

**ORIGINAL**

**BEFORE THE STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

ARBOURS AT MADISON, LTD.,

Petitioner,

vs.

FHFC No. 2004-035-UC  
Application No. 2004-004C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Moyson /DATE: 8/2/04

**PETITION FOR REVIEW**

Pursuant to Section 120.569 and .57(2), Florida Statutes (F.S.) and Rule 67-48.005, Florida Administrative Code (F.A.C.), Petitioner, ARBOURS AT MADISON, LTD. ("Arbours") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("FHFC") scoring of Arbours' 2004 Universal Application ("Application"). In support of this Petition, Arbours provides as follows:

1. Arbours is a Florida for-profit limited partnership with its address at 1037 22<sup>nd</sup> Street South, Suite 102, Birmingham, Alabama 35205. Arbours is in the business of providing affordable rental housing units.

2. FHFC is the state agency delegated the authority and responsibility for administering and awarding the Housing Credit ("HC") program in the State of Florida pursuant to Chapter 420, F.S., and Rule 67-48, F.A.C.

3. The HC program is a federally funded program which awards project owners a dollar-for-dollar reduction in income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of low and very low income rental housing

units. FHFC is the designated housing credit agency for the allocation of tax credits in the State of Florida.

4. The award of HC funds is made through a competitive process in which project owners apply using the Universal Application.

5. The 2004 Universal application requests information of each applicant regarding the proposed project. FHFC has adopted the Application by reference in Rule 67-48.002, F.A.C.

6. On March 31, 2004, all applicants, including Arbours, submitted applications to FHFC for review. Arbours submitted its application in an attempt to obtain funding to assist in the construction of a 72-unit affordable housing apartment complex in Madison, Madison County, Florida, named Arbours at Madison.

7. On April 29, 2004, FHFC completed its preliminary review and scoring of Arbours' application. At that time Arbours was awarded a preliminary score of 66 points out of a possible 66 points and 7½ out of 7½ proximity points. However, as discussed more fully below, FHFC concluded that Arbours failed to meet threshold based on the failure to provide firm loan commitments.

8. Subsequent to the release of FHFC's preliminary scores, each applicant, pursuant to Rule 67-48-004(4), F.A.C. was allowed to submit to FHFC Notices of Possible Scoring Errors ("NOPSE"). The purpose was to point out errors in FHFC's scoring of applications. Several NOPSE's were filed which challenged the scoring of Arbours' application. Specifically, NOPSE's challenged Arbours' origination fees and other aspects of the financing of the project.

9. In response to the NOPSE's and FHFC's preliminary review, applicants were allowed 15 days to submit revised documentation to correct any errors in their applications pursuant to Rule 67-48-004(6), F.A.C ("cure"). All revised documentation was due to FHFC by June 10, 2004. Arbours submitted "cures" in an attempt to gain maximum points possible. Specifically, Arbours submitted additional information which addressed (a) the issues raised by FHFC concerning the financing of the project and (b) the NOPSE's which had been submitted regarding its application.

10. Subsequent to the submittal of the cure information pursuant to Rule 67-48.004(7), F.A.C., each applicant was allowed the opportunity to provide a Notice of Alleged Deficiency in Scoring ("NOAD") with respect to the revised documentation submitted by other applicants. One NOAD's was filed challenging Arbours' cures.

11. On July 9, 2004, FHFC finalized its review of the additional documentation and issued final scores. The Notice of Final Scores was received by Arbours on July 12, 2004. Arbours' final score was 66 out of a possible 66 points. Arbours was also awarded 7½ out of a possible 7½ proximity tie breaker points. However, FHFC continued to conclude that Arbours failed to meet threshold. Based on the alleged failure to meet threshold, Arbours will not receive HC funds.

12. Arbours' position in the ranking and its ability to be awarded funding is dependent on not only its own score, but on those of the other applicant as well. The ability to finance the proposed project will be jeopardized if HC funding is not obtained. Accordingly Arbours' substantial interests are affected by this proceeding. In the instant proceeding Arbours challenges FHFC's threshold determination regarding its application.

13. The Universal Application at Part V requests information concerning how an applicant proposes to finance a proposed project. At Part V, subsection B, the Universal Application requires all applicants to complete a Development Cost Pro-Forma. Further, at Part V, subsection D, applicants are required to provide documentation of all commitments from both the permanent lenders, the syndication, or other sources of funding. In order to receive maximum points, the commitment must be firm. The Universal Application Instructions, beginning at page 66, lists the items that must be included to render a commitment firm.

14. In response to this application requirement, Arbours in its initial application completed the required Development Cost Pro-Forma and provided numerous exhibits to substantiate the firm financing commitments of the project, including at Exhibit 55 a letter of commitment from AIG Sun America (see Attachment A).

15. After conducting its preliminary review and consideration of all NOPSE's, FHFC in a Scoring Summary dated May 19, 2004, concluded the Arbours had failed to meet threshold for reasons related to the preparation of the Development Cost Pro-Forma and the exhibit attached thereto (see Scoring Summary at Attachment B).

16. In response to FHFC's initial review and the specific comments and reasons provided in the Scoring Summary, Arbours submitted revised documentation, including revised letters from AIG Sun America (see Cure Materials at Attachment C).

17. On July 9, 2004, FHFC issued its Final Scoring Summary which reflected FHFC's consideration of all cure materials and any NOAD's filed to challenge those cure materials. While Arbours successfully addressed all of the initial concerns, FHFC, in its scoring summary, determined that Arbours failed threshold for the following reasons:

The revised debt commitment for construction and permanent financing is incomplete. The commitment is missing a portion of paragraph 9 at the bottom of page one and the top of page 529, as well as a portion of paragraph 1 at the bottom of page seven and the top of page eight. In addition, paragraph 7 on page eight references an agreement, dated June 8, 2004 (sic), to sell a 99.9% limited partnership interest in the Borrower. No such agreement was provided by the Applicant in the Application. The revised equity commitment provided by the Borrower is dated June 2, 2004 and was accepted by the Applicant on June 6, 2004. Therefore, the debt commitment for construction and permanent financing cannot be scored firm.

(See Attachment D.)

18. FHFC's threshold determination is erroneous for several reasons. Initially, the fact that a revised loan commitment letter from AIG Sun America is missing a portion of paragraph 9 at the bottom of page two or paragraph 1 on page seven is not a reason for rejecting the letter or not considering the commitment as firm. The Universal Application Instructions, beginning at page 67, specifically lists those items which must be included in a commitment letter for it to be scored firm. These items include, but are not limited to terms, specific interest rate, signature of all parties, etc. The revised AIG Sun America letter includes all and every necessary item required by the application and should be considered firm, regardless of any typographical or syntax error.

19. Additionally, while Rule 67-48.004(9), F.A.C., indicates that, to the extent cure materials cause an inconsistency with other materials in the application, rejection is warranted, no inconsistency was created by the revised AIG Sun America letter, thus rejection is not warranted. In the cure summary, Arbours specifically points out to FHFC exactly what, in total, has been revised in the letter -- accordingly, no other changes were made.

20. A review of the original AIG Sun America letter shows that the missing portion of paragraph 9 provides that the purpose of the letter is a construction loan for a 72-unit apartment complex in Madison, Madison County, Florida. This same information is found in the Re: section and the first paragraph of the revised letter. It cannot be said that FHFC was confused about the purpose of the letter. No inconsistency is created between the initial letter and the revised letter as to the purpose of the letter. The missing portion of paragraph 9 is merely duplicate information, which was part of the original application and was easily referenced by FHFC. The fact that a portion of paragraph 9, due to an obvious fax machine/printer error, is missing from the revised letter does not change this result.

21. Additionally, no inconsistency results from the fact that a portion of paragraph 1 at the bottom of page seven and the top of page eight is missing. Paragraph 1 on page 7 of 9 lists the general conditions that apply to the loan between AIG Sun America and the Borrower. Paragraph 1 references the general conditions which apply to the loans contemplated by the agreement. Specifically, paragraph 1 includes information concerning restrictive covenants. The line missing from the revised cure letter includes the language "the Florida Housing Finance Corporation. Use restrictions not subordinated to all financing...." The mere fact that this line is missing does not cause any inconsistency between the operative provisions of the initial letter and the revised letter. In fact, the restrictive covenants section can only be changed by written agreement of all parties. Moreover, given that Arbours in its explanation of the cure specification told FHFC of all changes in the revised letter, there can be no doubt that no inconsistency was created.

22. Finally, regardless of the syntactical issues, all of which have been addressed above, the Universal Application requirement is that the financing commitment be "firm." Not only are the items required by FHFC itself to demonstrate "firmness" contained in the Arbours application, but the lender that issued the financing commitment will verify that their commitment was "firm" according to the FHFC's standards (see Attachment E).

23. As to the alleged inconsistency caused by the date at paragraph 7, it is clear from a review of all the cure documents submitted that the June 8, 2004, date reflected at paragraph 7 relates to the last date that the revised June 2, 2004 letter could be accepted by Arbours. Indeed, at page 3 of 3, the AIG agreement letter which was also submitted with the commitment letter and as a cure at Exhibit 57 specifically refers to the June 8, 2004, date as the last date the agreement could be accepted (see Attachment F). Contrary to FHFC's conclusion, the documents provided with the initial application, as well as the cure documents, clearly show that only one letter of agreement between Sun America, Affordable Housing Partners, Inc., and the Arbours exists; another fact to which all three parties will attest. Specifically, the commitment letter and the agreement letter were both prepared and revised on the same days, March 15, 2004, and June 2, 2004, respectively. Additionally, the commitment letter at paragraph 7 specifically referenced the sale of 99.9 percent limited partnership interest in Borrower. At page 1 of 3, the agreement letter, consistent with the commitment letter, clearly reflects that AIG Sun America will require a 99.9 percent limited partnership interest.

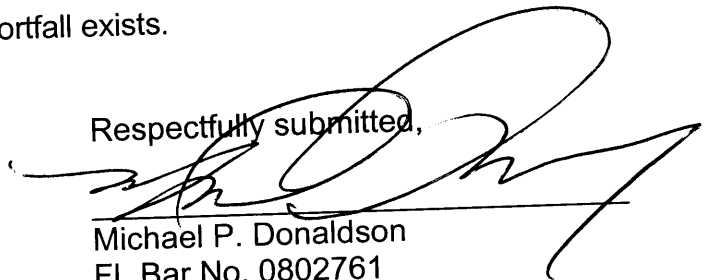
24. When the commitment and agreement letters were revised on June 2, 2004, the agreement letter had not yet been accepted and therefore only the last date of acceptance was provided. No inconsistency was caused to any material term of the agreement or the commitment letter due to the presence of a different date.

25. In conclusion, the alleged deficiencies in the instant case do not cause any inconsistency which make it difficult for FHFC to ascertain information required by the application and certainly could not lead to any confusion by FHFC. The alleged deficiencies are not the type of inconsistencies or inaccuracies which warrant a penalty under FHFC rules. See *Belmont Heights Associates, Ltd. v. Florida Housing Finance Corp.*, FHFC Case No. 2001-058. Additionally, when the commitment is scored as firm, there is no funding shortfall as reflected in the FHFC's Final Scoring Summary (see Attachment G).

26. The issue in the instant proceeding is whether Arbours has met the threshold requirements of the Universal Application and 67-48, F.A.C.

WHEREFORE, based on the foregoing, Arbours respectfully requests, to the extent the facts are undisputed, the entry of a recommended order which concludes that threshold has been met and no funding shortfall exists.

Respectfully submitted,

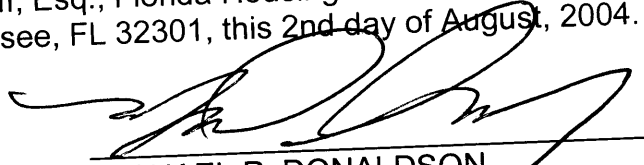


Michael P. Donaldson  
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CARLTON FIELDS, P.A.  
P.O. Drawer 190  
215 S. Monroe St., Suite 500  
Tallahassee, FL 32302  
Telephone: (850) 224-1585  
Facsimile: (850) 223-7000  
Counsel for Applicant



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301; and copies furnished by Hand Delivery to Stephen P. Auger, Deputy Development Officer in the Multi-Family and Development Programs, and Wellington H. Meffert, II, Esq., Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 2nd day of August, 2004.



