

ORIGINAL

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

LANDINGS AT CROSS BAYOU, LLLP,

Petitioner,

vs.

FHFC No. 2012-044UC
Application No. 2011-176C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.
_____ /

PETITION FOR ADMINISTRATIVE HEARING

Pursuant to Section 120.569 and .57, Florida Statutes (F.S.) and Rule 67-48.005(5), Florida Administrative Code (F.A.C.), Petitioner, Landings at Cross Bayou, LLLP ("Landings") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("Florida Housing") scoring actions concerning Universal Cycle Application No. 2011-106C ("MLF Towers Application"). In support of this Petition, Landings provides as follows:

1. Landings is a Florida limited liability limited partnership with its address at 200 South Division Street, Buffalo New York, 14204. Landings is in the business of providing affordable rental housing units.
2. Florida Housing is the state agency delegated the authority and responsibility for administering and awarding funds pursuant to Chapter 420, F.S., and Rules 67-21 and 67-48, F.A.C.

Nature of the Controversy

3. On December 6, 2011, Landings applied to Florida Housing for funding pursuant to the Low Income Housing Tax Credit Program (LIHTC). The purpose of the requested funds was to supplement the construction costs for the Preservation through rehabilitation of a 184 unit

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subsidized affordable housing apartment complex in St. Petersburg, Florida, named Landings at Cross Bayou.

4. Pursuant to section 420.5099, Florida Statutes, Florida Housing is the designated “housing credit agency” for the State of Florida and administers Florida’s low-income housing tax credit program. Through this program, Florida Housing allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing through a competitive process.

5. The tax credits allocated annually to each state are awarded by state “housing credit agencies” to single-purpose applicant entities created by real estate developers to develop specific multi-family housing projects. An applicant entity will then sell this ten-year stream of tax credits, typically to a “syndicator,” with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at rents that are affordable to low-income and very-low-income tenants.

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code (“IRC”), by which federal income tax credits are allotted annually to each state on a per capita basis to encourage private developers to build and operate affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder’s federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

The 2011 Universal Application Cycle

7. Because Florida Housing’s available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, Florida Housing has established a competitive application process pursuant to Chapter 67-48,

F.A.C. Specifically, Florida Housing's application process for 2011, as set forth in Rules 67-48.002-.005, F.A.C., involves the following:

- (a) The publication and adoption by rule of an application package;
- (b) The completion and submission of applications by developers;
- (c) Florida Housing's preliminary scoring of applications;
- (d) An initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE")
- (e) Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- (f) An opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score or resulted in a Threshold failure;
- (g) A second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- (h) Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores or Threshold;
- (i) An opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score or failed Threshold;
- (j) Final scores, ranking, and allocation of tax credit funding to applicants through the adoption of final orders; and
- (k) A final appeals process through which applicants may be allocated award funding from future credits by making the case that "but for" specific scoring errors by Florida Housing on other applications, their application would have been funded.

8. At the completion of (a) through (j) of this process a Final Score is assigned to each Application. Based on these Final Scores, and a series of Tie Breakers, Applications are

then ranked. Funds are awarded to applicants starting with applicable preferences and set asides and the highest scoring applicants until the available funds are exhausted. Applicants compete for funds, in large part, against other applicants in the same county size group.

9. Based on a review of Florida Housing's Final Ranking dated June 8, 2012 Landings received a final score of 79 out of a possible 79 points for its application. Landings received 6 out of a possible 6 Ability-To-Proceed and 23.75 out of a possible 37 Proximity Tie-Breaker points, and was deemed to have passed threshold. This score would have placed Landings in the funding range for its proposed project in Pinellas County "but for" Florida Housing's scoring actions with respect to the MLF Towers Application.

10. As will be explained more fully below, Florida Housing's scoring of the MLF Towers Application is erroneous and Landings is exercising its option to proceed with process item (k) by filing this petition.

Substantial Interests Affected

11. As an applicant for funds allocated by Florida Housing, Landings substantial interests are adversely affected by the scoring decisions here. The final scoring actions of Florida Housing resulted in Landings's application being displaced from the funding range for the Preservation set-aside Developments. Since the purpose of the tax credit program in general is to provide funding to developers of apartment projects for low income residents, then Landings's interests are adversely and substantially affected by the loss of funding. Indeed, without the requested funding, Landings's ability to provide much needed rehabilitated subsidized affordable housing units will be severely jeopardized.

MLF Tower's Application

12. The Universal Application at Part III requires an applicant to provide information concerning the proposed development. Specifically, at Part III, Section C., the Application requires the Applicant to disclose information concerning the Ability To Proceed with the proposed development.

13. In its initial Universal Application response, the Applicant on the MLF Towers Application ("MLF Towers") submitted documentation to meet the Ability To Proceed requirements. However, a NOPSE pointed out to Florida Housing an inconsistency between the Address of the Development Site as shown in the Application response and the legal description provided with the Agreement for Purchase and Sale submitted at Exhibit 27 to demonstrate Site Control. (See Attachment A).

