including information printed out from the School Board’s web site about that school. That information included statements that students were selected “using an application and audition process;” that eligibility for admission “is determined by the applicant’s audition score;” and that “to be considered for admission to Bak Middle School of the Arts applicants must pass the audition.” In response to a “Frequently Asked Question” concerning students without “extensive arts training,” the web site states that “students with potential or undeveloped talent are sought as well as students with more developed technical skills.” In other

words, while the school is not limited to students with extensive arts training, all students must at least have “potential or undeveloped” artistic talent and pass an audition. The school is not open to all appropriately-aged students who may be desirous of attending. Despite this NOAD, FHFC, in its “final,” pre-appeal scoring summary, rescinded the loss of public school tie-breaker points, and restored such tie-breaker points to Lake Shore Apartments.

23. Saxon Crossing has been treated differently from Lake Shore Apartments. As explained in Saxon Crossing’s cure, its designated public school, Storefront West, is a public school operated by the School Board of Volusia County as a part of Deltona High School. It is not a charter school. It is not a school for “children with exceptional needs.” It is not a “correctional” high school.

24. Students at Storefront West are required to apply for admission, the same as for Bak Middle School for the Arts. Students at Storefront West School are required to pass a “basic skills test,” but this is no more burdensome (and even less selective) than the audition process required at Bak Middle School for the Arts. All of this information is available from the Storefront West School web site, schools.volusia.k12.fl.us/deltonahigh, which address was provided in Saxon Crossing’s cure. Information from the Storefront West School web page describing the school, its purpose, and its policies is attached hereto as Exhibit H.

25. FHFC’s refusal to recognize Storefront West School as a public school, when it has recognized an audition-only, magnet school for the arts as a public school for another applicant is arbitrary, capricious, and irrational. If FHFC’s rationale for rejecting Storefront West School is that it may not be available to all high school aged students who may reside in the Saxon Crossing development, then FHFC has already rejected that rationale by accepting as a public school a magnet school for the arts that may not (and likely would not) accept all middle school aged residents of

Lake Shore Apartments. Further, FHFC's adopted definition of "public school" does not require that the school be generally available to appropriately-aged children; rather, only charter schools (but not all public schools) are expressly excluded from the definition if they are "not generally available to appropriately-aged children in the radius area" (emphasis added).

Notice

26. Saxon Crossing received notice via Federal Express delivery on Tuesday, July 22, 2003, of FHFC's scoring of the Saxon Crossing Housing Credit application. This Petition is being accompanied by a completed Election of Rights form indicating its intention to file a Petition for Formal Administrative Proceedings within twenty-one days of its July 22 receipt of notice of the scoring of its application. A copy of the Election of Rights form is attached hereto as Exhibit I. Pursuant to Rule 67-48.005(1), Fla. Admin. Code, this Petition is being filed within twenty-one days of Saxon Crossing's receipt of the July 22, 2003 memorandum forwarding its score.

Disputed Issues of Material Fact

27. Saxon Crossing has initially identified the following disputed issues of material fact, which it reserves the right to supplement as additional facts become known to it:

(A) Whether Storefront West School is a public school. Saxon Crossing contends that it is.

(B) Whether Storefront West School is a charter school. Saxon Crossing contends that is not.

(C) Whether Storefront West School is a public school open and available "exclusively to children with exceptional needs." Saxon Crossing contends that it is not.

(D) Whether Storefront West School is a “correctional” high school. Saxon Crossing contends that it is not.

(E) Whether Storefront West School fully meets the definition of “public school” contained in FHFC’s Universal Application Instructions. Saxon Crossing contends that it does.

(F) Whether FHFC’s proposed rejection of Storefront West School as a public school constitutes a de facto revision of its adopted definition of a public school to add additional criteria not set out in the adopted definition. Saxon Crossing contends that it does.

(G) Whether FHFC’s reliance on non-rule criteria to reject as a public school a school which otherwise meets the FHFC rule definition of “public school” is arbitrary, capricious, and unlawful. Saxon Crossing contends that it is.