MICHAEL P. DONALDSON

# Exhibit 55

ATTACHMENT A



VIA FAX AND UPS

AIG SunAmerica Inc.  
1 SunAmerica Center  
Los Angeles, CA 90067-6022

P.O. Box 54197  
Los Angeles, CA 90054-0197

310.772.6000

March 15, 2004

John O Moore, Jr.  
ACRH Development, LLC  
1037 22<sup>nd</sup> Street South  
Ste. 101  
Birmingham, AL 35205

**RE: Arbours at Madison Apartments  
72 Units  
Madison, Madison County, Florida**

Dear John:

This letter constitutes the commitment of AIG SunAmerica, Inc., or an affiliate ("Lender") to make Construction and Permanent Loans (the "Loans") to the entity described below as the borrower ("Borrower") under the terms and conditions set forth herein.

1. Borrower: Arbours at Madison Ltd.
2. Guarantors: John O. Moore, David G. Sumrall, Steve Lowitz, Gabriel Ehrenstein
3. Construction Loan Amount: \$1,095,000
4. Terms: Twenty-four (24) months from Loan Closing.
5. Interest Rate: 7%
6. Payments: Interest only payments payable monthly for the entire term of the Loan.
7. Loan Fee: A non-refundable Loan Fee of 1% of the principal amount of the \$1,095,000 Loan.
8. Prepayment Penalty: Prepayment of the Loan, in full or in part shall be permitted at any time without any fee.
9. Purpose: Construction Loan for the construction of an 72-unit

apartment complex located in Madison County, Florida.

10. Security: The loans shall be secured by a first lien upon the real property more particularly described on Exhibit 1 attached hereto and incorporated herein by reference (the "Property") and its improvements and fixtures. As additional Security, Lender is to have a first lien on all items of personal property, attached to or used in connection with maintenance and/or operation of the Property, including, but not limited to machinery, equipment, water, sewer and drainage pipe, etc. Borrower agrees to enter into and execute all documents necessary to comply with this paragraph and as required by Lender and/or Lender's counsel.
11. Subordinate Financing: Not Applicable.
12. Document Execution: Borrower must execute, in a manner acceptable to Lender, all loan documents relating to the Property and all other documents required by lender and/or Lender's counsel.
13. Commitment Survives: The provisions of this commitment shall survive the closing of the Loan contemplated herein.
14. Lender's Counsel Controls: All matters pertaining to the commitment requirements and the loan documents must be satisfactory to our attorney who shall represent the lender in this transaction. The cost of Lender's counsel shall be paid by Borrower at closing.
15. Construction Loan Agreement: At closing you shall execute a Construction Loan Agreement in the form customarily used by Lender.
16. Notice of Commencement: Under no circumstances is construction to commence until after the "Notice of Commencement" is recorded.
17. Plans and Specifications: Construction shall be completed in conformance with submitted and approved plans and specifications.
18. Architect's Authorization: Borrower's design architect shall provide Lender with written authorizations enabling Lender to copy and utilize the plans and specifications for the project in the event of default by the Borrower.

19. Permits: The Property must be fully permitted by all applicable governmental and regulatory agencies prior to closing.
20. Zoning and Land Use: The Land is validly zoned to permit the construction of the proposed project. Borrower's construction plan is consistent with the regional and local comprehensive plans, and borrower has received all necessary governmental approvals, and shall provide evidence of same.
21. Survey: Three (3) sealed copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.
22. Water and Sewer Utility: Borrower shall furnish evidence of water and sewer availability to the site.
23. Electric Utility: Borrower shall furnish evidence of electric availability to the site.
24. Gas Utility: Borrower shall furnish evidence of gas availability to the site.
25. Soil Tests: A report as to soil borings made on the Property by a soil testing firm satisfactory to lender. The number and location of such borings shall be in accordance with the recommendations of the soil testing firm and must also be satisfactory to Lender.
26. Final Plans: At least two weeks prior to closing, you shall submit to

Lender, two (2) sets of final working plans sealed by the engineer, and specifications for the proposed improvements to be constructed on the Property, together with any changes of amendments thereto. Said plans and specifications so submitted, must be acceptable to and approved by Lender and the engineer prior to closing.

27. Tax Receipt: All taxes on the Property which are then due and payable must be paid in full at the time of closing. A paid tax receipt for taxes currently due shall be submitted to the Lender prior to closing.
28. Environmental Audit: Lender shall obtain, at Borrower's expense, a satisfactory environmental audit by an engineer specifically approved by Lender. The report will confirm acceptable soil conditions and the absence of toxic or hazardous substances, and Lender reserves the right to require satisfactory corrective procedures or to terminate the commitment.
29. Borrowing Authority documents:
- A. Borrower shall furnish Lender, at least one (1) week prior to closing, a current Certificate of Good Standing issued by the Secretary of State of the State of Florida.
  - B. Borrower shall furnish Lender, at least one (1) week prior to closing, an opinion of the Borrower's attorney to the effect: (a) that the Borrower has authority to enter into the loan transaction contemplated herein, (b) that the Note, Mortgage, and all other documents, when executed, will constitute valid and binding obligations on the Borrower, and all Guarantors and other parties to such documents, (c) the Borrower is authorized to do business in the State of Florida, and (d) such additional matters as Lender or Lender's Counsel may deem necessary.
  - C. Borrower shall furnish Lender with a certified copy of Borrower's Partnership Agreement.
  - D. Borrower shall furnish, at closing, an executed original of the resolution of the Borrower's Board of Directors approving the making of the loan contemplated herein, and authorizing the execution of the Note, Mortgage, and all other loan documents by specified partners who shall be specifically named in the resolution.
30. Title Insurance: Lender shall be furnished with a mortgagee title insurance policy

on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) include a variable rate endorsement; (c) delete all standard exceptions: except taxes for the current year; (d) list only those title exceptions acceptable to Lender; (e) include insurance of all appurtenant easements, and (f) contain such affirmative coverage and endorsements as may be required by Lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.

31. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy in an amount of not less than \$5,000,000 specifically listing the location of this property. A combination policy called an Owner/Contractor Protective (OCP) should be used.

In addition, Lender requires the owner to obtain from the general contractor a Builders Risk Policy. The policy should have an "installation floater" which covers the owner's interest as well as during construction and the location of the Property should also be shown. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California 90067 as its interest may appear.

The insurance shall be in an amount of not less than the total replacement costs less the cost of the land.

32. Miscellaneous: All other loan documents or items that are customarily provided in loan transactions of this type or necessary in connection with Lender's requirements.
33. Expiration: It is anticipated that the initial closing of the Construction Loan shall have occurred by January 1, 2005 and that this Commitment shall be valid only through January 1, 2005 unless extended at the option of the Lender.

Permanent Loan Conversion:

Provided the foregoing Construction Loan has closed, that no default has occurred thereunder, and provided all contemplated construction has been completed and all approvals and certifications have been obtained to Lender's satisfaction, Lender agrees to make a permanent

Arbours at Madison Apartments

Madison, FL

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loan (the "Permanent Loan") to Borrower upon the following terms and conditions which shall supplement and be in addition to the foregoing requirements and conditions thereof:

1. Borrower: Same
2. Guarantors: Same.  
Upon conversion the Guarantor's liability shall be reduced to the top 25% of the mortgage loan.
3. Permanent Loan Amount: \$1,095,000
4. Term: Thirty (30) years from the date of initial closing and execution of loan documentation, with payments amortized over thirty (30) years.
5. Rate: Seven percent (7.00%) payable monthly. Interest shall be calculated on the basis of a 365-day calendar year. In no event shall the Borrower pay an interest rate greater than is permissible under applicable law.
6. Loan Fee: A non-refundable loan fee of one percent (1.00%) shall be paid by Borrower at the Permanent Loan Closing.
7. This Permanent Loan may be prepaid in full at any time without premium or penalty.
8. Any other reasonable conditions or requirements which may be deemed necessary by Lender to adequately secure its position in this Permanent Loan shall be requirements hereunder.
9. Title Insurance: Lender shall be furnished with a mortgagee title insurance policy on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) delete all standard exceptions except taxes for the current year; (c) list only those title exceptions acceptable to Lender; (d) include insurance of all appurtenant easements, and (e) contain such affirmative coverage and endorsements as may be required by lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.
10. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy



specifically listing the location of this property.

In addition, Lender requires the Owner to obtain completed buildings insurance for an amount of not less than 100% of the total completed value, less cost of land. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California, 90067 as its interest may appear.

11. Documentation: Lender's attorney shall prepare the necessary documentation in order to comply with all the terms and conditions of this commitment, and to comply with applicable Maryland law including but not limited to Note, Mortgage and Security Agreement, Financing Statements, Guaranties, Assignment of Leases, Rents and Profits, and Hazardous Waste Affidavit. All Lender and/or Lender's Counsel may require additional documentation at its discretion.
12. Taxes: All taxes and assessments payable in connection with the property and improvements are to be paid at the time of initial closing and subsequent taxes and assessments must be paid when due.
13. Project Survey: Three (3) copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.

The following general conditions apply to both loans contemplated hereby:

1. Restrictive Covenants: The property securing the mortgage shall at all times be subject only to restrictions or limitations as are approved in writing by mortgagee and its counsel, excluding those use restrictions conditional upon the granting of Low Income Tax Credits by

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Madison, FL

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the Florida Housing Finance Corporation. Use restrictions not subordinated to all financing will not be permitted.

2. **Change of ownership or Further Encumbrances:** The mortgage will require that title to the property remain vested in the Borrower, (limited partnership), and that the subject property will not be conveyed or further encumbered during the term of the loan except with Lender's consent which may be withheld for any reason.
3. **Validity of Loan:** Lender is to be furnished with written opinion of your counsel, at no expense to us, that the loan in all respects is legal, does not violate any applicable law or other requirement and that all loan documents are valid and binding upon the Borrower and Guarantors in accordance with their terms and such other matters as may be required by Lender and/or Lender's counsel.
4. **Prohibition Against Sale or Assignment:** Lender's mortgage will contain a provision whereby the entire sum and interest will become due at the option of the Lender upon the sale, transfer, or conveyance of the mortgaged premises.
5. **Expenses:** Borrower shall bear expenses incurred in connection with this financing. This shall include, but not be limited to, Documentary Stamp Tax, recording costs, premiums for title and liability insurance, Lender's legal fees, surveys, mortgage fees and other out-of-pocket expenses.
6. **Financing Sign:** Permission is hereby given Lender to place a financing sign on the property to be provided by Lender, and erected at the expense of the Borrowers, and to release publicity concerning the financing of the project.
7. Borrower shall have concluded the sale of a 99.9% limited partnership interest in Borrower to SunAmerica Affordable Housing Partners, Inc. or an affiliate thereof pursuant to the letter agreement dated March 15, 2004.

The terms of this commitment letter may not be waived, modified or in any way changed by implication, correspondence or otherwise unless such waiver, modification or change is made in the form of an amendment to this commitment letters in writing and agreed to by both parties. This commitment letter is intended to supersede and cancel any existing application between Lender and Borrower.

The commitment fee for this loan commitment is considered to be earned upon acceptance of this commitment but will be paid at the time of the closing. This fee is to compensate Lender for the reservation of credit and defray loan administration costs in connection with the appraisal review, internal legal expense, inspections by staff personnel, and loan officer's monitoring of

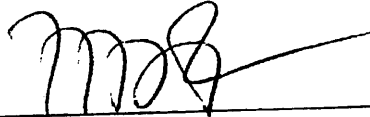
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the transaction.

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This commitment is not assignable by Borrower either voluntarily or by operation of law.

Sincerely,

AIG SunAmerica, Inc.



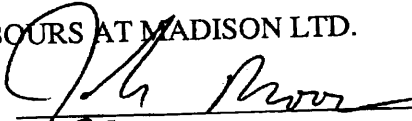
\_\_\_\_\_  
Michael L. Fowler  
Vice President

CC: Stephen B. Bien

ACCEPTED BY:

ARBOURS AT MADISON LTD.

BY:

  
\_\_\_\_\_  
PRES CYDC

BY:

it's GP

Date:

3-20-04

**Arbours at Madison Apartments**  
**Legal Description:**

Commencing at the Northwest CORNER of the Southwest Quarter of section 21 T01N R09E and run South 00° 18' 00" East a distance of 50 feet to the South side of Country club road; thence run South 89° 45' 00" East a distance of 283.80 feet to the point of beginning; thence run South 00° 18' 00" a distance of 782.00 feet; thence run South 68° 02' 00" East a distance of 428.00 feet; thence run North 18° 45' 00" East a distance of 477.00 feet; thence run North 00° 18' 00" West a distance of 580.00 feet to the South side of Country Club Road; thence run North 89° 45' 00" West a distance of 532.00 feet to the point of beginning. Containing approximately 10 acres.