14. Based on this NOPSE, Florida Housing in its scoring summary, dated March 27, 2012, found as follows:

Based on a plat provided in a NOPSE, the legal description provided with the Agreement for Purchase and Sale is inconsistent with the Scattered Sites locations listed on Exhibit 19. The legal description shows the sites to be located on 7th Ave. or the north side of 8th Ave. (Lots 14 through 16 of Block 39, a portion of Lot 3 and all of Lots 4 through 8 of Block 52, and Lot 17 of Block 52), while the locations listed on Exhibit 19 are (i) 540 2nd Ave. South, (ii) the north side of 2nd Ave. South, east of 6th St. South, and (iii) north side of 3rd Ave. South, west of 5th St. South. (See Attachment B).

In essence the legal description created Address issues which caused substantial scoring issues in other exhibits and forms within the MLF Towers Application.

15. In its submission attempting to cure the scoring and threshold issues, MLF Towers submitted various documents. In an effort to cure the Address issue MLF Towers provided a letter from the city zoning official, Mr. Philip Lazzara, with a map entitled "Attachment A". The Attachment A states "ALL PROPERTIES ZONED "CBD-2" EXCEPT

AS NOTED." (See Attachment C). However, the Site Plan Approval form at Exhibit 26 and the zoning and Land Use Regulations form at Exhibit 32 submitted by MLF Towers with the initial Application indicates that the property is zoned DC-1. By providing the letter and Attachment A as a cure, MLF Towers has created an inconsistency. In fact, and as verified by Mr. Lazzara in the attached email (See Attachment D), "the City's Land Development Regulations were revised in 2007 and the zoning classification of CBD-2 no longer exists."

16. In addition, neither the letter nor other documents submitted with the cure resolved the inconsistencies caused by the Address issue. For example, in an effort to explain the issue MLF Towers's letter from Lazzara states,

The former "SEVENTH AVENUE" and "EIGHTH AVENUE" as shown on the Plat are now 2nd Avenue South and 3rd Avenue South, respectively. Block 39 of the Plat is currently bordered on the south by 2nd Avenue South. Block 52 of the Plat is currently bordered on the north by 2nd Avenue South and on the south by 3rd Avenue South.

This map shows that the area has been replatted to ensure that the legal descriptions of the property are shown with the current streets as named. If Exhibit 19 is now correct then the legal description is still incorrect and there is still an inconsistency based on the documents provided by MLF Towers in the original submission and verified as inconsistent by the cure.

17. In a further effort to cure Threshold failure 5T the Applicant provided an affidavit from a surveyor that states that the streets are officially known as 2nd Avenue South and 3rd Avenue South but has provided no official proof that the streets were officially changed and that the plat from 1890 is not still in effect. Regardless of any official change the inconsistency between the plat/legal description and the Exhibit 19 still remains, as nothing has officially changed or cured the legal description. The legal description remains inconsistent with the Exhibit 19.

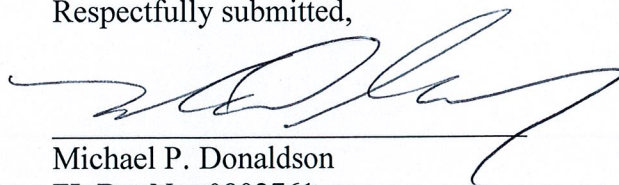
18. A timely NOAD was submitted raising all these specific issues. (See Attachment D). Florida Housing in its final scoring summary, however, ignored the NOADs.

19. Rule 67-48.004(9), F.A.C. specifically provides that inconsistencies created by the Applicant as a result of submitting a cure will still be justification for rejection of the Application, Threshold failure, or reduction of points as necessary. Additionally, MLF Towers has not provided information in its cure that resolves the Address issue found in its initial Application response.

20. In the instant case, MLF Towers's cure has created an inconsistency and Florida Housing lacks the authority to ignore inconsistent information once it is submitted in an initial Application or as a cure. *Twin Lakes at Lakeland, LLP v. Florida Housing Corporation* FHFC Case No. 2012-005UC (Final order entered June 8, 2012). In the instant case, based on the inconsistency created by the original submission and substantiated by the Cure, MLF Towers's Ability-To-Proceed Tie-Breaker Points should have been reduced by 2 points. Additionally, the Address issue has not been resolved and the MLF Towers Application should not have passed Threshold. Had the MLF Towers Application been scored correctly for either of the issues, Landings would have been funded.

WHEREFORE, Landings requests that it be granted an administrative proceeding to contest Florida Housing's erroneous scoring decisions. To the extent there are disputed issues of fact, this matter should be forwarded to the Division of Administrative Hearings. Ultimately, Landings requests the entry of a Recommended and Final Order which finds that: Florida Housing's scoring decision as to Application No. 2011-106C is erroneous and but for those erroneous scoring decisions Landings would have been funded. Landings would also request that it be funded from the next available allocation.

