

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

GHG FLAGLER CROSSING  
LIMITED PARTNERSHIP,

Petitioner,

vs.

FHFC CASE NOS.: 2005-037UC  
2005-038UC  
2005-040UC

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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**FINAL ORDER**

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on December 9, 2005. On or before, February 16, 2005, Flagler Crossing submitted an application number 2005-064C to Florida Housing for Housing Credits in the 2005 Universal Cycle Application program. On August 25, 2005, Florida Housing notified Flagler Crossing of the results of the Final Ranking of the 2005 Universal Application Cycle and provided Flagler Crossing with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. On September 16th, 2005, Flagler Crossing timely filed Petitions for an Informal Administrative Hearing.

After consideration of the matters raised in the petitions filed by Flagler Crossing, and the applicable statutory provisions, Florida Housing concedes that it erred in scoring, ranking and funding the Challenged Applications. Florida Housing further concedes that but said errors, Flagler Crossing would have received an allocation of housing credits in the amount of \$1,650,000, which was the amount requested in its application.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

M. J. [Signature] DATE: 12/12/05

Based upon the foregoing, Florida Housing stipulates and agrees that Flagler Crossing is entitled to receive an allocation of housing credits in the amount of \$1,650,000. Pursuant to Section 67-48.005(7), Florida Administrative Code, said allocation shall come from funding year 2006, which is the next available funding year.

Petitioner and Respondent timely filed a Joint Stipulation and Settlement Agreement (“Joint Stipulation”). A true and correct copy of the Joint Stipulation is attached hereto as “Exhibit A.”

**ORDER**

In accordance with the foregoing, it is hereby **ORDERED**:

The provisions of the Joint Stipulation are incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED that Petitioner is entitled to receive an allocation of housing credits in the amount of \$1,650,000 upon compliance with the applicable laws, rules, and credit underwriting requirements. Pursuant to Section 67-48.005(7), Florida Administrative Code, said allocation shall come from funding year 2006, which is the next available funding year.

DONE and ORDERED this 9<sup>th</sup> day of December, 2005.

FLORIDA HOUSING FINANCE  
CORPORATION

By:   
Chairperson

Copies to:

Wellington H. Meffert II  
General Counsel  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Vicki Robinson  
Deputy Development Officer  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Michael G. Maida, Esquire  
Rutledge, Ecenia, et al.  
215 South Monroe Street, Suite 420  
Tallahassee, Florida 32301

**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.**

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CORPORATION,

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\_\_\_\_\_ /

**JOINT STIPULATION AND SETTLEMENT AGREEMENT**

Petitioner, GHG Flagler Crossing Limited Partnership, (“Flagler Crossing”) and Respondent, Florida Housing Finance Corporation (“Florida Housing”) jointly stipulate to the matters set forth in this stipulation and further agree to a resolution of the petitions filed by Flagler Crossing under the terms set forth herein.

**STATEMENT OF THE ISSUE**

The issue in this case is whether Florida Housing improperly scored the applications submitted by Pebble Hill Estates, 2005–123C; Royal Palms Senior Apartments, 2005–126C; and Pines at Warrington, 2005–127C with respect to the “Developer” entity identified in said applications and, if so, whether such error resulted in Flagler Crossing not being funded in the 2005 Universal Cycle Application program.

**PRELIMINARY STATEMENT**

On or before, February 16, 2005, Flagler Crossing submitted an application number 2005-064C to Florida Housing for Housing Credits in the 2005 Universal Cycle Application program.

**EXHIBIT**

*A*

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On August 25, 2005, Florida Housing notified Flagler Crossing of the results of the Final Ranking of the 2005 Universal Application Cycle and provided Flagler Crossing with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. On September 16th, 2005, Flagler Crossing timely filed Petitions for an Informal Administrative Hearing.

### **STIPULATED SETTLEMENT AGREEMENT**

1. Flagler Crossing timely submitted an Application to Florida Housing for housing credits in the 2005 Universal Cycle in connection with a proposed 154-unit apartment complex in West Palm Beach, Florida. Flagler Crossing requested an annual allocation of housing credits in the amount of \$1,650,000. Petitioner's HC application was assigned Application No. 2005-064C.

2. To encourage the development of low-income housing for families, Congress in 1987 created federal income Tax Credits that are allotted to each state, including Florida. Section 42 of the Internal Revenue Code governs this program. The Tax Credits equate to a dollar-for-dollar reduction of the holder's federal tax liability, which can be taken for up to ten years if the project satisfies the Internal Revenue Code's requirements for each year. The developer sells, or syndicates, the Tax Credits to generate a substantial portion of the funding necessary for construction of the development.