## 2004 MMRB, SAIL & HC Scoring Summary

As of: 05/19/2004

File # 2004-004C

Development Name: Arbours at Madison

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 - 19 - 2004	66	N	7.5	\$51,070.47	%	N
Preliminary	66	Y	7.5	\$51,070.47	%	N
NOPSE	66	N	7.5	\$51,070.47	%	N
Final	0	N	0	0	0	
Final-Ranking	0	N	0	0	0	

**Scores:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	9	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	12	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	0	0
Set-Aside Commitments									
4S	III	E	1.b.	Total Set-Aside Percentage	3	3	3	0	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	5	0	0
6S	III	E	3.	Affordability Period	5	5	5	0	0
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	6	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	8	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	5	0	0
10S	IV		b.	Incentives	4	4	4	0	0

## 2004 MMRB, SAIL & HC Scoring Summary

As of: 05/19/2004

File # 2004-004C

Development Name: Arbours at Madison

**Threshold(s) Failed:**

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	V	B	Development Cost Pro Forma	Origination fees in the construction and permanent loan commitments, and the additional bridge gap loan fee in the equity commitment were not properly accounted for in the Development Cost Pro Forma. Since the Applicant does not have any contingency amounts listed in the Development Cost Pro Forma to cover the amount of these items, it results in a financial shortfall for both the construction and permanent periods. This resulted in Total Development Costs being increased by \$18,010.	NOPSE	
2T	V	D	Bridge Loans	The initial bridge loan commitment cannot be counted firm as it fails to state an interest rate and does not state that it is valid through December 31, 2004. The additional bridge gap loan cannot be counted firm as it does not state that it is valid through December 31, 2004.	NOPSE	
3T	V	B	Construction Financing	There is a construction financing shortfall of \$4,391,751.	NOPSE	
4T	V	B	Permanent Financing	There is a permanent financing shortfall of \$5,034,120.	NOPSE	

**Proximity Tie-Breaker Points:**

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





## 2004 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. 2004-0040** and pertains to:

Part V Section B Subsection \_\_\_\_\_ Exhibit No \_\_\_\_\_ (if applicable)

The attached information is submitted in response to the 2004 Universal Scoring Summary Report because:

- I. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2004 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>1</u> T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed (MMRB/SAIL/HC Applications Only)	Item No. _____ P	<input type="checkbox"/>	<input 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).



VIA FAX AND FEDERAL EXPRESS

"REVISED"

March 15, 2004  
REVISED June 2, 2004

John O Moore, Jr.  
ACRH Development, LLC  
1037 22<sup>nd</sup> Street South  
Ste. 101  
Birmingham, AL 35205

RE: **Arbours at Madison Apartments**  
**72 Units**  
**Madison, Madison County, Florida**

Dear John:

This letter constitutes the commitment of AIG SunAmerica, Inc., or an affiliate ("Lender") to make Construction and Permanent Loans (the "Loans") to the entity described below as the borrower ("Borrower") under the terms and conditions set forth herein.

1. Borrower: Arbours at Madison Ltd.
2. Guarantors: John O. Moore, David G. Sumrall, Steve Lowitz, Gabriel Ehrenstein
3. Construction Loan Amount: \$1,095,000
4. Terms: Twenty-four (24) months from Loan Closing.
5. Interest Rate: 7%
6. Payments: Interest only payments payable monthly for the entire term of the Loan.
7. Loan Fee: A non-refundable Loan Fee of \$10,365 for the principal amount of the \$1,095,000 Loan.
8. Prepayment Penalty: Prepayment of the Loan, in full or in part shall be permitted at any time without any fee.

"REVISED"

Arbours at Madison Apartments  
Madison, FL  
Page 2 of 9  
March 15, 2004

apartment complex located in Madison County, Florida.

10. Security: The loans shall be secured by a first lien upon the real property more particularly described on Exhibit 1 attached hereto and incorporated herein by reference (the "Property") and its improvements and fixtures. As additional Security, Lender is to have a first lien on all items of personal property, attached to or used in connection with maintenance and/or operation of the Property, including, but not limited to machinery, equipment, water, sewer and drainage pipe, etc. Borrower agrees to enter into and execute all documents necessary to comply with this paragraph and as required by Lender and/or Lender's counsel.
11. Subordinate Financing: Not Applicable.
12. Document Execution: Borrower must execute, in a manner acceptable to Lender, all loan documents relating to the Property and all other documents required by lender and/or Lender's counsel.
13. Commitment Survives: The provisions of this commitment shall survive the closing of the Loan contemplated herein.
14. Lender's Counsel Controls: All matters pertaining to the commitment requirements and the loan documents must be satisfactory to our attorney who shall represent the lender in this transaction. The cost of Lender's counsel shall be paid by Borrower at closing.
15. Construction Loan Agreement: At closing you shall execute a Construction Loan Agreement in the form customarily used by Lender.
16. Notice of Commencement: Under no circumstances is construction to commence until after the "Notice of Commencement" is recorded.
17. Plans and Specifications: Construction shall be completed in conformance with submitted and approved plans and specifications.
18. Architect's Authorization: Borrower's design architect shall provide Lender with written authorizations enabling Lender to copy and utilize the plans and specifications for the project in the event of default by the Borrower.

"REVISED"

Arbours at Madison Apartments  
Madison, FL  
Page 3 of 9  
March 15, 2004

19. Permits: The Property must be fully permitted by all applicable governmental and regulatory agencies prior to closing.
20. Zoning and Land Use: The Land is validly zoned to permit the construction of the proposed project. Borrower's construction plan is consistent with the regional and local comprehensive plans, and borrower has received all necessary governmental approvals, and shall provide evidence of same.
21. Survey: Three (3) sealed copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.
22. Water and Sewer Utility: Borrower shall furnish evidence of water and sewer availability to the site.
23. Electric Utility: Borrower shall furnish evidence of electric availability to the site.
24. Gas Utility: Borrower shall furnish evidence of gas availability to the site.
25. Soil Tests: A report as to soil borings made on the Property by a soil testing firm satisfactory to lender. The number and location of such borings shall be in accordance with the recommendations of the soil testing firm and must also be satisfactory to Lender.
26. Final Plans: At least two weeks prior to closing, you shall submit to

" REVISED "

Arbours at Madison Apartments  
Madison, FL  
Page 4 of 9  
March 15, 2004

Lender, two (2) sets of final working plans sealed by the engineer, and specifications for the proposed improvements to be constructed on the Property, together with any changes of amendments thereto. Said plans and specifications so submitted, must be acceptable to and approved by Lender and the engineer prior to closing.

27. Tax Receipt:

All taxes on the Property which are then due and payable must be paid in full at the time of closing. A paid tax receipt for taxes currently due shall be submitted to the Lender prior to closing.

28. Environmental Audit:

Lender shall obtain, at Borrower's expense, a satisfactory environmental audit by an engineer specifically approved by Lender. The report will confirm acceptable soil conditions and the absence of toxic or hazardous substances, and Lender reserves the right to require satisfactory corrective procedures or to terminate the commitment.

29. Borrowing Authority documents:

- A. Borrower shall furnish Lender, at least one (1) week prior to closing, a current Certificate of Good Standing issued by the Secretary of State of the State of Florida.
- B. Borrower shall furnish Lender, at least one (1) week prior to closing, an opinion of the Borrower's attorney to the effect: (a) that the Borrower has authority to enter into the loan transaction contemplated herein, (b) that the Note, Mortgage, and all other documents, when executed, will constitute valid and binding obligations on the Borrower, and all Guarantors and other parties to such documents, (c) the Borrower is authorized to do business in the State of Florida, and (d) such additional matters as Lender or Lender's Counsel may deem necessary.
- C. Borrower shall furnish Lender with a certified copy of Borrower's Partnership Agreement.
- D. Borrower shall furnish, at closing, an executed original of the resolution of the Borrower's Board of Directors approving the making of the loan contemplated herein, and authorizing the execution of the Note, Mortgage, and all other loan documents by specified partners who shall be specifically named in the resolution.

30. Title Insurance:

Lender shall be furnished with a mortgagee title insurance policy

"  
REVISED  
"

Arbours at Madison Apartments  
Madison, FL  
Page 5 of 9  
March 15, 2004

on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) include a variable rate endorsement; (c) delete all standard exceptions: except taxes for the current year; (d) list only those title exceptions acceptable to Lender; (e) include insurance of all appurtenant easements, and (f) contain such affirmative coverage and endorsements as may be required by Lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.

31. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy in an amount of not less than \$5,000,000 specifically listing the location of this property. A combination policy called an Owner/Contractor Protective (OCP) should be used.

In addition, Lender requires the owner to obtain from the general contractor a Builders Risk Policy. The policy should have an "installation floater" which covers the owner's interest as well as during construction and the location of the Property should also be shown. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California 90067 as its interest may appear.

The insurance shall be in an amount of not less than the total replacement costs less the cost of the land.

32. Miscellaneous: All other loan documents or items that are customarily provided in loan transactions of this type or necessary in connection with Lender's requirements.
33. Expiration: It is anticipated that the initial closing of the Construction Loan shall have occurred by January 1, 2005 and that this Commitment shall be valid only through January 1, 2005 unless extended at the option of the Lender.

Permanent Loan Conversion:

Provided the foregoing Construction Loan has closed, that no default has occurred thereunder, and provided all contemplated construction has been completed and all approvals and certifications have been obtained to Lender's satisfaction, Lender agrees to make a permanent

“**REVISED**”

Arbours at Madison Apartments  
Madison, FL

Page 6 of 9

March 15, 2004

loan (the "Permanent Loan") to Borrower upon the following terms and conditions which shall supplement and be in addition to the foregoing requirements and conditions thereof:

1. Borrower: Same
2. Guarantors: Same.  
Upon conversion the Guarantor's liability shall be reduced to the top 25% of the mortgage loan.
3. Permanent Loan Amount: \$1,095,000
4. Term: Thirty (30) years from the date of initial closing and execution of loan documentation, with payments amortized over thirty (30) years.
5. Rate: Seven percent (7.00%) payable monthly. Interest shall be calculated on the basis of a 365-day calendar year. In no event shall the Borrower pay an interest rate greater than is permissible under applicable law.
6. Loan Fee: No loan fee shall be paid by Borrower for the Permanent Loan Closing.
7. This Permanent Loan may be prepaid in full at any time without premium or penalty.
8. Any other reasonable conditions or requirements which may be deemed necessary by Lender to adequately secure its position in this Permanent Loan shall be requirements hereunder.
9. Title Insurance: Lender shall be furnished with a mortgagee title insurance policy on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) delete all standard exceptions except taxes for the current year; (c) list only those title exceptions acceptable to Lender; (d) include insurance of all appurtenant easements, and (e) contain such affirmative coverage and endorsements as may be required by lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.
10. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy



"REVISED"

specifically listing the location of this property.

In addition, Lender requires the Owner to obtain completed buildings insurance for an amount of not less than 100% of the total completed value, less cost of land. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California, 90067 as its interest may appear.

**11. Documentation:**

Lender's attorney shall prepare the necessary documentation in order to comply with all the terms and conditions of this commitment, and to comply with applicable Maryland law including but not limited to Note, Mortgage and Security Agreement, Financing Statements, Guaranties, Assignment of Leases, Rents and Profits, and Hazardous Waste Affidavit. All Lender and/or Lender's Counsel may require additional documentation at its discretion.

**12. Taxes:**

All taxes and assessments payable in connection with the property and improvements are to be paid at the time of initial closing and subsequent taxes and assessments must be paid when due.

**13. Project Survey:**

Three (3) copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.

The following general conditions apply to both loans contemplated hereby:

1. **Restrictive Covenants:** The property securing the mortgage shall at all times be subject only to restrictions or limitations as are approved in writing by mortgagee and its counsel, excluding those use restrictions conditional upon the granting of Low Income Tax Credits by

"  
REVISED"  
"

Arbours at Madison Apartments

Madison, FL

Page 8 of 9

March 15, 2004

will not be permitted.