Respectfully submitted,

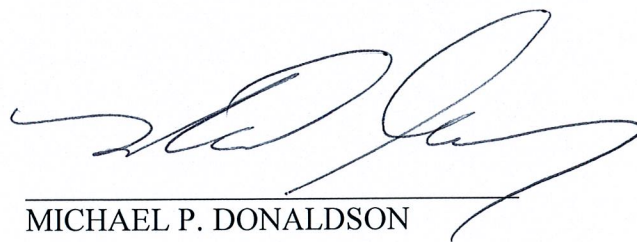


Michael P. Donaldson
FL Bar No. 0802761
CARLTON FIELDS, P.A.
P.O. Drawer 190
215 S. Monroe St., Suite 500
Tallahassee, FL 32302
Telephone: (850) 224-1585
Facsimile: (850) 222-0398

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 a copy furnished to Della Harrell, Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 2nd day of July, 2012.



MICHAEL P. DONALDSON

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ATTACHMENT A

**Brief Statement of Explanation regarding
Application No. 2011 - 106C**

Provide a separate brief statement for each NOPSE

Florida Housing Finance Corporation erred in not including in the "Threshold(s) Failed" section of the Summary Scoring Report an item for Part III., Section A., Subsection 2.b., - Address of Development site, which should have been included for the following reason: there is an inconsistency between the Address of Development site as shown in the Application and the legal description provided in Part III., Section C., Subsection 2.a., Exhibit 27. The Address of the Development site shown in the Application is "540 2nd Ave South" while the plat referenced in the legal description in Exhibit 27 shows the site to be on 7th Ave. or the north side of 8th Ave.

**Brief Statement of Explanation regarding
Application No. 2011 - 106C**

Provide a separate brief statement for each NOPSE

Florida Housing Finance Corporation erred in not including in the "Threshold(s) Failed" section of the Summary Scoring Report an item for Part III., Section A., Subsection 2.c., Exhibit 19 - Scattered Site addresses, which should have been included for the following reason: there is an inconsistency between the Scattered Site addresses set forth on Exhibit 19 and the legal description provided in Part III., Section C., Paragraph 2.a., Exhibit 27 - Contract for Purchase and Sale – of the Application. The address for Site 1 on Exhibit 19 is "540 2nd Ave South" while the plat referenced in the legal description provided in Exhibit 27 shows the site to be on 7th Ave. or the north side of 8th Ave. A copy of the Plat is attached to this NOPSE.

Exhibit 19

Exhibit 19

Site 1: 540 2nd Ave South, St. Petersburg FL 33701

146 units

N27 46 9.4 W82 38 26.4

Site 2: A parking lot on the north side of 2nd Ave South approx 140 feet east of 6th St South (no address), St. Petersburg FL 33701

0 units

N27 46 10.8 W82 38 27.6

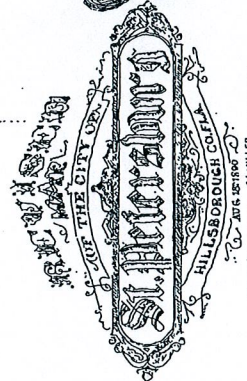
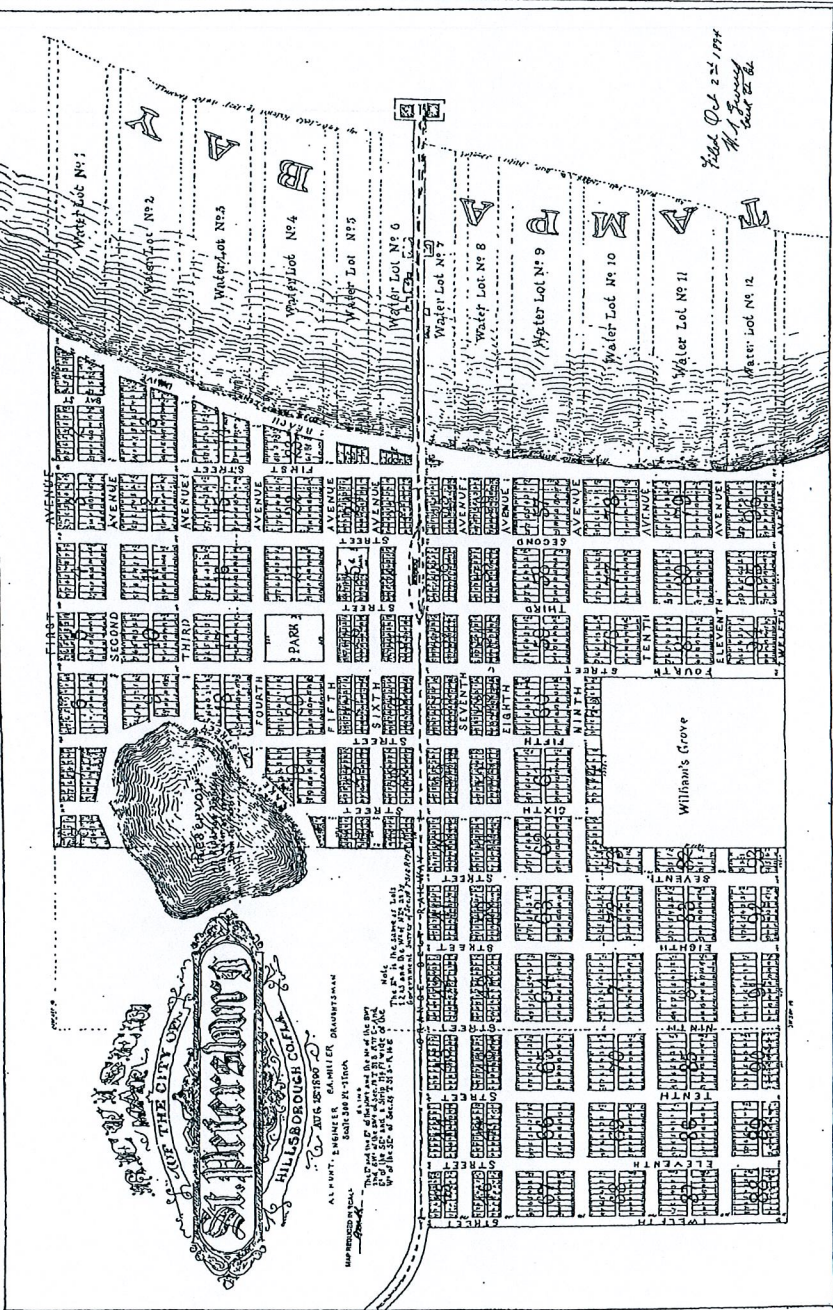
Site 3: A parking lot on the north side of 3rd Ave South approx 140 feet west of 5th St South (no address), St. Petersburg FL 33701