(H) Whether FHFC’s determination that Storefront West School does not meet its rule definition of “public school” had any reasonable basis in law and fact at the time that position was asserted by FHFC. Saxon Crossing contends that it did not.

(I) Whether FHFC has consistently evaluated and scored (for tie-breaker point purposes) all claimed public schools by all applicants in this cycle. Saxon Crossing contends that it has not.

Concise Statement of Ultimate Facts

28. Saxon Crossing alleges as ultimate facts that Storefront West School identified in its application, is a public school as defined in FHFC rule; specifically, it is a public high school, is not a charter school, and is not open and available exclusively to children with exceptional needs. FHFC’s proposed rejection of the Storefront West School as a qualifying public school under its rules should be overturned.

Relief Sought and Law Entitling Applicant to Relief

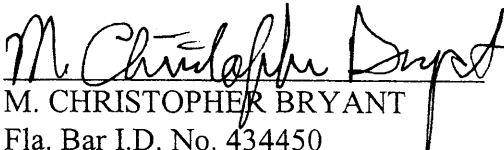
29. Saxon Crossing seeks entry of Recommended and Final Orders awarding it 1.25 proximity points for its proximity to a public school. Saxon Crossing is entitled to this formulation of FHFC's action to award Saxon Crossing full public school tie-breaker points by Chapter 120, Fla. Stat., including but not limited to Sections 120.569 and 120.57(1); and Rule Chapters 28-106 and 67-48, Fla. Admin. Code, including but not limited to the definition of "public school" from page 13 of the Universal Application Instructions, incorporated by reference into FHFC's rules.

30. Saxon Crossing is also entitled to this relief by case law and by prior agency precedent concerning the force and effect of adopted rules, and particularly of adopted definitions in FHFC rules. Clearly, a state agency is obligated to follow its own rules until amended or abrogated. See, Cleveland Clinic Hospital v. Agency for Health Care Administration, 679 So.2d 1237 (Fla. 1st DCA 1996) and cases cited therein. FHFC has recognized by its own final orders that it is bound by its adopted definitions. Landings on Millennia Blvd. v. FHFC, FHFC Case No. 2002-0057, Application No. 2002-76S (Final Order entered October 10, 2002) (Applicant entitled to award of tie-breaker points for proximity to grocery store where the identified store met FHFC's rule-adopted definition of grocery store; FHFC could not enlarge, modify, or change that definition to the detriment of applicants who relied upon the definition provided); Newport Sound Partners, Ltd. v. FHFC, FHFC Case No. 2002-0058, Application No. 2002-130C (Final Order entered October 10, 2002) (same holding).

31. Saxon Crossing specifically requests that this petition be promptly forwarded to the Division of Administrative Hearings within fifteen days of its filing, as required by Section 120.569(2)(a), Fla. Stat., for assignment of an administrative law judge, and the conduct of formal

administrative proceedings. Saxon Crossing also seeks such other relief as is just and proper, including but not limited to the award of attorney's fees and costs pursuant to Section 57.111, Fla. Stat., in that FHFC's proposed rejection of Storefront West School as a public school has no reasonable basis in law and fact and is contrary to the clear and unambiguous definition of public school contained in its rules.

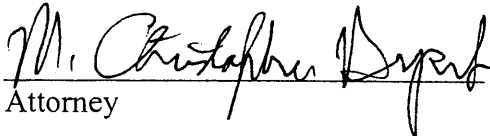
FILED and SERVED this 12th day of August, 2003.


M. CHRISTOPHER BRYANT
Fla. Bar I.D. No. 434450

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Attorneys for Petitioner
SAXON CROSSING PARTNERS, LTD.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed by HAND-DELIVERY with the Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, this 12th day of August, 2003.