2. **Change of ownership or Further Encumbrances:** The mortgage will require that title to the property remain vested in the Borrower, (limited partnership), and that the subject property will not be conveyed or further encumbered during the term of the loan except with Lender's consent which may be withheld for any reason.
3. **Validity of Loan:** Lender is to be furnished with written opinion of your counsel, at no expense to us, that the loan in all respects is legal, does not violate any applicable law or other requirement and that all loan documents are valid and binding upon the Borrower and Guarantors in accordance with their terms and such other matters as may be required by Lender and/or Lender's counsel.
4. **Prohibition Against Sale or Assignment:** Lender's mortgage will contain a provision whereby the entire sum and interest will become due at the option of the Lender upon the sale, transfer, or conveyance of the mortgaged premises.
5. **Expenses:** Borrower shall bear expenses incurred in connection with this financing. This shall include, but not be limited to, Documentary Stamp Tax, recording costs, premiums for title and liability insurance, Lender's legal fees, surveys, mortgage fees and other out-of-pocket expenses.
6. **Financing Sign:** Permission is hereby given Lender to place a financing sign on the property to be provided by Lender, and erected at the expense of the Borrowers, and to release publicity concerning the financing of the project.
7. **Borrower shall have concluded the sale of a 99.9% limited partnership interest in Borrower to SunAmerica Affordable Housing Partners, Inc. or an affiliate thereof pursuant to the letter agreement dated June 8 2004.**

The terms of this commitment letter may not be waived, modified or in any way changed by implication, correspondence or otherwise unless such waiver, modification or change is made in the form of an amendment to this commitment letters in writing and agreed to by both parties. This commitment letter is intended to supersede and cancel any existing application between Lender and Borrower.

The commitment fee for this loan commitment is considered to be earned upon acceptance of this commitment but will be paid at the time of the closing. This fee is to compensate Lender for the reservation of credit and defray loan administration costs in connection with the appraisal review, internal legal expense, inspections by staff personnel, and loan officer's monitoring of the transaction.

"REVISED"

Arbours at Madison Apartments

Madison, FL

Page 9 of 9

March 15, 2004

the transaction.

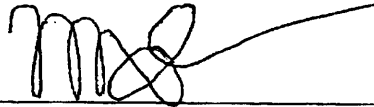
"REVISED"

Arbours at Madison Apartments  
Madison, FL  
Page 10 of 9  
March 15, 2004  
Revised June 2, 2004

This commitment is not assignable by Borrower either voluntarily or by operation of law.

Sincerely,

AIG SunAmerica, Inc.

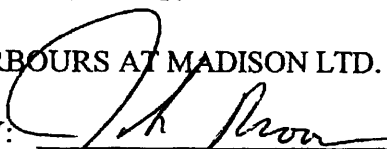


Michael L. Fowler  
Vice President

CC: Stephen B. Bien

ACCEPTED BY:

ARBOURS AT MADISON LTD.

BY: 

Principal CVDC

BY: it's CP

Date: 6-3-04

"REVISED"

Exhibit "1"

**Arbours at Madison Apartments**

**Legal Description:**

Commencing at the Northwest CORNER of the Southwest Quarter of section 21 T01N R09E and run South 00° 18' 00" East a distance of 50 feet to the South side of Country club road; thence run South 89° 45' 00" East a distance of 283.80 feet to the point of beginning; thence run South 00° 18' 00" a distance of 782.00 feet; thence run South 68° 02' 00" East a distance of 428.00 feet; thence run North 18° 45' 00" East a distance of 477.00 feet; thence run North 00° 18' 00" West a distance of 580.00 feet to the South side of Country Club Road; thence run North 89° 45' 00" West a distance of 532.00 feet to the point of beginning. Containing approximately 10 acres.

## 2004 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. 2004-004C** and pertains to:

Part V Section D Subsection \_\_\_\_\_ Exhibit No 57 (if applicable)

The attached information is submitted in response to the 2004 Universal Scoring Summary Report because:

- I.** Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2004 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>2</u> T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed (MMRB/SAIL/HC Applications Only)	Item No. _____ P	<input type="checkbox"/>	<input 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 No. 2004 - 004C

Provide a separate brief statement for each Cure or NOAD

CURE 2T-V-D EXHIBIT 57 BRIDGE LOAN

THE INITIAL BRIDGE LOAN COMMITMENT  
LETTER HAS BEEN REVISED TO STATE  
THAT THE INTEREST RATE WILL BE 0  
OR (NONE) AND THE ADDITIONAL BRIDGE  
GAP LOAN HAS BEEN REVISED TO BE  
VALID THROUGH DECEMBER 31, 2004.



SunAmerica Affordable Housing Partners, Inc.  
2202 North West Shore Blvd.  
Suite 200  
Tampa, FL 33607  
813.639.7591

" REVISED "

VIA FAX AND FEDERAL EXPRESS

March 15, 2004  
REVISED June 2, 2004

John O Moore, Jr.  
ACRH Development, LLC  
1037 22<sup>nd</sup> Street South  
Ste. 101  
Birmingham, AL 35205

Re: **Arbours at Madison Apartments**  
**72 Units**  
**Madison, Madison County, Florida**

Dear John,

Thank you for your interest in the SunAmerica affordable housing tax credit investment program. We are pleased to provide you with an equity investment as described below and look forward to continuing our current relationship with you on another project.

BASIC PROJECT INFORMATION

Number of Units:	72
Total Development Cost:	\$6,325,697
Total Number of Annual Tax Credits Requested:	\$ 637,385

This letter sets forth our understanding of the basic business terms to be included in an agreement (the "Partnership Agreement") by and between SunAmerica Affordable Housing Partners, Inc., or its designee, ("SunAmerica"), Arbours at Madison Ltd., a Florida Limited Partnership (the "Partnership") and Arbour One, Inc., Cahaba Valley Development Corporation, Inc., (the "General Partners" or "GP").

Subject to the conditions outlined herein and pursuant to the Partnership Agreement, SunAmerica will make a capital contribution (the "Capital Contribution") to the Partnership in the amount of \$5,016,110 and will require a 99.9% limited partnership interest in the Partnership. The amount of the Capital Contribution was based on the



" REVISED "

Page 2

Arbours at Madison Apartments

Madison, Florida

availability of not less than \$637,385 of annual tax credits, and the SunAmerica price of \$0.78 per \$1.00 of Section 42 Federal tax credits. To the extent the annual tax credit is less, SunAmerica reserves the right to adjust the amount of the Capital Contribution.

Equity payments will be made in the form of Bridge Loans and Capital Contributions; the prerequisites of these contributions are outlined below:

Initial Capital Contribution	\$ 45,000	Paid at Closing
1 <sup>st</sup> Add'l. Capital Contribution	\$4,419,338	Paid at Completion of Const.
2 <sup>nd</sup> Add'l. Capital Contribution	<u>\$ 551,772</u>	Paid at Final Closing
Total	\$5,016,110	
Initial Bridge Loan (1)	\$3,728,332	75% of the equity- paid at Construction Closing.
Add'l. Bridge Gap Loan (2)	\$ 647,477	Paid at Construction Closing.

- (1) No bridge loan fee, or interest rate will be charged on the Initial Bridge Loan. Loan to be repaid in full upon payment of the First Additional Capital Contribution.
- (2) No fee or interest rate will be charged on the Additional Bridge Gap Loan and it is to be repaid in full from First Additional Capital Contribution, the Second Additional Capital Contribution and a portion of the Third Additional Capital Contribution on the Additional Bridge Gap Loan.

Arbour One, Inc., ACRH Development, LLC, and Cahaba Valley Development Corp., and John O. Moore, David G. Sumrall, Steve Lowitz, and Gabriel Ehrenstein will guarantee the Bridge Loan Note and the Additional Bridge Gap Loan.

The Partnership Agreement will provide for certain obligations of the General Partner, including, but not limited to:

- (a) Development Completion Guarantee: The General Partner will guarantee completion of the improvements in a good and workmanlike manner substantially in accordance with the plans and specifications.
- (b) Operating Deficit Guarantee: The General Partner will execute and deliver an Operating Deficit Guarantee Agreement, pursuant to which it will agree to loan to the Partnership any funds required to fund operating deficits during a five (5) year period beginning on the Breakeven Date.
- (c) Rent-up Guarantee: The General Partner will guarantee (i) funding of the permanent loans for the Project, (ii) the achievement of the proforma occupancy of the Project, but not less than 93%, and (iii) that the designated apartment units will qualify for tax credits on or before December 31, 2006.

"REVISED"

Page 3

Arbours at Madison Apartments  
Madison, Florida

Collateral and security for the aforementioned guarantees will be posted by the GP in form and amounts acceptable to SunAmerica.

SunAmerica's obligation to execute a Partnership Agreement and to consummate the transactions contemplated thereby shall be subject to its prior receipt and approval of;

- (a) a satisfactory "to be developed" appraisal of the Project;
- (b) a satisfactory environmental report with respect to the area in which the Project is located;
- (c) a satisfactory engineering report for the Project;
- (d) loan documents for all construction and permanent lenders;
- (e) other materials as required by SunAmerica as part of the customary financial and legal review;

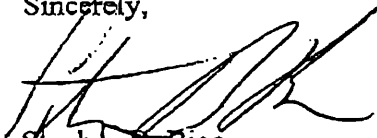
Upon your agreement and acceptance of the foregoing, we will contact you to obtain the additional documentation necessary to complete our due diligence review and to proceed to the Closing Date. Our attorney will prepare and send to you and your attorney the form of the Partnership Agreement and related documentation.

It is anticipated that the initial closing of the Partnership Agreement shall have occurred by January 1, 2005, and that this Commitment shall be valid only through January 1, 2005 unless extended at the option of the syndicator.

Please indicate your agreement and acceptance of the foregoing by signing the enclosed copy of this letter and returning it to the undersigned by June 8, 2004.

We look forward to working with you on this transaction.

Sincerely,



Stephen B. Bien  
Regional Vice President of Acquisitions

Cc: Michael L. Fowler, President, SunAmerica

AGREED AND ACCEPTED:

By: David J. Funnell  
Title: MEMBER  
Date: 6/6/2004

## 2004 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. 2004-004C** and pertains to:

Part V Section B Subsection \_\_\_\_\_ Exhibit No \_\_\_\_\_ (if applicable)

The attached information is submitted in response to the 2004 Universal Scoring Summary Report because:

- I. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2004 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>3</u> T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed (MMRB/SAIL/HC Applications Only)	Item No. _____ P	<input type="checkbox"/>	<input 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).





SunAmerica Affordable  
Housing Partners, Inc.  
2202 North West Shore Blvd.  
Suite 200  
Tampa, FL 33607  
813.639.7591

VIA FAX AND FEDERAL EXPRESS

"REVISED"

March 15, 2004  
REVISED June 2, 2004

John O Moore, Jr.  
ACRH Development, LLC  
1037 22<sup>nd</sup> Street South  
Ste. 101  
Birmingham, AL 35205

**RE: Arbours at Madison Apartments  
72 Units  
Madison, Madison County, Florida**

Dear John:

This letter constitutes the commitment of AIG SunAmerica, Inc., or an affiliate ("Lender") to make Construction and Permanent Loans (the "Loans") to the entity described below as the borrower ("Borrower") under the terms and conditions set forth herein.

1. Borrower: Arbours at Madison Ltd.
2. Guarantors: John O. Moore, David G. Sumrall, Steve Lowitz, Gabriel Ehrenstein
3. Construction Loan Amount: \$1,095,000
4. Terms: Twenty-four (24) months from Loan Closing.
5. Interest Rate: 7%
6. Payments: Interest only payments payable monthly for the entire term of the Loan.
7. Loan Fee: A non-refundable Loan Fee of \$10,365 for the principal amount of the \$1,095,000 Loan.
8. Prepayment Penalty: Prepayment of the Loan, in full or in part shall be permitted at any time without any fee.

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Arbours at Madison Apartments  
Madison, FL  
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apartment complex located in Madison County, Florida.

10. Security: The loans shall be secured by a first lien upon the real property more particularly described on Exhibit 1 attached hereto and incorporated herein by reference (the "Property") and its improvements and fixtures. As additional Security, Lender is to have a first lien on all items of personal property, attached to or used in connection with maintenance and/or operation of the Property, including, but not limited to machinery, equipment, water, sewer and drainage pipe, etc. Borrower agrees to enter into and execute all documents necessary to comply with this paragraph and as required by Lender and/or Lender's counsel.
11. Subordinate Financing: Not Applicable.
12. Document Execution: Borrower must execute, in a manner acceptable to Lender, all loan documents relating to the Property and all other documents required by lender and/or Lender's counsel.
13. Commitment Survives: The provisions of this commitment shall survive the closing of the Loan contemplated herein.
14. Lender's Counsel Controls: All matters pertaining to the commitment requirements and the loan documents must be satisfactory to our attorney who shall represent the lender in this transaction. The cost of Lender's counsel shall be paid by Borrower at closing.
15. Construction Loan Agreement: At closing you shall execute a Construction Loan Agreement in the form customarily used by Lender.
16. Notice of Commencement: Under no circumstances is construction to commence until after the "Notice of Commencement" is recorded.
17. Plans and Specifications: Construction shall be completed in conformance with submitted and approved plans and specifications.
18. Architect's Authorization: Borrower's design architect shall provide Lender with written authorizations enabling Lender to copy and utilize the plans and specifications for the project in the event of default by the Borrower.