0 units

N27 46 7.8 W82 38 26.6

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ALFRED J. BAKER, ENGINEER
 1000 BAY STREET
 ST. PETERSBURG, FLORIDA

THIS IS TO CERTIFY THAT THE MAP HAS BEEN RECORDED IN THE OFFICE OF THE COUNTY CLERK OF HILLSBOROUGH COUNTY, FLORIDA, ON THIS 10th DAY OF JULY, 1900.



ATTACHMENT B

Scoring Summary Report

File #: 2011-106C Development Name: MLF Towers

As of: 06/08/2012

	Maximum Points/Eligibility	Preliminary	NOPSE	Final	Final Ranking
Met Threshold	Y/N	N	N	Y	Y
Total Points	79	79.00	79.00	79.00	79.00
Ability to Proceed Tie-Breaker Points	6	6.00	6.00	6.00	6.00
Proximity Tie-Breaker Points	37	34.50	34.50	34.50	34.50
Eligible for 1/8th Mile Ranking Preference	Y/N	N	N	N	N
Eligible for Age of Development Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Concrete Construction Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Florida General Contractor Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
RA Level Classification (preference given to the lowest RA Level Classification)	1 - 6	1	1	1	1

Scores:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
Developer									
1S	II.	B.	1.c.	Housing Credit Development Experience	3.00	3.00	3.00	3.00	3.00
Construction Features and Amenities									
2S	III.	B.	3.a.	Optional - NC & Rehab. Units	9.00	9.00	9.00	9.00	9.00
3S	III.	B.	3.b.	Optional - All Developments Except SRO	12.00	12.00	12.00	12.00	12.00
3S	III.	B.	3.c.	Optional - SRO Developments	12.00	0.00	0.00	0.00	0.00
4S	III.	B.	3.d.	Optional - Universal Design & Visitability	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.a.(1)	Green Building Features (NC & Redev.)	7.00	0.00	0.00	0.00	0.00
5S	III.	B.	5.a.(2)	Green Building Certification (NC & Redev.)	10.00	0.00	0.00	0.00	0.00
5S	III.	B.	5.b.	Green Building Features (Rehab. & Preserv.)	10.00	10.00	10.00	10.00	10.00
Set-Aside Commitments									
6S	III.	E.	1.b.(2)	Special Needs Households	4.00	4.00	4.00	4.00	4.00
7S	III.	E.	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	3.00
8S	III.	E.	3.	Affordability Period	5.00	5.00	5.00	5.00	5.00
Resident Programs									
9S	III.	F.	1.	Programs for Non-Elderly & Non-Homeless	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	2.	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	3.	Programs for Elderly	6.00	6.00	6.00	6.00	6.00
10S	III.	F.	4.	Programs for All Applicants	8.00	8.00	8.00	8.00	8.00
Local Government Contributions									
11S	IV.	A.		Contributions	5.00	5.00	5.00	5.00	5.00
Local Government Incentives									
12S	IV.	B.		Incentives	4.00	4.00	4.00	4.00	4.00