Attorney

MCB/dg/2624-34
2624-34SaxonCrossingPetition.Pld

**INDEX OF EXHIBITS TO PETITION OF
SAXON CROSSING, 2003-151C**

Exhibit A	Page 13 of FHFC's Universal Application Instructions
Exhibit B	Page 8 of Saxon Crossing's application, submitted April 8, 2003
Exhibit C	Universal Scoring Summary for Saxon Crossing, dated May 12, 2003
Exhibit D	Notice of Possible Scoring Error filed against Saxon Crossing
Exhibit E	Universal Scoring Summary for Saxon Crossing, dated June 9, 2003
Exhibit F	"Cure" submitted by Saxon Crossing on public school issue on June 19, 2003
Exhibit G	"Final" Universal Scoring Summary for Saxon Crossing, dated July 22, 2003
Exhibit H	Storefront West School Web Site Information
Exhibit I	Election of Rights form

not a major retail function, based on allocated space or on gross sales, such as Eckerd Drug Stores, Walgreen Drug Stores, Dollar General Stores, Family Dollar Stores, etc.

- (2) Public School - For purposes of tie-breaker points, a Public School means a public elementary, middle, junior and/or high school, including a charter school, except for a charter school that is not generally available to appropriately aged children in the radius area and a public school open and available exclusively to children with exceptional needs. This service may not be selected if the Applicant selected and qualified for the Elderly Demographic Commitment in this Application.
- (3) Medical Facility - For purposes of tie-breaker points, a Medical Facility means a hospital, state or county health clinic or walk-in clinic (that does not require a prior appointment) that provides general medical treatment or general surgical services at least five days per week to any physically sick or injured person. This service can be selected only if the Applicant selected and qualified for the Elderly Demographic Commitment in this Application or if the proposed Development will be located in a Small or Medium County.
- (4) Pharmacy - For purposes of tie-breaker points, a Pharmacy means a community pharmacy operating under a valid permit issued pursuant to s. 465.018, F.S., and open to the general public at least five days per week without the requirement of a membership fee. This service can only be selected if the proposed Development is in a Small or Medium County.

Applicant must provide both the name and Address as assigned by the United States Postal Service for the selected service(s).

- (5) Location of the closest Public Bus Stop or Metro-Rail Stop - Public Bus Stop or Metro Rail Stop means a fixed location provided by a public transportation entity at which passengers may access regularly scheduled public transportation on a year-round basis. The latitude and longitude coordinates must be stated (in degrees, minutes and seconds truncated after one decimal place) on the Surveyor Certification Form and provided behind a tab labeled **“Exhibit 25”**.
- c. Proximity to the closest Development Address or location coordinates identified on the List. (Maximum 3.75 tie-breaker points):

Address of Grocery Store: _____
 Street: 2556 Enterprise Rd
 City: Orange City State: FL Zip Code: 32763

(2) If the proposed Development will serve any demographic group other than Elderly, i.e., the Applicant selected and qualified for any Demographic Commitment at Part III.D. other than Elderly, will it be located within 5 miles of a Public School?

Yes (check only ONE applicable distance) No

Proximity of Proposed Development to a Public School	Proximity Tie-Breaker Points
<input checked="" type="radio"/> > 0 and < or equal to 1.0 mile	1.25
<input type="radio"/> > 1.0 and < or equal to 2.0 miles	1
<input type="radio"/> > 2.0 and < or equal to 3.0 miles	.75
<input type="radio"/> > 3.0 and < or equal to 4.0 miles	.5
<input type="radio"/> > 4.0 and < or equal to 5.0 miles	.25

Name of Public School: Storefront West Public School

Address of Public School:
 Street: 290 Treemont Drive
 City: Orange City State: FL Zip Code: 32763

(3) If the proposed Development will serve the Elderly, i.e., the Applicant selected and qualified for the Elderly Demographic Commitment at Part III.D. or if the proposed Development will be located in a Medium or Small County, will it be located within 5 miles of a Medical Facility?

Yes (check only ONE applicable distance) No

Proximity of Proposed Development to a Medical Facility	Proximity Tie-Breaker Points
<input type="radio"/> > 0 and < or equal to 1.0 mile	1.25
<input type="radio"/> > 1.0 and < or equal to 2.0 miles	1
<input type="radio"/> > 2.0 and < or equal to 3.0 miles	.75
<input type="radio"/> > 3.0 and < or equal to 4.0 miles	.5
<input type="radio"/> > 4.0 and < or equal to 5.0 miles	.25

Name of Medical Facility: _____

Address of Medical Facility:
 Street: _____
 City: _____ State: _____ Zip Code: _____

(4) If the proposed Development will be located in a Medium or Small County, will it be located within 5 miles of a Pharmacy?