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19. Permits: The Property must be fully permitted by all applicable governmental and regulatory agencies prior to closing.
20. Zoning and Land Use: The Land is validly zoned to permit the construction of the proposed project. Borrower's construction plan is consistent with the regional and local comprehensive plans, and borrower has received all necessary governmental approvals, and shall provide evidence of same.
21. Survey: Three (3) sealed copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.
22. Water and Sewer Utility: Borrower shall furnish evidence of water and sewer availability to the site.
23. Electric Utility: Borrower shall furnish evidence of electric availability to the site.
24. Gas Utility: Borrower shall furnish evidence of gas availability to the site.
25. Soil Tests: A report as to soil borings made on the Property by a soil testing firm satisfactory to lender. The number and location of such borings shall be in accordance with the recommendations of the soil testing firm and must also be satisfactory to Lender.
26. Final Plans: At least two weeks prior to closing, you shall submit to

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Lender, two (2) sets of final working plans sealed by the engineer, and specifications for the proposed improvements to be constructed on the Property, together with any changes of amendments thereto. Said plans and specifications so submitted, must be acceptable to and approved by Lender and the engineer prior to closing.

27. Tax Receipt:

All taxes on the Property which are then due and payable must be paid in full at the time of closing. A paid tax receipt for taxes currently due shall be submitted to the Lender prior to closing.

28. Environmental Audit:

Lender shall obtain, at Borrower's expense, a satisfactory environmental audit by an engineer specifically approved by Lender. The report will confirm acceptable soil conditions and the absence of toxic or hazardous substances, and Lender reserves the right to require satisfactory corrective procedures or to terminate the commitment.

29. Borrowing Authority documents:

- A. Borrower shall furnish Lender, at least one (1) week prior to closing, a current Certificate of Good Standing issued by the Secretary of State of the State of Florida.
- B. Borrower shall furnish Lender, at least one (1) week prior to closing, an opinion of the Borrower's attorney to the effect: (a) that the Borrower has authority to enter into the loan transaction contemplated herein, (b) that the Note, Mortgage, and all other documents, when executed, will constitute valid and binding obligations on the Borrower, and all Guarantors and other parties to such documents, (c) the Borrower is authorized to do business in the State of Florida, and (d) such additional matters as Lender or Lender's Counsel may deem necessary.
- C. Borrower shall furnish Lender with a certified copy of Borrower's Partnership Agreement.
- D. Borrower shall furnish, at closing, an executed original of the resolution of the Borrower's Board of Directors approving the making of the loan contemplated herein, and authorizing the execution of the Note, Mortgage, and all other loan documents by specified partners who shall be specifically named in the resolution.

30. Title Insurance:

Lender shall be furnished with a mortgagee title insurance policy



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on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) include a variable rate endorsement; (c) delete all standard exceptions: except taxes for the current year; (d) list only those title exceptions acceptable to Lender; (e) include insurance of all appurtenant easements, and (f) contain such affirmative coverage and endorsements as may be required by Lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.

31. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy in an amount of not less than \$5,000,000 specifically listing the location of this property. A combination policy called an Owner/Contractor Protective (OCP) should be used.

In addition, Lender requires the owner to obtain from the general contractor a Builders Risk Policy. The policy should have an "installation floater" which covers the owner's interest as well as during construction and the location of the Property should also be shown. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California 90067 as its interest may appear.

The insurance shall be in an amount of not less than the total replacement costs less the cost of the land.

32. Miscellaneous: All other loan documents or items that are customarily provided in loan transactions of this type or necessary in connection with Lender's requirements.
33. Expiration: It is anticipated that the initial closing of the Construction Loan shall have occurred by January 1, 2005 and that this Commitment shall be valid only through January 1, 2005 unless extended at the option of the Lender.

Permanent Loan Conversion:

Provided the foregoing Construction Loan has closed, that no default has occurred thereunder, and provided all contemplated construction has been completed and all approvals and certifications have been obtained to Lender's satisfaction, Lender agrees to make a permanent

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loan (the "Permanent Loan") to Borrower upon the following terms and conditions which shall supplement and be in addition to the foregoing requirements and conditions thereof:

- 1. Borrower: Same
- 2. Guarantors: Same.  
Upon conversion the Guarantor's liability shall be reduced to the top 25% of the mortgage loan.
- 3. Permanent Loan Amount: \$1,095,000
- 4. Term: Thirty (30) years from the date of initial closing and execution of loan documentation, with payments amortized over thirty (30) years.
- 5. Rate: Seven percent (7.00%) payable monthly. Interest shall be calculated on the basis of a 365-day calendar year. In no event shall the Borrower pay an interest rate greater than is permissible under applicable law.
- 6. Loan Fee: No loan fee shall be paid by Borrower for the Permanent Loan Closing.
- 7. This Permanent Loan may be prepaid in full at any time without premium or penalty.
- 8. Any other reasonable conditions or requirements which may be deemed necessary by Lender to adequately secure its position in this Permanent Loan shall be requirements hereunder.
- 9. Title Insurance: Lender shall be furnished with a mortgagee title insurance policy on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) delete all standard exceptions except taxes for the current year; (c) list only those title exceptions acceptable to Lender; (d) include insurance of all appurtenant easements, and (e) contain such affirmative coverage and endorsements as may be required by lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.
- 10. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy

specifically listing the location of this property.

In addition, Lender requires the Owner to obtain completed buildings insurance for an amount of not less than 100% of the total completed value, less cost of land. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California, 90067 as its interest may appear.

**11. Documentation:**

Lender's attorney shall prepare the necessary documentation in order to comply with all the terms and conditions of this commitment, and to comply with applicable Maryland law including but not limited to Note, Mortgage and Security Agreement, Financing Statements, Guaranties, Assignment of Leases, Rents and Profits, and Hazardous Waste Affidavit. All Lender and/or Lender's Counsel may require additional documentation at its discretion.

**12. Taxes:**

All taxes and assessments payable in connection with the property and improvements are to be paid at the time of initial closing and subsequent taxes and assessments must be paid when due.

**13. Project Survey:**

Three (3) copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.

The following general conditions apply to both loans contemplated hereby:

1. **Restrictive Covenants:** The property securing the mortgage shall at all times be subject only to restrictions or limitations as are approved in writing by mortgagee and its counsel, excluding those use restrictions conditional upon the granting of Low Income Tax Credits by

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Arbours at Madison Apartments

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March 15, 2004

will not be permitted.

2. **Change of ownership or Further Encumbrances:** The mortgage will require that title to the property remain vested in the Borrower, (limited partnership), and that the subject property will not be conveyed or further encumbered during the term of the loan except with Lender's consent which may be withheld for any reason.
3. **Validity of Loan:** Lender is to be furnished with written opinion of your counsel, at no expense to us, that the loan in all respects is legal, does not violate any applicable law or other requirement and that all loan documents are valid and binding upon the Borrower and Guarantors in accordance with their terms and such other matters as may be required by Lender and/or Lender's counsel.
4. **Prohibition Against Sale or Assignment:** Lender's mortgage will contain a provision whereby the entire sum and interest will become due at the option of the Lender upon the sale, transfer, or conveyance of the mortgaged premises.
5. **Expenses:** Borrower shall bear expenses incurred in connection with this financing. This shall include, but not be limited to, Documentary Stamp Tax, recording costs, premiums for title and liability insurance, Lender's legal fees, surveys, mortgage fees and other out-of-pocket expenses.
6. **Financing Sign:** Permission is hereby given Lender to place a financing sign on the property to be provided by Lender, and erected at the expense of the Borrowers, and to release publicity concerning the financing of the project.
7. Borrower shall have concluded the sale of a 99.9% limited partnership interest in Borrower to SunAmerica Affordable Housing Partners, Inc. or an affiliate thereof pursuant to the letter agreement dated June 8 2004.

The terms of this commitment letter may not be waived, modified or in any way changed by implication, correspondence or otherwise unless such waiver, modification or change is made in the form of an amendment to this commitment letters in writing and agreed to by both parties. This commitment letter is intended to supersede and cancel any existing application between Lender and Borrower.

The commitment fee for this loan commitment is considered to be earned upon acceptance of this commitment but will be paid at the time of the closing. This fee is to compensate Lender for the reservation of credit and defray loan administration costs in connection with the appraisal review, internal legal expense, inspections by staff personnel, and loan officer's monitoring of the transaction.

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Arbours at Madison Apartments  
Madison, FL  
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the transaction.

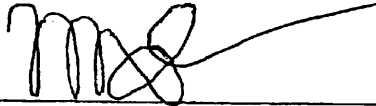
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Arbours at Madison Apartments  
Madison, FL  
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March 15, 2004  
Revised June 2, 2004

This commitment is not assignable by Borrower either voluntarily or by operation of law.

Sincerely,

AIG SunAmerica, Inc.




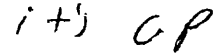
Michael L. Fowler  
Vice President

CC: Stephen B. Bien

ACCEPTED BY:

ARBOURS AT MADISON LTD.

BY:   
Principal CVDC

BY:   
i + j CP

Date: 6-3-04

" REVISED "

**Arbours at Madison Apartments**

Exhibit "1"

**Legal Description:**

Commencing at the Northwest CORNER of the Southwest Quarter of section 21 T01N R09E and run South 00° 18' 00" East a distance of 50 feet to the South side of Country club road; thence run South 89° 45' 00" East a distance of 283.80 feet to the point of beginning; thence run South 00° 18' 00" a distance of 782.00 feet; thence run South 68° 02' 00" East a distance of 428.00 feet; thence run North 18° 45' 00" East a distance of 477.00 feet; thence run North 00° 18' 00" West a distance of 580.00 feet to the South side of Country Club Road; thence run North 89° 45' 00" West a distance of 532.00 feet to the point of beginning. Containing approximately 10 acres.

## 2004 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. 2004-004C** and pertains to:

Part   V   Section   B   Subsection \_\_\_\_\_ Exhibit No \_\_\_\_\_ (if applicable)

The attached information is submitted in response to the 2004 Universal Scoring Summary Report because:

- I. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2004 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>  4  </u> T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed (MMRB/SAIL/HC Applications Only)	Item No. _____ P	<input type="checkbox"/>	<input 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).





VIA FAX AND FEDERAL EXPRESS

“  
REVISED  
”

March 15, 2004  
REVISED June 2, 2004

John O Moore, Jr.  
ACRH Development, LLC  
1037 22<sup>nd</sup> Street South  
Ste. 101  
Birmingham, AL 35205

**RE: Arbours at Madison Apartments  
72 Units  
Madison, Madison County, Florida**

Dear John:

This letter constitutes the commitment of AIG SunAmerica, Inc., or an affiliate (“Lender”) to make Construction and Permanent Loans (the “Loans”) to the entity described below as the borrower (“Borrower”) under the terms and conditions set forth herein.

1. Borrower: Arbours at Madison Ltd.
2. Guarantors: John O. Moore, David G. Sumrall, Steve Lowitz, Gabriel Ehrenstein
3. Construction Loan Amount: \$1,095,000
4. Terms: Twenty-four (24) months from Loan Closing.
5. Interest Rate: 7%
6. Payments: Interest only payments payable monthly for the entire term of the Loan.
7. Loan Fee: A non-refundable Loan Fee of \$10,365 for the principal amount of the \$1,095,000 Loan.
8. Prepayment Penalty: Prepayment of the Loan, in full or in part shall be permitted at any time without any fee.

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Arbours at Madison Apartments  
Madison, FL  
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apartment complex located in Madison County, Florida.