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	III.	E.	1.b.	Set-Aside Commitment	The Applicant selected the Development Category of Acquisition and Preservation; however, on the Set-Aside Breakdown Chart, the Applicant did not commit to set aside at least 20 percent of the total units at or below the ELI AMI level for Pinellas County.	Preliminary	Final
2T	V.	D.	2.	HC Equity	The Applicant provided an equity commitment letter from PNC Real Estate (Exhibit 47). Exhibit 9 identifies the ownership of the Limited Partner as 99.99%. The letter identifies a Limited Partner, a Special Limited Partner and an Investment Limited Partner. The equity letter indicates the Investment Limited Partner will purchase 99.98% of the HC allocation. The ownership interest cannot be determined for the Limited Partner and the Special Limited Partner. Therefore the equity commitment cannot count as a source of financing.	Preliminary	Final
3T	V.	B.		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$8,944,484.	Preliminary	Final
4T	V.	B.		Permanent Analysis	The Applicant has a permanent financing shortfall of \$11,944,484.	Preliminary	Final
5T	III.	C.	2.	Site Control	Based on a plat provided in a NOPSE, the legal description provided with the Agreement for Purchase and Sale is inconsistent with the Scattered Sites locations listed on Exhibit 19. The legal description shows the sites to be located on 7th Ave. or the north side of 8th Ave. (Lots 14 through 16 of Block 39, a portion of Lot 3 and all of Lots 4 through 8 of Block 52, and Lot 17 of Block 52), while the locations listed on Exhibit 19 are (i) 540 2nd Ave South, (ii) the north side of 2nd Ave. South, east of 6th St. South, and (iii) north side of 3rd Ave. South, west of 5th St. South.	NOPSE	Final

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
6T				Financial Arrears	Pursuant to subsection 67-48.004(5), F.A.C., NOPSE scoring may include financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or the Developer is in arrears to the Corporation or an agent or assignee of the Corporation as of the due date for NOPSE filing (January 25, 2012). As provided in paragraph 67-48.004(13)(d), F.A.C., following the submission of the "Cures," the Corporation shall reject an Application if the Applicant fails to satisfy any arrearages described in subsection 67-48.004(5), F.A.C. The Applicant or Developer or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer is listed on the January 25, 2012 Past Due Report as being in arrears to the Corporation in connection with the following Development(s): Green Cay Village. The January 25, 2012 Past Due Report is posted to the FHFC Website at http://www.floridahousing.org/PropertyOwnersAndManagers/PastDueReports/ . Payments and questions should be addressed to the servicer.	NOPSE	Final

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III.	C.	1.	Site Plan/Plat Approval	1.00	1.00	1.00	1.00	1.00
2A	III.	C.	3.a.	Availability of Electricity	1.00	1.00	1.00	1.00	1.00
3A	III.	C.	3.b.	Availability of Water	1.00	1.00	1.00	1.00	1.00
4A	III.	C.	3.c.	Availability of Sewer	1.00	1.00	1.00	1.00	1.00
5A	III.	C.	3.d.	Availability of Roads	1.00	1.00	1.00	1.00	1.00
6A	III.	C.	4.	Appropriately Zoned	1.00	1.00	1.00	1.00	1.00

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
Transit Services									
1P	III.	A.	10.a	Public Bus Stop	2.00	0.00	0.00	0.00	0.00
1P	III.	A.	10.a	Public Bus Transfer Stop or Public Bus Transit Stop	6.00	6.00	6.00	6.00	6.00
1P	III.	A.	10.a	Public Rail Station	7.00	0.00	0.00	0.00	0.00
Tier 1 Services									
2P	III.	A.	10.a	Grocery Store	4.00	4.00	4.00	4.00	4.00
3P	III.	A.	10.a	Public School	4.00	0.00	0.00	0.00	0.00
3P	III.	A.	10.a	Senior Center	4.00	4.00	4.00	4.00	4.00
4P	III.	A.	10.a	Medical Facility	4.00	3.50	3.50	3.50	3.50
Eligible for Tier 1 Service Score Boost (Yes/No)							N	N	N
Total Tier 1 Service Score					12.00	11.50	11.50	11.50	11.50
Tier 2 Services									
5P	III.	A.	10.a	Public Park	2.00	2.00	2.00	2.00	2.00
6P	III.	A.	10.a	Community Center	2.00	1.25	1.25	1.25	1.25
7P	III.	A.	10.a	Pharmacy	2.00	2.00	2.00	2.00	2.00
8P	III.	A.	10.a	Public Library	2.00	1.75	1.75	1.75	1.75
FHFC Proximity List									
9P	III.	A.	10.b	Proximity to Developments on FHFC Development Proximity List	10.00	10.00	10.00	10.00	10.00

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III.	A.	10.b.	Proximity to Developments on FHFC Development Proximity List	The Application qualifies for 10 automatic proximity points at Part III.A.10.b.(7) of the Application.	Preliminary	

ATTACHMENT C

Brief Statement of Explanation regarding
Application 2001-106C

Provide a separate brief statement for each cure

5T

The legal description at Exhibit 27 and the Scattered Sites locations listed on Exhibit 19 are perfectly consistent with each other.