3. Florida Housing is a public corporation organized pursuant to section 420.504, Florida Statutes, to provide and promote financing of affordable housing and related facilities in Florida. Florida Housing is an agency as defined in section 120.52, Florida Statutes, and, therefore, is subject to the provisions of Chapter 120, Florida Statutes.

4. Florida Housing is the statutorily created "housing credit agency" responsible for

the allocation and distribution of low-income Tax Credits (also known as housing credits) in Florida. See section 420.5099, Florida Statutes. In this capacity, Florida Housing determines which entities will receive housing credits for financing the construction or rehabilitation of low-income housing.

5. Florida Housing is governed by a Board of Directors appointed by the Governor with the Secretary of the Department of Community Affairs sitting ex-officio.

6. Housing credits are allocated by Florida Housing through a competitive application process. Applications for housing credits are submitted to Florida Housing through a once-a-year process referred to as the Universal Cycle, which is governed by chapter 67-48, Florida Administrative Code.

7. The Universal Cycle is a single-application process for the housing credit program, the Florida Housing-administered SAIL program under section 420.5087, Florida Statutes, the Home Investment Partnership Program operated by Florida Housing pursuant to section 420.5089, Florida Statutes, and federal Housing and Urban Development regulations, and the Multifamily Mortgage Revenue Board Program.

8. Florida Housing uses a scoring process for the award of housing credits outlined in rule 67-48.004, Florida Administrative Code, and a Qualified Allocation Plan (“QAP”). The provisions of the QAP are adopted and incorporated by reference in rule 67-48.025, Florida Administrative Code.

9. Pursuant to the QAP, housing credits are apportioned among the most populated counties, medium populated counties, and least populated counties. The QAP also establishes various set-asides and special targeting goals.

10. The 2005 Universal Cycle Application, adopted as Form UA1016 (Rev. 2-05) by rule 67-48.004(1)(a), Florida Administrative Code, consists of Parts I through V and instructions, some of which are not applicable to every Applicant. Some of the parts include “threshold” items. Failure to properly include a threshold item or satisfy a threshold requirement results in rejection of the application. Other parts allow applicants to earn points; however, the failure to provide complete, consistent and accurate information as prescribed by the instructions may reduce the Applicant’s overall score. Site plan approval, infrastructure availability, zoning approval and environmental site assessment are among the threshold items.

11. To provide a means of determining which applicant should rank higher when all threshold requirements are met and application scores are identical, Florida Housing awards “tie-breaker” points for proposed developments which are in close proximity to certain services, such as a Grocery Store, Public School, and Public Bus Stop or Metro-Rail Stop.

12. Preliminary Scores for all applicants were released by Florida Housing on March 18, 2005. Following consideration of comments submitted by other applicants and further review of applicants pursuant to rule 67-48.004(4) and (5), Florida Administrative Code, Florida Housing released Notice of Possible Scoring Error (“NOPSE”) scores on April 15, 2005. Applicants were then permitted to submit “cures” to problems identified in the preliminary and NOPSE scores. See rule 67-48.004(6), Florida Administrative Code. Applicants also were allowed to comment on the “cures” submitted by competitor applicants by filing Notices of Alleged Deficiencies (“NOADs”). See rule 67-48.004(7), Florida Administrative Code.

13. After review of cures and NOADs, final scores were released by Florida Housing on May 25, 2005, through a final scoring summary dated May 24, 2005. Each applicant received


law until March 30, 2005.


17. After consideration of the matters raised in the petitions filed by Flagler Crossing, Florida Housing concedes that it erred in scoring, ranking and funding the Challenged Applications. Florida Housing further concedes that but said errors, Flagler Crossing would have received an allocation of housing credits in the amount of \$1,650,000, which was the amount requested in its application.

Based upon the foregoing, Florida Housing stipulates and agrees that Flagler Crossing is entitled to receive an allocation of housing credits in the amount of \$1,650,000. Pursuant to Section 67-48.005(7), Florida Administrative Code, said allocation shall come from funding year 2006, which is the next available funding year.

The parties understand and agree that each side shall be responsible for the payment of its own attorney's fees and costs and, subject to the terms of this agreement, additionally agree to waive any right to further action on the matters addressed herein.

DATED this 22<sup>nd</sup> day of November, in Tallahassee, Florida.

  
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