10. Security: The loans shall be secured by a first lien upon the real property more particularly described on Exhibit 1 attached hereto and incorporated herein by reference (the "Property") and its improvements and fixtures. As additional Security, Lender is to have a first lien on all items of personal property, attached to or used in connection with maintenance and/or operation of the Property, including, but not limited to machinery, equipment, water, sewer and drainage pipe, etc. Borrower agrees to enter into and execute all documents necessary to comply with this paragraph and as required by Lender and/or Lender's counsel.
11. Subordinate Financing: Not Applicable.
12. Document Execution: Borrower must execute, in a manner acceptable to Lender, all loan documents relating to the Property and all other documents required by lender and/or Lender's counsel.
13. Commitment Survives: The provisions of this commitment shall survive the closing of the Loan contemplated herein.
14. Lender's Counsel Controls: All matters pertaining to the commitment requirements and the loan documents must be satisfactory to our attorney who shall represent the lender in this transaction. The cost of Lender's counsel shall be paid by Borrower at closing.
15. Construction Loan Agreement: At closing you shall execute a Construction Loan Agreement in the form customarily used by Lender.
16. Notice of Commencement: Under no circumstances is construction to commence until after the "Notice of Commencement" is recorded.
17. Plans and Specifications: Construction shall be completed in conformance with submitted and approved plans and specifications.
18. Architect's Authorization: Borrower's design architect shall provide Lender with written authorizations enabling Lender to copy and utilize the plans and specifications for the project in the event of default by the Borrower.

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19. Permits: The Property must be fully permitted by all applicable governmental and regulatory agencies prior to closing.
20. Zoning and Land Use: The Land is validly zoned to permit the construction of the proposed project. Borrower's construction plan is consistent with the regional and local comprehensive plans, and borrower has received all necessary governmental approvals, and shall provide evidence of same.
21. Survey: Three (3) sealed copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.
22. Water and Sewer Utility: Borrower shall furnish evidence of water and sewer availability to the site.
23. Electric Utility: Borrower shall furnish evidence of electric availability to the site.
24. Gas Utility: Borrower shall furnish evidence of gas availability to the site.
25. Soil Tests: A report as to soil borings made on the Property by a soil testing firm satisfactory to lender. The number and location of such borings shall be in accordance with the recommendations of the soil testing firm and must also be satisfactory to Lender.
26. Final Plans: At least two weeks prior to closing, you shall submit to

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Lender, two (2) sets of final working plans sealed by the engineer, and specifications for the proposed improvements to be constructed on the Property, together with any changes of amendments thereto. Said plans and specifications so submitted, must be acceptable to and approved by Lender and the engineer prior to closing.

27. Tax Receipt:

All taxes on the Property which are then due and payable must be paid in full at the time of closing. A paid tax receipt for taxes currently due shall be submitted to the Lender prior to closing.

28. Environmental Audit:

Lender shall obtain, at Borrower's expense, a satisfactory environmental audit by an engineer specifically approved by Lender. The report will confirm acceptable soil conditions and the absence of toxic or hazardous substances, and Lender reserves the right to require satisfactory corrective procedures or to terminate the commitment.

29. Borrowing Authority documents:

- A. Borrower shall furnish Lender, at least one (1) week prior to closing, a current Certificate of Good Standing issued by the Secretary of State of the State of Florida.
- B. Borrower shall furnish Lender, at least one (1) week prior to closing, an opinion of the Borrower's attorney to the effect: (a) that the Borrower has authority to enter into the loan transaction contemplated herein, (b) that the Note, Mortgage, and all other documents, when executed, will constitute valid and binding obligations on the Borrower, and all Guarantors and other parties to such documents, (c) the Borrower is authorized to do business in the State of Florida, and (d) such additional matters as Lender or Lender's Counsel may deem necessary.
- C. Borrower shall furnish Lender with a certified copy of Borrower's Partnership Agreement.
- D. Borrower shall furnish, at closing, an executed original of the resolution of the Borrower's Board of Directors approving the making of the loan contemplated herein, and authorizing the execution of the Note, Mortgage, and all other loan documents by specified partners who shall be specifically named in the resolution.

30. Title Insurance:

Lender shall be furnished with a mortgagee title insurance policy

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"

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on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) include a variable rate endorsement; (c) delete all standard exceptions: except taxes for the current year; (d) list only those title exceptions acceptable to Lender; (e) include insurance of all appurtenant easements, and (f) contain such affirmative coverage and endorsements as may be required by Lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.

31. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy in an amount of not less than \$5,000,000 specifically listing the location of this property. A combination policy called an Owner/Contractor Protective (OCP) should be used.

In addition, Lender requires the owner to obtain from the general contractor a Builders Risk Policy. The policy should have an "installation floater" which covers the owner's interest as well as during construction and the location of the Property should also be shown. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California 90067 as its interest may appear.

The insurance shall be in an amount of not less than the total replacement costs less the cost of the land.

32. Miscellaneous: All other loan documents or items that are customarily provided in loan transactions of this type or necessary in connection with Lender's requirements.
33. Expiration: It is anticipated that the initial closing of the Construction Loan shall have occurred by January 1, 2005 and that this Commitment shall be valid only through January 1, 2005 unless extended at the option of the Lender.

Permanent Loan Conversion:

Provided the foregoing Construction Loan has closed, that no default has occurred thereunder, and provided all contemplated construction has been completed and all approvals and certifications have been obtained to Lender's satisfaction, Lender agrees to make a permanent

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Arbours at Madison Apartments

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loan (the "Permanent Loan") to Borrower upon the following terms and conditions which shall supplement and be in addition to the foregoing requirements and conditions thereof:

1. Borrower: Same
2. Guarantors: Same.  
Upon conversion the Guarantor's liability shall be reduced to the top 25% of the mortgage loan.
3. Permanent Loan Amount: \$1,095,000
4. Term: Thirty (30) years from the date of initial closing and execution of loan documentation, with payments amortized over thirty (30) years.
5. Rate: Seven percent (7.00%) payable monthly. Interest shall be calculated on the basis of a 365-day calendar year. In no event shall the Borrower pay an interest rate greater than is permissible under applicable law.
6. Loan Fee: No loan fee shall be paid by Borrower for the Permanent Loan Closing.
7. This Permanent Loan may be prepaid in full at any time without premium or penalty.
8. Any other reasonable conditions or requirements which may be deemed necessary by Lender to adequately secure its position in this Permanent Loan shall be requirements hereunder.
9. Title Insurance: Lender shall be furnished with a mortgagee title insurance policy on a current American Land Title Association. The policy shall (a) provide coverage for the full principal amount of the Loan; (b) delete all standard exceptions except taxes for the current year; (c) list only those title exceptions acceptable to Lender; (d) include insurance of all appurtenant easements, and (e) contain such affirmative coverage and endorsements as may be required by lender. A title insurance commitment, together with copies of all documents listed as exceptions, shall be submitted to Lender at least fifteen (15) days prior to the intended closing date.
10. Insurance Coverage: Borrower shall furnish evidence of a liability insurance policy

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specifically listing the location of this property.

In addition, Lender requires the Owner to obtain completed buildings insurance for an amount of not less than 100% of the total completed value, less cost of land. The mortgagee clause should be in favor of AIG SunAmerica Inc., 1 SunAmerica Center, Century City, Los Angeles, California, 90067 as its interest may appear.

**11. Documentation:**

Lender's attorney shall prepare the necessary documentation in order to comply with all the terms and conditions of this commitment, and to comply with applicable Maryland law including but not limited to Note, Mortgage and Security Agreement, Financing Statements, Guaranties, Assignment of Leases, Rents and Profits, and Hazardous Waste Affidavit. All Lender and/or Lender's Counsel may require additional documentation at its discretion.

**12. Taxes:**

All taxes and assessments payable in connection with the property and improvements are to be paid at the time of initial closing and subsequent taxes and assessments must be paid when due.

**13. Project Survey:**

Three (3) copies of a recent survey of the Property by a registered surveyor certified to Lender, Borrower, and the title insurance company. The survey shall show (a) all boundaries of the Property with courses and distances indicated, including chord bearings and arc and chord distances for all curves; (b) dimensions and locations of all existing improvements and of all easements, roads, encroachments, and utility lines; (c) the distances to, and names of, the nearest intersecting streets; (d) other facts in any way affecting the Property, and (e) such other details as Lender may request. The total property area must also be included together with a certification as to the location of any of the Property within any special flood hazard area. The survey shall be certified to AIG SunAmerica Inc., Borrower, and the title company.

The following general conditions apply to both loans contemplated hereby:

1. **Restrictive Covenants:** The property securing the mortgage shall at all times be subject only to restrictions or limitations as are approved in writing by mortgagee and its counsel, excluding those use restrictions conditional upon the granting of Low Income Tax Credits by



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will not be permitted.

2. **Change of ownership or Further Encumbrances:** The mortgage will require that title to the property remain vested in the Borrower, (limited partnership), and that the subject property will not be conveyed or further encumbered during the term of the loan except with Lender's consent which may be withheld for any reason.
3. **Validity of Loan:** Lender is to be furnished with written opinion of your counsel, at no expense to us, that the loan in all respects is legal, does not violate any applicable law or other requirement and that all loan documents are valid and binding upon the Borrower and Guarantors in accordance with their terms and such other matters as may be required by Lender and/or Lender's counsel.
4. **Prohibition Against Sale or Assignment:** Lender's mortgage will contain a provision whereby the entire sum and interest will become due at the option of the Lender upon the sale, transfer, or conveyance of the mortgaged premises.
5. **Expenses:** Borrower shall bear expenses incurred in connection with this financing. This shall include, but not be limited to, Documentary Stamp Tax, recording costs, premiums for title and liability insurance, Lender's legal fees, surveys, mortgage fees and other out-of-pocket expenses.
6. **Financing Sign:** Permission is hereby given Lender to place a financing sign on the property to be provided by Lender, and erected at the expense of the Borrowers, and to release publicity concerning the financing of the project.
7. **Borrower shall have concluded the sale of a 99.9% limited partnership interest in Borrower to SunAmerica Affordable Housing Partners, Inc. or an affiliate thereof pursuant to the letter agreement dated June 8 2004.**

The terms of this commitment letter may not be waived, modified or in any way changed by implication, correspondence or otherwise unless such waiver, modification or change is made in the form of an amendment to this commitment letters in writing and agreed to by both parties. This commitment letter is intended to supersede and cancel any existing application between Lender and Borrower.

The commitment fee for this loan commitment is considered to be earned upon acceptance of this commitment but will be paid at the time of the closing. This fee is to compensate Lender for the reservation of credit and defray loan administration costs in connection with the appraisal review, internal legal expense, inspections by staff personnel, and loan officer's monitoring of the transaction.

"REVISED"

Arbours at Madison Apartments  
Madison, FL  
Page 9 of 9  
March 15, 2004  
the transaction.

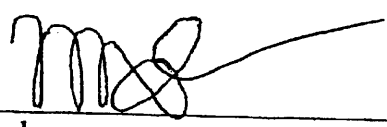
"REVISED"

Arbours at Madison Apartments  
Madison, FL  
Page 10 of 9  
March 15, 2004  
Revised June 2, 2004

This commitment is not assignable by Borrower either voluntarily or by operation of law.

Sincerely,

AIG SunAmerica, Inc.

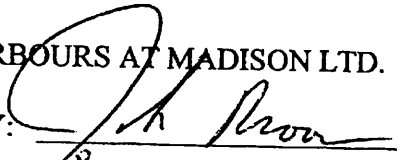


\_\_\_\_\_  
Michael L. Fowler  
Vice President

CC: Stephen B. Bien

ACCEPTED BY:

ARBOURS AT MADISON LTD.

BY:   
\_\_\_\_\_  
Principal CVDC

BY: i + j GP  
\_\_\_\_\_

Date: 6-3-04  
\_\_\_\_\_

Arbours at Madison Apartments

"REVISED"

Exhibit "1"

Legal Description:

Commencing at the Northwest CORNER of the Southwest Quarter of section 21 T01N R09E and run South  $00^{\circ} 18' 00''$  East a distance of 50 feet to the South side of Country club road; thence run South  $89^{\circ} 45' 00''$  East a distance of 283.80 feet to the point of beginning; thence run South  $00^{\circ} 18' 00''$  a distance of 782.00 feet; thence run South  $68^{\circ} 02' 00''$  East a distance of 428.00 feet; thence run North  $18^{\circ} 45' 00''$  East a distance of 477.00 feet; thence run North  $00^{\circ} 18' 00''$  West a distance of 580.00 feet to the South side of Country Club Road; thence run North  $89^{\circ} 45' 00''$  West a distance of 532.00 feet to the point of beginning. Containing approximately 10 acres.