The street names shown on the Revised Map of the City of St. Petersburg, Hillsborough County, Florida dated August 18, 1890 (the "Plat") provided in the NOPSE are no longer accurate. The former SEVENTH AVENUE and EIGHTH AVENUE as shown on the Plat are now marked by municipal street signs and officially known as 2nd Avenue South and 3rd Avenue South, respectively. Block 39 of the Plat is currently bordered on the *south* by 2nd Avenue South and Block 52 of the Plat is currently bordered on the *north* by 2nd Avenue South and on the *south* by 3rd Avenue South.

The above is confirmed by the attached letter from Mr. Philip Lazzara, AICP, Zoning Official with the Planning & Economic Development Department City of St. Petersburg, Florida. Mr. Lazzara's letter includes a copy of the City's Engineering Department map which depicts the property and reflects the current names of the surrounding streets.

The above is further confirmed by the attached surveyor affidavit by a Florida Licensed surveyor who confirms that the legal description at Exhibit 27 and the Scattered Sites location listed on Exhibit 19 are perfectly consistent.

—

ATTACHMENT D

Donaldson, Michael

From: Donaldson, Michael
Sent: Monday, July 02, 2012 9:37 AM
To: Donaldson, Michael
Subject: FW: FW: Zoning Classification for MLF Towers

From: Philip Lazzara [mailto:Philip.Lazzara@stpete.org]
Sent: Monday, June 25, 2012 3:47 PM
To: Richard E. Cavalieri
Cc: Paula Rhodes
Subject: Re: Zoning Classification for MLF Towers

Hi, Rick. The subject property is currently zoned DC-1. It used to be zoned CBD-2 prior to adoption of the City's new Land Development Regulations (LDR's) in 2007. The CBD-2 zoning classification no longer exists. The map that was used for the letter we provided on Feb 27, 2012 was out of date with regard to any zoning references and was only used for the purposes of providing clarification of what street names applied. I hope that helps.

Philip Lazzara, AICP, Zoning Official
Planning & Economic Development Department
City of St. Petersburg, FL
Philip.Lazzara@stpete.org
P: 727.892.5344; F: 727.892.5001
P.O. Box 2842, St. Petersburg, FL 33731

Visit us online @ <http://www.stpete.org/development/>

Thanks for doing business in St. Petersburg!

>>> "Richard E. Cavalieri" <rec@primericagroupone.com> 6/25/2012 3:30 PM >>>

Philip,

I work with Norstar Development. We are the developer partner for the Pinellas County Housing Authority. Recently Florida Housing awarded 2011 tax credits to MLF Towers in the City of St. Petersburg while we had a competing application in place for a project called French Villas (To be renamed The Landings) that did not get funded. We are still trying to work an angle with Florida Housing to try to get our project funded. **This will not affect MLF as they already have their funding award.**

If we could win an appeal showing an inconsistency in the response in the MLF application, The Landings could potentially get funded as well as MLF based on the fact that "But for the fact that

Florida Housing incorrectly ruled that the MLF Towers application was consistent” The Landings would have gotten funded. The inconsistency has to do with the forms that were supplied by the MLF Developer’s to Florida Housing in response to the challenge on MLF’s application during the 2011 funding cycle.

The inconsistency has to do with the form that you signed concerning the zoning of their property as DC-1 as it relates to another document that was presented along with a letter response dated Feb. 27th. In this letter there is an attachment that looks like a plat where there is a statement on the bottom that states that “ALL PROPERTIES ZONED CBD2 EXCEPT AS NOTED”. Our attorney’s think that this inconsistency may be enough to show that MLF should not have been funded even though they were, thus validating the “But if” statement about The Landings.

This is a long shot but it could be a way to get an additional project funded in Pinellas. Could you take a look at this and comment back? I have attached the documents in question so you can see what I am talking about.

Rick Cavaliere

Norstar Development USA, LP

3629 Madaca Lane

Tampa, FL 33618

E-Mail: REC@PrimericaGroupOne.com

Phone: (813) 933-0629 Ext. 207

Cell: (813) 267-8457

Fax: (813) 935-3420

ATTACHMENT E

Brief Statement of Explanation regarding
Application 2011 – 106C

Provide a separate brief statement for each NOAD

In an effort to cure Threshold failure 5T the Application provided a letter from the city zoning official ("Official Zoning Letter") with an "Attachment A" ("Attachment A") (both attached) that states "ALL PROPERTIES ZONED "CBD 2" EXCEPT AS NOTED." The site plan approval form (Exhibit 26) submitted with the original Application (attached) indicates that the property is zoned DC-1. The Zoning Official Letter and Attachment A to it were provided by Philip Lazzara, the same individual that signed Exhibit 26 . The provision of Attachment A by this individual attests to its authenticity and shows that the zoning for the property as stated on the site plan form (Exhibit 26) is incorrect. There is no notation to a different zoning designation on the map for block 52; therefore, the property is zoned as noted on the bottom of Attachment A as CBD "2." Consequently, the Application should fail Threshold as the zoning official has provided evidence that Exhibit 26 is incorrect.