Yes (check only ONE applicable distance) No

Proximity of Proposed Development to a Pharmacy	Proximity Tie-Breaker Points
<input type="radio"/> > 0 and < or equal to 1.0 mile	1.25
<input type="radio"/> > 1.0 and < or equal to 2.0 mile	1
<input type="radio"/> > 2.0 and < or equal to 3.0 mile	.75

2003 MMRB, SAIL & HC Scoring Summary

As of: 05/12/2003

File # 2003-151C Development Name: Saxon Crossing Apartments

As of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
05 - 12 - 2003	66	Y	7.5	\$42,613.64	%	N
Preliminary	66	Y	7.5	\$42,613.64	%	N
NOPSE	0	Y	0		0	
Final	0	Y	0		0	
Post-Appeal	0	Y	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	0	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	0	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	0	0	0
Set-Aside Commitments									
4S	III	E	1.b.	Commitment to Serve Lower AMI	5	5	0	0	0
5S	III	E	1.c.	Total Set-Aside Commitment	3	3	0	0	0
6S	III	E	3.	Affordability Period	5	5	0	0	0
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	0	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	0	0	0	0
8S	III	F	4.	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2003 MMRB, SAIL & HC Scoring Summary

As of: 05/12/2003

File # 2003-151C

Development Name: Saxon Crossing Apartments

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1)	Grocery Store	1.25	1.25	0	0	0
2P	III	A	11.b.(2)	Public School	1.25	1.25	0	0	0
3P	III	A	11.b.(3)	Medical Facility	1.25	0	0	0	0
4P	III	A	11.b.(4)	Pharmacy	1.25	0	0	0	0
5P	III	A	11.b.(5)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	0	0	0
6P	III	A	11.c.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	0	0	0

**2003 UNIVERSAL APPLICATION CYCLE
APPEAL STATEMENT**

FHFC File # 2003 - 151C

Development Name: Saxon Crossing Apartments

TRACKING NO:

162

Part III, Section A., Subsection 11.a.

Issue 1.

Pursuant to Part III, Section A., Subsection 11.a. of the 2003 Universal Application General Instructions, "To determine proximity, the Applicant must first identify a Tie-Breaker Measurement Point on the proposed Development site and provide the latitude and longitude coordinates determined in degrees, minutes and seconds truncated after one decimal place.

The proposed Development submitted the Application with an address of "East side of Enterprise Road, north of the intersection of Enterprise and Saxon Boulevard.". The Surveyor Certification was submitted providing latitude and longitude coordinates that *do not* match the above referenced address.

Although the Applicant submitted a Surveyor Certification, DeLorme failed to identify the noted latitude and longitude coordinates at the same address.

Result: The Applicant did not meet threshold and should be rejected.

Part III, Section A., Subsection 11.b.(2)

Issue 1.

Pursuant to Part III, Section A., Subsection 11.b.(2) of the 2003 Universal Application General Instructions, "For purposes of tie-breaker points, a Public School means a public elementary, middle, junior and/or high school, including a charter school.....available exclusively to children with exceptional needs.

The Applicant submitted the Public School as "Storefront West Public School" indicating the school is located within 0 - 1.0 miles of the proposed Development. Storefront West Public School is listed as a "correctional" high school not open to regular admission. The closest "public" school located on DeLorme is Orange City Elementary located outside the 1 mile indicator.

Result: The Application should receive a reduction of .50 points.