## 2004 MMRB, SAIL & HC Scoring Summary

As of: 07/06/2004

File # 2004-004C

Development Name: Arbours at Madison

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?
07 - 06 - 2004	66	N	7.5	\$51,070.47	%	N
Preliminary	66	Y	7.5	\$51,070.47	%	N
NOPSE	66	N	7.5	\$51,070.47	%	N
Final	66	N	7.5	\$51,070.47	%	N
Final-Ranking	0	N	0		0	

**Scores:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
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.	Total Set-Aside Percentage	3	3	3	3	0
5S	III	E	1.c.	Set-Aside Breakdown Chart	5	5	5	5	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

As of: 07/06/2004

File # 2004-004C

Development Name: Arbours at Madison

## 2004 MMRB, SAIL & HC Scoring Summary

**Threshold(s) Failed:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	V	B		Development Cost Pro Forma	Origination fees in the construction and permanent loan commitments, and the additional bridge gap loan fee in the equity commitment were not properly accounted for in the Development Cost Pro Forma. Since the Applicant does not have any contingency amounts listed in the Development Cost Pro Forma to cover the amount of these items, it results in a financial shortfall for both the construction and permanent periods. This resulted in Total Development Costs being increased by \$18,010.	NOPSE	Final
2T	V	D	Ex 57	Bridge Loans	The initial bridge loan commitment cannot be counted firm as it fails to state an interest rate and does not state that it is valid through December 31, 2004. The additional bridge gap loan cannot be counted firm as it does not state that it is valid through December 31, 2004.	NOPSE	Final
3T	V	B		Construction Financing	There is a construction financing shortfall of \$4,391,751.	NOPSE	Final
4T	V	B		Permanent Financing	There is a permanent financing shortfall of \$5,034,120.	NOPSE	Final
5T	V	D	Ex 55	Debt Commitment	The revised debt commitment for construction and permanent financing is incomplete. The commitment is missing a portion of paragraph 9 at the bottom of page one and the top of page two, as well as a portion of paragraph 1 at the bottom of page seven and the top of page eight. In addition, paragraph 7 on page eight references an agreement, dated June 8 2004 (sic), to sell a 99.9% limited partnership interest in the Borrower. No such agreement was provided by the Applicant in the Application. The revised equity commitment provided by the Borrower is dated June 2, 2004 and was accepted by the Applicant on June 6, 2004. Therefore, the debt commitment for construction and permanent financing cannot be scored firm.	Final	
6T	V	B		Construction Financing	There is a construction financing shortfall of \$1,065,942.	Final	
7T	V	B		Permanent Financing	There is a permanent financing shortfall of \$1,113,010.	Final	

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	1.25	1.25	1.25	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	1.25	1.25	0
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	1.25	1.25	1.25	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	3.75	3.75	0



SunAmerica Affordable  
Housing Partners, Inc.  
2202 North West Shore Blvd.  
Suite 200  
Tampa, FL 33607

813.639.7591

August 2, 2004

Mr. Wayne Conner  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301-1329

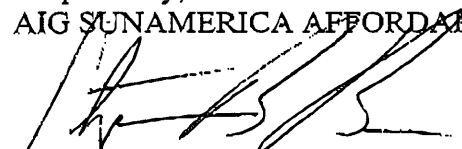
RE **Arbours at Madison Apartments**  
**72 Units**  
**Madison, Madison County, Florida**

**Dear Mr. Conner:**

It has come to our attention that The Florida Housing Finance Corporation (FHFC) has determined that letters dated March 15, 2004, as revised June 2, 2004, which reflect the agreement and understandings between AIG SunAmerica and the owners and developers of the Arbour's at Madison Apartment complex as to the debt commitments for the proposed complex have not been scored firm. Apparently FHFC has determined that because, due to an apparent formatting problem, several lines were omitted from revised letters that were submitted as cure documents that the letters are no longer considered firm. Additionally FHFC has concluded that another partnership agreement must exist other than the one submitted with the application. AIG SunAmerica is mindful of the alleged errors pointed out by FHFC and represents that these alleged errors in no way revise the agreement and understanding of the parties. The commitment of AIG SunAmerica remains firm. Moreover there is no other partnership agreement between AIG SunAmerica and Arbours other than the one submitted with the 2004 Universal Cycle Application. As you can see I am the authorized individual who signed the partnership agreement letter and am fully aware of the preparation of the commitment as well.

If you have any questions relating to the structure please do not hesitate to contact me at (813) 639-7591, or by cell at (813)731-1244. I appreciate your consideration in this matter, and look forward to working more closely with Florida Housing.

Respectfully,  
AIG SUNAMERICA AFFORDABLE HOUSING PARTNERS



Stephen B. Bien  
Regional Vice President

# Exhibit 57



VIA FAX AND FEDERAL EXPRESS

March 15, 2004

John O Moore, Jr.  
ACRH Development, LLC  
1037 22<sup>nd</sup> Street South  
Ste. 101  
Birmingham, AL 35205

Re: **Arbours at Madison Apartments**  
**72 Units**  
**Madison, Madison County, Florida**

Dear John,

Thank you for your interest in the SunAmerica affordable housing tax credit investment program. We are pleased to provide you with an equity investment as described below and look forward to continuing our current relationship with you on another project.

BASIC PROJECT INFORMATION

Number of Units:	72
Total Development Cost:	\$6,325,697
Total Number of Annual Tax Credits Requested:	\$ 637,385

This letter sets forth our understanding of the basic business terms to be included in an agreement (the "Partnership Agreement") by and between SunAmerica Affordable Housing Partners, Inc., or its designee, ("SunAmerica"), Arbours at Madison Ltd., a Florida Limited Partnership (the "Partnership") and Arbour One, Inc., Cahaba Valley Development Corporation, Inc., (the "General Partners" or "GP").

Subject to the conditions outlined herein and pursuant to the Partnership Agreement, SunAmerica will make a capital contribution (the "Capital Contribution") to the Partnership in the amount of \$5,016,110 and will require a 99.9% limited partnership interest in the Partnership. The amount of the Capital Contribution was based on the

Arbours at Madison Apartments  
Madison, Florida

availability of not less than \$637,385 of annual tax credits, and the SunAmerica price of \$0.78 per \$1.00 of Section 42 Federal tax credits. To the extent the annual tax credit is less, SunAmerica reserves the right to adjust the amount of the Capital Contribution.

Equity payments will be made in the form of Bridge Loans and Capital Contributions; the prerequisites of these contributions are outlined below:

Initial Capital Contribution	\$ 45,000	Paid at Closing
1 <sup>st</sup> Add'l. Capital Contribution	\$4,419,338	Paid at Completion of Const.
2 <sup>nd</sup> Add'l. Capital Contribution	<u>\$ 551,772</u>	Paid at Final Closing
Total	\$5,016,110	
Initial Bridge Loan (1)	\$3,728,332	75% of the equity- paid at Construction Closing.
Add'l. Bridge Gap Loan (2)	\$ 647,477	

(1) No bridge loan fee will be charged on the Initial Bridge Loan. Loan to be repaid in full upon payment of the First Additional Capital Contribution.

(2) 1% initial fee plus interest at Prime + 1, to be repaid in full from First Additional Capital Contribution, the Second Additional Capital Contribution and a portion of the Third Additional Capital Contribution on the Additional Bridge Gap Loan.

Arbour One, Inc., ACRH Development, LLC, and Cahaba Valley Development Corp., and John O. Moore, David G. Sumrall, Steve Lowitz, and Gabriel Ehrenstein will guarantee the Bridge Loan Note and the Additional Bridge Gap Loan.

The Partnership Agreement will provide for certain obligations of the General Partner, including, but not limited to:

- (a) Development Completion Guarantee: The General Partner will guarantee completion of the improvements in a good and workmanlike manner substantially in accordance with the plans and specifications.
- (b) Operating Deficit Guarantee: The General Partner will execute and deliver an Operating Deficit Guarantee Agreement, pursuant to which it will agree to loan to the Partnership any funds required to fund operating deficits during a five (5) year period beginning on the Breakeven Date.
- (c) Rent-up Guarantee: The General Partner will guarantee (i) funding of the permanent loans for the Project, (ii) the achievement of the proforma occupancy of the Project, but not less than 93%, and (iii) that the designated apartment units will qualify for tax credits on or before December 31, 2006.

Collateral and security for the aforementioned guarantees will be posted by the GP in form and amounts acceptable to SunAmerica.

Page 3  
Arbours at Madison Apartments  
Madison, Florida

SunAmerica's obligation to execute a Partnership Agreement and to consummate the transactions contemplated thereby shall be subject to its prior receipt and approval of;

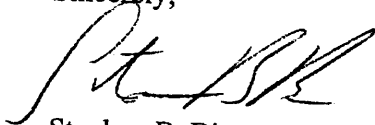
- (a) a satisfactory "to be developed" appraisal of the Project;
- (b) a satisfactory environmental report with respect to the area in which the Project is located;
- (c) a satisfactory engineering report for the Project;
- (d) loan documents for all construction and permanent lenders;
- (e) other materials as required by SunAmerica as part of the customary financial and legal review;

Upon your agreement and acceptance of the foregoing, we will contact you to obtain the additional documentation necessary to complete our due diligence review and to proceed to the Closing Date. Our attorney will prepare and send to you and your attorney the form of the Partnership Agreement and related documentation.

Please indicate your agreement and acceptance of the foregoing by signing the enclosed copy of this letter and returning it to the undersigned by March 26, 2004.

We look forward to working with you on this transaction.

Sincerely,

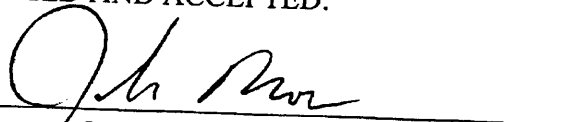


Stephen B. Bien  
Regional Vice President of Acquisitions

Cc: Michael L. Fowler, President, SunAmerica

AGREED AND ACCEPTED:

By:

  
Title: PRES. CVDC ITJ GP

Date:

3-20-04



# MERRITT HOUSING, LLC

March 17, 2004

Mr. Stephen Bien  
Regional Vice President  
SunAmerica Affordable Housing Partners, Inc.  
2202 N. West Shore Boulevard  
Suite 200  
Tampa, Florida 33607

Re: Experience of SunAmerica Affordable Housing Partners, Inc.

Dear Mr. Bien:

The undersigned is the general partner of Graugnard Place, Ltd., a Texas limited partnership and the ownership entity of Cantibury Pointe, a 144-unit development located in Lubbock, Texas, and completed in May, 2003. The housing credits for Cantibury Pointe were syndicated by SunAmerica Affordable Housing Partners, Inc.

By way of this letter, we would like to inform you that SunAmerica Affordable Housing Partners has performed its obligations under the partnership agreement for Cantibury Pointe and is not currently in default with that agreement.

Please feel free to contact me should you have any questions.

Sincerely,

**Graugnard Place, Ltd.,  
a Texas limited partnership**

By: Graugnard Place, LLC,  
its general partner

By: Merritt Housing GP, LLC  
its sole Member

By:   
Michael A. Hartman, Member

RETURN BOTH COPIES  
ALL INCOMPLETE APPLICATIONS WILL BE RETURNED

# Florida Fish and Wildlife Conservation Commission

P.O. Box 6150, Tallahassee, FL 32314-6150  
(850) 488-6253

Application for  
GFL - GAME FARM LICENSE.....\$50.00 Fee

New Applicant \_\_\_\_\_

Game Farm Name \_\_\_\_\_ Email Address \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Facility Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

County \_\_\_\_\_ Business Phone ( ) - \_\_\_\_\_

\*If address is a rural route, provide directions to location of activity on additional sheet.

Please **circle** the game to be raised:

Chucar Duck Geese Pheasant Quail Partridge Turkey Deer Other (list other on reverse)

This license authorizes you to operate a private or commercial game farm for the possession, propagation, rearing and production of game birds and animals. **This license does not authorize the taking of or keeping of any game removed from the wild.**

**The information provided is true and correct. I agree to adhere to the provisions of Chapter 372, Florida Statutes, and the rules and regulations of the Commission pertaining to game farms.**

\_\_\_\_\_  
Owner Name (Please Print) Home Phone \_\_\_\_\_  
Owner Signature/Date

Date of Birth \_\_\_\_\_ Social Security \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_ Hair \_\_\_\_\_ Sex \_\_\_\_\_ Race \_\_\_\_\_

FOR COMMISSION USE ONLY

Approved: \_\_\_\_\_ Date \_\_\_\_\_ Code \_\_\_\_\_  
Denied: \_\_\_\_\_ Date \_\_\_\_\_  
Reason \_\_\_\_\_

Revised 06/03

**VALID FOR 12 MONTHS**

COPY

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

RECEIVED  
2001 SEP 20 PM 1:05  
FLORIDA HOUSING  
FINANCE CORPORATION

BELMONT HEIGHTS ASSOCIATES, LTD.