Exhibit 26

2011 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF STATUS OF SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS

Name of Development: MLB Towers
(For ULA's of the 2011 Universal Cycle Application)

540 2nd Ave South; and a parking lot on the north side of 2nd Ave South approx 140 feet east of 6th St South;
 and a parking lot on the north side of 3rd Ave South approx 140 feet west of 5th St South. All in City of St. Petersburg.

Development Location:

For information, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide (a) the street name, block, designated intersection and city, if located within a city or (b) the street name, block, designated intersection and county if located in the unincorporated area of the county.

Zoning Designation: DC-4

Mark the applicable statement:

1. The above referenced Development is new construction or rehabilitation with new construction and the final site plan, in the zoning designation stated above, was approved on or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_BCM/ContentPage.aspx?PAGE=0238) by action of the Legally Authorized Body.

2. The above referenced Development is new construction or rehabilitation with new construction and (a) this jurisdiction provides either preliminary site plan approval or conceptual site plan approval which has been issued, or (b) site plan approval is required for the new construction work, however, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the zoning designation stated above, has been reviewed.

The necessary approval review was performed on or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_BCM/ContentPage.aspx?PAGE=0238) by

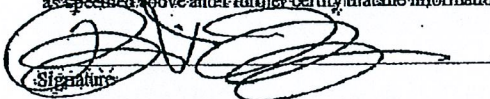
(Legally Authorized Body*)

3. The above referenced Development, in the zoning designation stated above, is rehabilitation without any new construction and does not require additional site plan approval or similar process.

*Legally Authorized Body is not an individual. Applicant must state the name of the City Council, County Commission, Board, Department, Division, etc. with authority over such matters.

CERTIFICATION

I certify that the City/County of St. Petersburg has vested in me the authority to verify status of site plan approval (Name of City or County) as specified above and I further certify that the information stated above is true and correct.


 Signature

PHILIP LAZARA, ZONING OFFICER
 Print or Type Name and Title

This certification must be signed by the applicable City or County Director of Planning or Zoning, chief licensed official (CFO) responsible for administration of issues related to site plan approval, City Manager, or County Manager/Administrator, as applicable. Signatures from local elected officials are not acceptable, nor are other signatures. If this certification is applicable to this Development and it is not otherwise stated, the Application will fail to meet threshold. If this certification contains conditions or "w/hold-out", or if it is not signed, stamped, or not signed, the form will not be complete and the Application will fail to meet threshold. This certification may be photocopied.

Provide Behind a Tab Labeled "Exhibit 26"

Brief Statement of Explanation regarding
Application 2011 – 106C

Provide a separate brief statement for each NOAD

In an effort to cure Threshold failure 5T the Application provided a letter from the city zoning official ("Official Zoning Letter") with an "Attachment A" ("Attachment A") (both attached) that states "ALL PROPERTIES ZONED "CBD 2" EXCEPT AS NOTED." The zoning form (Exhibit 32) submitted with the original Application (attached) indicates that the property is zoned DC-1. The Zoning Official Letter and Attachment A to it were provided by Philip Lazzara, the same individual that signed Exhibit 32 . The provision of Attachment A by this individual attests to its authenticity and shows that the zoning for the property as stated on the zoning form (Exhibit 32) is incorrect. There is no notation to a different zoning designation on the map for block 52; therefore, the property is zoned as noted on the bottom of Attachment A as CBD "2." Consequently, the Application should fail Threshold as the zoning official has provided evidence that Exhibit 32 is incorrect.

Exhibit 32

2011 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS
CONSISTENT WITH ZONING AND LAND USE REGULATIONS

Name of Development: MLF Towers

(Part III.A.1. of the 2011 Universal Cycle Application)

540 2nd Ave South; and a parking lot on the north side of 2nd Ave South approx 140 feet east of 6th St South;

Development Location: and a parking lot on the north side of 3rd Ave South approx 140 feet west of 5th St South. All in City of St. Petersburg.

(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide (i) the street name, closest designated intersection and city if located within a city or (ii) the street name, closest designated intersection and county if located in the unincorporated area of the county.)

The undersigned Local Government official confirms that on or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0238):

- (1) The number of units (not buildings) allowed for this development site (if restricted) is: UNRESTRICTED and/or ATZ if a PUD, the number of units (not buildings) allowed per development site is: NOT A PUD or if not a PUD and development site is subject to existing special use or similar permit, number of units allowed for this development site is: N/A; and
- (2) The zoning designation for the referenced Development site is DC-1; and
- (3) The intended use is consistent with current land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein. Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

CERTIFICATION

I certify that the City/County of St. Petersburg has vested in me the authority
(Name of City/County)

to verify consistency with local land use regulations and the zoning designation specified above or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapters 67-21 and 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the Local Government.

Signature

PHILIP T. LAZZARA
Print or Type Name

ZONING OFFICIAL
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If the certification is applicable to this Development and it is inappropriately signed, the Application will fail to meet threshold.

