

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

PINE BERRY SENIOR LIMITED
LIMITED PARTNERSHIP,

Petitioner,

v.

FHFC CASE NO.: 2008-101UC
APPLICATION NO.: 2008-019C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation ("Board") for consideration and final agency action on April 24, 2009. On or before application deadline, Pine Berry Senior Limited Partnership, ("Petitioner") submitted its 2008 Universal Cycle Application ("Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for an allocation housing credits. Petitioner's application met all of Florida Housing's threshold application requirements, received the maximum application score and the maximum tie-breaker points. However, based its ranking order relative to other applications under Florida Housing's ranking methodology there were not enough housing credits available to fund Petitioner's application. Thereafter, Petitioner timely filed a Petition for an Informal Administrative

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell / DATE: 4/24/09

Proceeding pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Rule 67-48.005(5), Florida Administrative Code, in which it challenged Florida Housing's scoring of five (5) competing applications ranked above it, alleging in its Petition that but for Florida Housing's erroneous scoring of those applications, Petitioner's application would have received its requested housing credit funding. Florida Housing reviewed the Petition pursuant to Section 120.569(2)(c), Florida Statutes, and determined that the Petition did not raise disputed issues of material fact. An informal hearing was held in this case on February 16, 2009, in Tallahassee, Florida, before Florida Housing's designated Hearing Officer, Diane Tremor. Petitioner and Respondent timely filed Proposed Recommended Orders.

After consideration of the evidence, arguments, testimony 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 holding that the five (5) competing applications challenged by the Petitioner were scored in error with regard to the threshold requirements pertaining to those applicants' General Contractor for their respective projects, and awarding Petitioner its requested tax credits from the next available allocation.

RULING ON THE RECOMMENDED ORDER

The findings and conclusions of the Recommended Order are supported by competent substantial evidence, with the exception of the conclusion stated in the last sentence of the paragraph immediately preceding the Recommendation on page 20 of the Recommended Order which reads “Any other interpretation would be illogical and unreasonable.” That conclusion would imply that the record in this matter is devoid of any basis that would support within reason a different interpretation of Rule 67-48.004(6) as it applies to the scoring decision at issue with respect to the Burlington application. The record does not support that conclusion.

ORDER

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

1. The findings of fact of the Recommended Order are adopted as Florida Housing’s findings of fact and incorporated by reference as though fully set forth in this Order.

2. The conclusion of law stated in the last sentence of the paragraph immediately preceding the Recommendation on page 20 of the Recommended Order which reads “Any other interpretation would be illogical and unreasonable” is rejected by Florida Housing as a matter of law. Otherwise, the conclusions of law of the Recommended Order are adopted as Florida Housing’s conclusions of law and incorporated by reference as though fully set forth in this Order.

Accordingly, it is found and ordered that the five (5) applications challenged by the Petitioner, to wit, the Portland, Sacramento, Lansing, Austin and Burlington applications, were scored in error with regard to the threshold requirements pertaining to those applicants' General Contractor for their respective projects.

IT IS HEREBY ORDERED that Petitioner be awarded its requested tax credits from the next available allocation.

DONE and ORDERED this 24th day of April, 2009.

FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chairperson

Copies to:

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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.