2003 MMRB, SAIL & HC Scoring Summary

As of: 06/09/2003

File # 2003-151C

Development Name: Saxon Crossing Apartments

As of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
06 - 09 - 2003	66	Y	6.25	\$42,613.64	%	N
Preliminary	66	Y	7.5	\$42,613.64	%	N
NOPSE	66	Y	6.25	\$42,613.64	%	N
Final	0	Y	0		0	
Post-Appeal	0	Y	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
1S	III	B	2.a.	Optional Features & Amenities	9	9	9	9	0
1S	III	B	2.b.	New Construction	9	9	0	0	0
2S	III	B	2.c.	Rehabilitation/Substantial Rehabilitation	12	12	12	12	0
2S	III	B	2.d.	All Developments Except SRO	12	12	0	0	0
3S	III	B	2.e.	SRO Developments	9	9	9	9	0
4S	III	E	1.b.	Energy Conservation Features	5	5	5	5	0
5S	III	E	1.c.	Set-Aside Commitments	3	3	3	3	0
6S	III	E	3.	Commitment to Serve Lower AMI	5	5	5	5	0
7S	III	F	1.	Affordability Period	6	6	6	6	0
7S	III	F	2.	Resident Programs	6	6	0	0	0
7S	III	F	3.	Programs for Non-Elderly & Non-Homeless	6	6	0	0	0
8S	III	F	4.	Programs for Homeless (SRO & Non-SRO)	8	8	8	8	0
9S	IV		a.	Programs for Elderly	5	5	5	5	0
10S	IV		b.	Programs for All Applicants	4	4	4	4	0
				Local Government Support					
				Contributions					
				Incentives					

2003 MMRB, SAIL & HC Scoring Summary

As of: 06/09/2003

File # 2003-151C Development Name: Saxon Crossing Apartments

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1)	Grocery Store	1.25	1.25	1.25	0	0
2P	III	A	11.b.(2)	Public School	1.25	1.25	0	0	0
3P	III	A	11.b.(3)	Medical Facility	1.25	0	0	0	0
4P	III	A	11.b.(4)	Pharmacy	1.25	0	0	0	0
5P	III	A	11.b.(5)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	0	0
6P	III	A	11.c.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	3.75	0	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
2P	School does not meet definition of public school as it is not generally available for use by the general public because it is a "correctional" high school available exclusively to children with exceptional needs.	NOPSE	

2003 CURE FORM

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

This Cure Form is being submitted with regard to Application No. 2003-151C and pertains to:

Part III Section A Subsection 11.b.(2) Exhibit No (if applicable)

The attached information is submitted in response to the 2003 Universal Scoring Summary because:

- I. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve proximity tie-breaker points selected, and/or failure to achieve threshold relative to this form. Check applicable item(s) below:

	2003 Universal Scoring Summary	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. <u> </u> S	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Threshold Failed	Item No. <u> </u> T	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason for Failure to Achieve Proximity Tie-Breaker Points Selected (MMRB/SAIL/HC Applications Only)	Item No. <u>2</u> P	<input type="checkbox"/>	<input checked="" type="checkbox"/>

OR

- II. Other changes are necessary to keep the Application consistent:

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

Brief Statement of Explanation regarding
Application 2003 – 151C

Provide a separate brief statement for each Cure or NOAD

In its 2003 MMRB, SAIL and HC Scoring Summary dated 06/09/2003 for Saxon Crossing Apartments, Application No. 2003-151C, Florida Housing staff has proposed awarding no points for proximity to a public school at Part III, Section A, Subsection 11.b.(2). The stated reason for not achieving those tie-breaker points is as follows:

School does not meet definition of public school as it is not generally available for use by the general public because it is a "correctional" high school available exclusively to children with exceptional needs.

The applicant contests this loss of proximity points.

The Applicant claimed proximity of less than one mile to Storefront West School at 290 Treemont Drive in Orange City, Florida. Storefront West School is operated by the Volusia County School Board as a part of Deltona High School. Information concerning Storefront West School, be available from the School's web site at <http://schools.volusia.k12.fl.us/deltonahigh/> (under the table of contents on the left, click Storefront West School).

As explained on the Storefront West School web site, Storefront West School is designed for at-risk students who are not succeeding in the traditional high school

setting or those who have dropped out and want to return to earn their high school diploma. Requirements for enrollment include the student passing a basic skills test, completing an application and essay, and being employable, as employment preparation is a significant focus of the school.