Petitioner,

v.

FHFC CASE NO.: 2001-058

FLORIDA HOUSING FINANCE  
CORPORATION,

APPLICATION NO.: 2001-089C

Respondent.

---

**FINAL ORDER**

This cause came before the Board of Directors of the Florida Housing Finance Corporation ("Board") for consideration and final action on September 20, 2001. On or before February 26, 2001, Petitioner submitted its 2001 Combined Cycle application ("Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for an allocation of Low-Income Housing Tax Credits. On August 7, 2001, Petitioner timely filed its Election of Rights requesting an informal hearing pursuant to 120.57 (2), Florida Statutes, in Tallahassee, Florida. On August 22, 2001, Petitioner timely filed its Petition for Administrative Hearing. On August 23, 2001, Petitioner filed an Amended Petition for Administrative Hearing. On August 28, 2001, an informal hearing was conducted in Tallahassee, Florida, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, before Florida Housing's appointed Hearing Officer, Diane D. Tremor. Petitioner and Respondent timely filed Proposed Recommended Orders.

After consideration of the evidence, arguments presented at hearing, and the Proposed Recommended Orders, the Hearing Officer issued a Recommended Order. A true and correct

copy of the Recommended Order is attached hereto as "Exhibit A." The Hearing Officer recommended Florida Housing enter a Final Order reversing the 2½ point penalty assessed on Form 3 for inconsistent information and reversing the 1 point penalty assessed on Form 22. In addition, based upon the stipulation of Petitioner that it did not submit a revised Page 11 of Form 4, Petitioner should be awarded an additional .01 point for Form 4, the 2.5-point penalty for Form 4 should remain, and the 1.5-point penalty for Form 5 should be removed. On September 14, 2001, Petitioner submitted its written argument for consideration by the Board. On September 20, 2001, the Board took final action on the matter.

As the findings of fact and conclusions of law of the Recommended Order are supported by competent substantial evidence, it is hereby **ORDERED**:

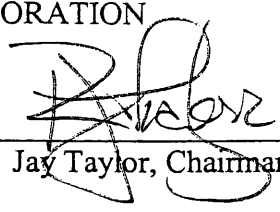
1. The findings of fact of the Recommended Order are adopted in full as Florida Housing's findings of fact.
2. The conclusions of law of the Recommended Order are adopted in full as Florida Housing's conclusions of law.
3. The 2½ point penalty assessed on Form 3 and the 1 point penalty assessed on Form 22 are reversed. In addition, Petitioner is awarded an additional .01 point for Form 4, the 1.5-point penalty for Form 5 is removed, and a 2½ point penalty is assessed for Form 4.



DONE and ORDERED this 20<sup>th</sup> day of September, 2001.

FLORIDA HOUSING FINANCE  
CORPORATION

By: \_\_\_\_\_

  
Jay Taylor, Chairman

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

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

Copies to:

Elizabeth G. Arthur, Esq.  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Michael P. Donaldson, Esq.  
Carlton Fields, P. A.  
P. O. Drawer 190  
Tallahassee, Florida 32302

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

BELMONT HEIGHTS ASSOCIATES, LTD.,

Petitioner,

v.

FHFC CASE NO. 2001-058  
Application No. 2001-089C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

---

**RECOMMENDED ORDER**

Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, the Florida Housing Finance Corporation, by its duly designated Hearing Officer, Diane D. Tremor, held an informal hearing in Tallahassee, Florida, in the above styled case on August 28, 2001.

**APPEARANCES**

For Petitioner:

Michael P. Donaldson  
Carlton Fields, P.A.  
P.O. Drawer 190  
Tallahassee, FL 32301

For Respondent:

Elizabeth G. Arthur, Esq.  
General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 500  
Tallahassee, FL 32301-1329

## **STATEMENT OF THE ISSUES**

There are no disputed issues of material fact. The issues for determination are whether the misspelling of the word "Development" on Page 3 of Form 3 warrants a 2.5-point penalty and whether a 1-point penalty should be assessed for Form 22 with regard to the listing of census tracts upon which the development is located.

## **PRELIMINARY STATEMENT**

At the informal hearing, the parties stipulated to the admission into evidence of Exhibits 1 through 8. Petitioner's Exhibits 1 and 2 were also received into evidence.

During the informal hearing, Petitioner sought to introduce evidence as to the Respondent's scoring of other applications in the 2001 Combined Cycle. Petitioner sought to establish that Respondent had acted in an inconsistent manner in scoring Petitioner's application as opposed to the Respondent's scoring of other applications. While asserting that the Respondent's scoring practices with respect to other applications involved substantially similar factual matters, Petitioner acknowledged that the facts (i.e. the forms, line items, answers and/or exhibits) involved were not identical. The undersigned Hearing Officer declined to receive evidence of other applications submitted in the 2001 Combined Cycle, or evidence of the Respondent's scoring thereof. The basis for that ruling was that the issue in the instant proceeding is whether Petitioner's application has been correctly and properly scored pursuant to the pertinent statutes and rules of the Respondent. As far as precedent, and the issue of whether the Respondent is bound by its prior actions, the

undersigned concluded that the Respondent's scoring of other applications in the 2001 Combined Cycle, at this point in time, constitutes neither a rule nor a Final Order of the Respondent, and thus such actions were irrelevant to the issues herein. Petitioner's Exhibits 1 and 2 are Final Orders of the Respondent respecting the 2000 Combined Rental Cycle. These documents were received into evidence.

During the hearing, the parties stipulated and agreed that Petitioner should be awarded an additional .01 points for Form 4, that the 2.5-point penalty for Form 4 should remain, and that the 1.5-point penalty for Form 5 should be rescinded. Accordingly, no evidence was adduced at the hearing regarding Forms 4 and 5 of the application.

Subsequent to the hearing, the parties timely submitted their Proposed Recommended Orders.

### **FINDINGS OF FACT**

Based upon the undisputed facts received into evidence at the hearing, the following relevant facts are found:

1. Petitioner submitted an application to the Florida Housing Finance Corporation seeking an allocation of tax credits for the development of affordable rental housing in the 2001 Combined Cycle.
2. The project, known as Belmont Heights Estates, is a large-scale 74-acre development which, when completed, will yield a total of 860 new units. The project is being developed in three stages. The instant application was submitted only for the first stage, which comprises 358 units on approximately 35 acres. (Exhibit 8)

3. On Page 3 of Form 1, the Petitioner identified the Developer Entity as “Michael’s Development Company I, L.P.” According to Rule 67-48.004(18)(b), Florida Administrative Code, and the application instructions, the identity of the developer entity could not be revised or otherwise supplemental following submission of the initial application. (Exhibits 1 and 2)

4. During the cure period, Petitioner submitted a revised Page 3 of Form 3. This page requires a certification from the Developer that he or she has the requisite skills, experience and credit worthiness to successfully produce the units proposed by the application, as well as certain other matters. The second line of this form calls for the name of the Developer. Petitioner inserted “Michaels Development Company I, L.P.” The bottom of Page 3, Form 3, requires the applicant’s signature and contains a line reading as follows:

“I hereby certify that \_\_\_\_\_ will serve as the Developer of the proposed Development.”

In this blank space, Petitioner inserted “Michaels Developmetn Co. I, L.P.” (Exhibit 3)

5. Form 22 of the application requires allocation information. The applicant is required to identify the qualified census tract (QCT) in which its development is located. In its revised Page 1 of Form 22, Petitioner identified the QCT number as 31. (Exhibit 6) Form 22, Page 1, requires the attachment of a letter from the local planning office or census bureau which verifies that the development is located in the QCT indicated on Page 1 of the form. As part of its initial application, Petitioner submitted a letter from the City of Tampa

local planning office verifying that the development was located in Qualified Census Tracts Numbers 31, 33, and 34. This letter was not revised during the cure period. The Respondent assessed a penalty of one point for inconsistency.

6. The Respondent's application package, of which official recognition is taken, contains, as part of Form 22, a listing of Qualified Census Tracts in Florida. For Hillsborough County, census tracts 31, 33, and 34 are listed as Qualified Census Tracts.

### **CONCLUSIONS OF LAW**

Pursuant to Sections 120.569 and 120.57(2) Florida Statutes, and Chapter 67-48, Florida Administrative Code, the Hearing Officer has jurisdiction of the parties and the subject matter of this proceeding. No issue as to proper notice or jurisdiction has been raised in this proceeding. The Petitioner's substantial interests are affected by the proposed action of the Respondent Corporation. Therefore, Petitioner has standing to bring this proceeding.

The sole issues for determination in this proceeding are whether the spelling of the word "development" on Page 3 of Form 3 and/or the listing of a single census tract on Form 22 create inconsistencies or inaccuracies for which penalties should be assessed.

Rule 67-48.004(3), Florida Administrative Code, provides, in part, that all applications must be "complete, consistent and accurate." Rule 67-48.004(11) requires that when revised pages create an inconsistency with other items in the application, the applicant must make such other changes as necessary to keep the application consistent as revised. In addition to these rules, the instructions on Forms 3 and 22 clearly state that a penalty will be imposed for failure "to provide complete, consistent and accurate information." (Exhibit

3, 4, and 5) The application package provided by the Florida Housing Finance Corporation, which contains instructions, has been adopted as a rule. Rules 67-48.002(11) and 67-48.004(1), Florida Administrative Code. Accordingly, both Florida Housing and applicants are bound by its provisions.

With regard to Form 3, the evidence demonstrates that Petitioner misspelled the word “development” by transposing the last two letters. There is no such word as “developmetn.” Due to the numerous references containing the correct spelling of the developer’s name, including the correct spelling of the developer’s name on the very page at issue, as well as the fact that no word “developmetn” exists in the English language, Respondent could not have had any reasonable doubt as to the correct identity of the developer of this proposed project. The misspelling on Page 3 of Form 3 was obviously not an attempt to revise, supplement or change the identity of the developer identified on Form 1. While the word “development” is a part of the developer’s name, it is unreasonable to assume that there could be another developer with the name “Michaels Developmetn Co. I, L.P.” It is concluded that this is not the type of inconsistency or inaccuracy which warrants a penalty under the Respondent’s rules.

This conclusion is not based upon prior Final Orders of the Respondent holding that typographical or scrivener’s errors that do not materially affect the substance of the application will not result in a penalty. The undersigned recognizes that the Respondent has adopted new rules which substantially change the procedures and requirements for the 2001 Combined Cycle application process. Rather, the conclusion that no penalty should be

imposed as a result of the spelling of the developer's name (through the transposition of two letters resulting in an obvious typographical error), could not have reasonably formed the basis for any decision on the part of the Respondent and could not have reasonably led to any confusion on Respondent's part. The misspelling did not constitute an attempt to revise or supplement the developer identified on Form 1 and throughout the application. It is concluded that a 2.5-point penalty is not warranted in this instance.

With respect to the Qualified Census Tract information provided by Petitioner in Form 22, it is concluded that there is no inconsistency and a one-point penalty is not warranted. The Petitioner's revised Page 1 of Form 22 (Exhibit 6) states that the development is located in QCT #31. The letter from the City of Tampa's local planning office states that the Development is located in QCT Numbers 31, 33, and 34. Thus the local planning office has verified that the QCT identified by the Petitioner on Page 1 of Form 22, QCT #31, is a Qualified Census Tract upon which the development is located.

### **RECOMMENDATION**

Based upon the Findings of Fact and Conclusions of Law recited herein, it is RECOMMENDED that no penalty points be assessed in connection with Forms 3 and 22 of Petitioner's application. In addition, based upon the stipulations of the parties set forth in the Preliminary Statement above, Petitioner should be awarded an additional .01 point for Form 4, the 2.5-point penalty for Form 4 should remain, and the 1.5-point penalty for Form 5 should be removed.

Respectfully submitted and entered this 10<sup>th</sup> day of September, 2001.





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## **NOTICE OF RIGHT TO SUBMIT WRITTEN ARGUMENT**

All parties have the right to 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 or Courier New 12-point font, and may not exceed five (5) pages. Written arguments must be filed with Florida Housing's Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m. on Friday, September 14, 2001, submission by facsimile will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to Recommended Orders.