"Public school" is not a term that is defined in either Rule Chapter 67-48 or 67-21, Fla. Admin. Code. However, it is defined at Page 13 of the Universal Application Instructions which are incorporated by reference into FHFC rules. The definition reads as follows:

(2) Public School – For purposes of tie-breaker points, a public school means a public elementary, middle, junior and/or high school, including a charter school, except for a charter school that is not generally available to appropriately aged children in the radius area and a public school open and available exclusively to children with exceptional needs. This service may not be selected if the applicant selected and qualified for the elderly demographic commitment in this application.

Storefront West School is a public high school. It is not a charter school, so it is irrelevant whether the school is generally available to children in the radius area. The requirement that a school be "generally available to appropriately aged children in the radius area" only applies to charter schools, according to FHFC's

definition of public school. It is not, as stated in the NOPSE Scoring Summary, a
"correctional high school", if that term is intended to imply a "correction facility"
or other institution for students with criminal histories. While some students at
Storefront may have had problems involving law enforcement and the courts, the
same could be said of some students at many or most high schools, and prior trouble
with the law is not a precondition or an indicator for attendance at Storefront West.

The students at Storefront are not "exceptional needs" students. That term,
although used in FHFC's definition of public schools, is not a defined term.
However, a similar term, "exceptional students," appears in statute at Section
1003.01(3)(a), Fla. Stat. That definition is as follows:

"Exceptional student" means any student who has been
determined eligible for a special program in accordance with
rules of the State Board of Education. The term includes
students who are gifted and students with disabilities who
are mentally handicapped, speech and language impaired,
deaf or hard of hearing, visually impaired, dual sensory
impaired, physically impaired, emotionally handicapped,
specific learning disabled, hospital and home bound, autistic,
developmentally delayed children, ages birth through 5 years,
or children, ages birth through 2 years, with established

conditions that are identified in State Board of Education

rules pursuant to s. 1003.21(1)(e).

Students in Storefront West School are neither gifted nor students with disabilities.

While there may be students enrolled in Storefront West who happen to be gifted or

happen to have disabilities, the Storefront West School was not created for the

purpose of educating students with such gifts or disabilities; in that sense,

Storefront West would be like any other public school which might happen to have

gifted or disabled students enrolled in its student body.

Storefront West School thus meets FHFC's definition of "public school"

If FHFC now seeks to impose additional, undisclosed criteria for determining what

constitutes a "public school", then this Applicant is significantly disadvantaged by

such a late introduction of new criteria. Had the Applicant known that a definition

existed which would have excluded Storefront West, the Applicant could have

identified DeBary Elementary School, located at 88 West Highbanks Road,

DeBary, FL 32713, a distance of between 2 and 3 miles from the Applicant's Tie-

Breaker Measurement Point, which would have resulted in .75 points towards this

Applicant's Tie-Breaker Score. In the event FHFC rejects the Storefront West

School, then the Applicant should at least receive .75 point for proximity to a public

school.

2003 MMRB, SAIL & HC Scoring Summary

As of: 07/18/2003

Development Name: Saxon Crossing Apartments

File # 2003-151C

As of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
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NOPSE	66	Y	6.25	\$42,613.64	%	N
Final	66	Y	7	\$42,613.64	%	N
Post-Appeal	0	Y	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
				Optional Features & Amenities					
1S	III	B	2.a.	New Construction	9	9	9	9	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	0
				Set-Aside Commitments					
4S	III	E	1.b.	Commitment to Serve Lower AMI	5	5	5	5	0
5S	III	E	1.c.	Total Set-Aside Commitment	3	3	3	3	0
6S	III	E	3.	Affordability Period	5	5	5	5	0
				Resident Programs					
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	6	6	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	0	0	0	0
8S	III	F	4.	Programs for All Applicants	8	8	8	8	0
				Local Government Support					
9S	IV		a.	Contributions	5	5	5	5	0
10S	IV		b.	Incentives	4	4	4	4	0

2003 MMRB, SAIL & HC Scoring Summary

As of: 07/18/2003

File # 2003-151C

Development Name: Saxon Crossing Apartments

Proximity Tie-Breaker Points:

Item #	Part Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1) Grocery Store	1.25	1.25	1.25	1.25	0
2P	III	A	11.b.(2) Public School	1.25	1.25	0	0.75	0
3P	III	A	11.b.(3) Medical Facility	1.25	0	0	0	0
4P	III	A	11.b.(4) Pharmacy	1.25	0	0	0	0
5P	III	A	11.b.(5) Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	1.25	0
6P	III	A	11.c. Proximity to Developments on FHFC Development Proximity List	3.75	3.75	3.75	3.75	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
2P	School does not meet definition of public school as it is not generally available for use by the general public because it is a "correctional" high school available exclusively to children with exceptional needs.	NOPSE	

Additional Application Comments:

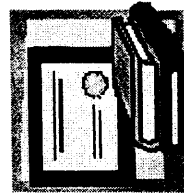
Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C	III	A	11.b.2. Public School	Applicant attempted to cure Item 2P, by making an argument as to why the school previously provided in the Application should receive points. However, that Public School is not available for use by the general public as of the Application Deadline. Applicant was awarded points for the Public School provided as an alternative.	Final	

Welcome to Storefront West School

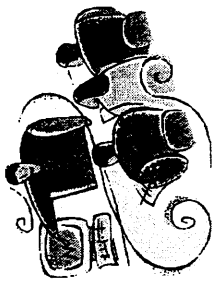
(Click on Pictures to View the Pages)



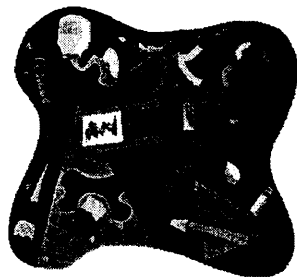
Message from the Director



SWS Mission Statement



Personnel



Information About Storefront West



Calendar

Store Front School West

Home

STOREFRONT WEST SCHOOL

MISSION STATEMENT

"Our mission is to provide a quality educational program for at-risk students that will enable them to be successful contributors in a changing world."

VOLUSIA COUNTY SCHOOLS

VISION STATEMENT

"Through the individual commitment of all, our students will graduate with the knowledge, skills, and values to be successful contributors to our democratic society."

Table of Contents

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INFORMATION ABOUT STOREFRONT WEST

Royal Oaks Professional Centre

290 Treemonte Drive

Orange City, Florida 32763

(386)775-5265

Introduction

Storefront West School is a performance based, standard high school diploma program. It is designed for at-risk students who are not succeeding in the traditional high school setting or those who have dropped out and want to return to earn their high school diploma.

Storefront West is also a school of choice in that students must meet the enrollment criteria and complete our enrollment process to be considered for admission.

Enrollment

Enrollment Criteria

1. Student must be at least 16 years of age.
2. Student must have earned at least 5 credits toward graduation.
3. Student must have suitable employable.

Enrollment Process

1. Student's guidance counselor must submit a referral form to Storefront West with a copy of their GRDV, Attendance History and Discipline History. (Students who have dropped out must come in and complete an information form).
2. Student must pass a basic skills test.
3. Student must complete an application and essay.
4. Student must make an appointment to tour our facility and pick up a Tour Packet.
5. Upon completion of the Tour Packet, parent and student must make an appointment for an interview with the Storefront West Director (approximately 2 hours).
6. Student file is presented to the Admissions Committee for acceptance/denial. Committee meets monthly.
7. Student/Parent are notified of acceptance/denial.

SCHOOL FOCUS

The Storefront West School utilizes a storefront education alternative site in the DeBary-Deltona-Orange City Area. This computer assisted instructional program offers at-risk students and returning dropouts the opportunity to complete their high school program and prepare for employment. This setting incorporates dual enrollment for vocational training, employability skill training, academic and career assessment, life skills, counseling, and family support services. There is a close coordination with parents and outside agencies. Students meeting graduation requirements at Storefront West will graduate from Deltona High School

Storefront West is also a mastery learning center in that the students are required to earn a "c" or better on all coursework.

Storefront West emphasizes three areas of student development.



Academic	Academic Advisement/Counseling	Employment
Learning Teams	Individualized Counseling	Career Assessment
Certified Teachers	Group Counseling	Development of Career Goals
Individualized Instruction	Home Visits	Employability Skills
Computer-Assisted Instruction	Self-Discipline Development	Emphasis on Work Ethic
Students Work to Master Sunshine State Standards for Graduation	Financial Aid Counseling for Post-Secondary Training	On-the-Job Training
Students Work to Pass Standardized Tests (FCAT/HSCT) Required for Graduation	Inter-Agency Linkages	Dual Enrollment in Vocational Courses at DBCC
Tutoring Assistance		
Parent Involvement Encouraged		

SCHOOL STRUCTURE

Storefront West creates a different environment from which students can learn. The school is run much like a business. Students are treated like the young adults they are. We, in turn, expect them to assume young adult responsibilities.

We have no rules at Storefront West School. Instead, we have policies and procedures we insist on being followed. Our policies and procedures are reflective of what students might encounter in the world of work, including punching a time clock, following an ordered process toward completion of coursework for credit, and meeting deadlines, to name a few.

Students attend Storefront West for one of two sessions, either at 8 AM to 12 Noon or 12 Noon to 4 PM. Students applying here must be prepared to accept the session in which they are placed. Student preferences are considered

prior to deciding on a session.

Students must also work at a job between 15 and 30 hours per week, for which they receive elective credit toward graduation.

Student schedules alternate subjects day to day. Students work on two courses per day for two hours each. Students earn credit when coursework is completed. They do not have to wait until the end of the grading period. As soon as one course is complete, they begin the next course and so on until they complete requirements for graduation. Students who attend Storefront West will receive a diploma from Deltona High School.

FACILITY

Storefront West is a small facility with a reception area, one classroom (lab), two offices, a multi-purpose room, and restrooms. The classroom contains 24 computer stations from which students do the majority of their classwork.

LOCATION

Storefront West is located in the Royal Oaks Professional Centre at 290 Treemonte Drive, Orange City, Florida, FL 32763.

Directions to the school are as follows:

From Orange City: Take Highway 17-92 south, toward DeBary. Treemonte Drive is the first street to the left after the light at Enterprise Road. Turn left onto Treemonte Drive to Royal Oaks Professional Centre, Suite 290 is in the rear of the complex.

From Deltona: Take Saxon Blvd. to Highway 17-92. Turn right onto 17-92 about 1/4-1/2 mile to Treemonte Drive. Turn right onto Treemonte Drive to Royal Oaks Professional Centre, Suite 290 is in the rear of the complex.

From DeBary: Take Highway 17-92 north toward Orange City. Treemonte Drive is on mile on the right, across from the Jade Garden Restaurant. Take Treemonte Drive to Royal Oaks Professional Centre, Suite 290 is in the rear of the complex.

ELECTION OF RIGHTS

Application Number: 2003- 151C Development Name: Saxon Crossing

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. All formal hearings will be scheduled by the Division of Administrative Hearings.

Hearing Dates:	A.M.	P.M.
August 28, 2003		
September 2, 2003		
September 3, 2003		
September 4, 2003		
September 5, 2003		

Hearing Dates:	A.M.	P.M.
September 8, 2003		
September 9, 2003		
September 10, 2003		
September 11, 2003		

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

DATE: August 12, 2003

M. Christopher Bryant

Signature of Petitioner

Name: M. Christopher Bryant
Oertel, Fernandez & Cole, P.A.

Address: 301 S. Bronough Street, 5th Floor
P. O. Box 1110 (32302-1110)
Tallahassee, FL 32301

Fax: (850) 521-0720

Phone: (850) 521-0700

(include Area Code)

TO PRESERVE YOUR RIGHT TO A PROCEEDING, YOU MUST RETURN THIS FORM WITHIN TWENTY-ONE (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.

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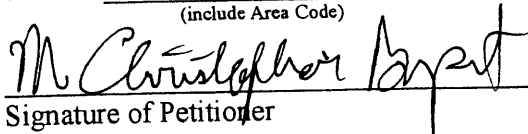
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