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the form will not be considered and the Application will fail to meet threshold. The certification may be photocopied.

Provide Behind a Tab Labeled "Exhibit 32"



CITY OF ST. PETERSBURG

POST OFFICE BOX 2842, ST. PETERSBURG, FLORIDA 33731-2842

Web SITE: www.stpete.org Channel 35 WSPF • TV

TELEPHONE: 727 893-7171

February 27, 2012

Shawn Wilson
Housing Trust Group, LLC
750 Malibu Bay Dr.
West Palm Beach FL 33401

Re: Downtown street names relating to MLF Tower Tax Credit Application

Dear Mr. Wilson:

This letter shall confirm that the street naming system indicated in the Revised Map of the City of St. Petersburg, Hillsborough County, FL dated August 18, 1890 and recorded at Plat Book 1, Page 49 (the "Plat") does not contain the current accurate street names for the City of St. Petersburg, Florida.

The former "SEVENTH AVENUE" and "EIGHTH AVENUE" as shown on the Plat are now 2nd Avenue South and 3rd Avenue South, respectively. Block 39 of the Plat is currently bordered on the south by 2nd Avenue South. Block 52 of the Plat is currently bordered on the north by 2nd Avenue South and on the south by 3rd Avenue South.

The subject property lies along the southern side of 2nd Avenue South and has been assigned the street address of "540 - 2nd Avenue South". Enclosed please find:

- Attachment "A", which is a copy of the City's Engineering Department map (Atlas Sheet F-1). The map depicts the subject property as well as the surrounding blocks. The map also reflects the names of the recorded current plats for the land in this area, together with the names of the surrounding streets.
- Attachment "B", which is a copy of the current record published by the Pinellas County Property Appraiser. The "Site Address" field clearly refers to 540 2nd Avenue South and the "Legal Description" field clearly references the lots which constitute the subject property.

Please feel free to contact me at 727.892.5344 with any questions.

Sincerely,



Philip Lazzara, AICP
Zoning Official
Planning & Economic Development Department

Attachment 'A'

REVISIONS

1. 11-11-11

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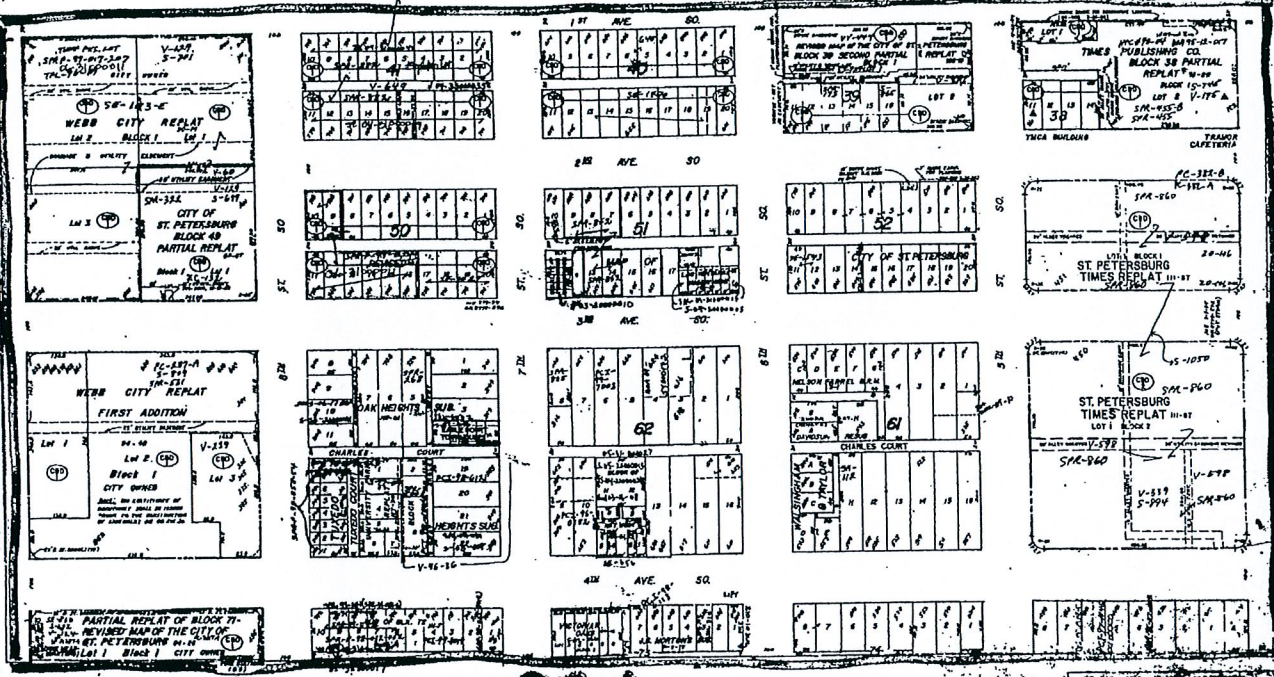
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* SEE ORIGINAL PLAT FOR COMPLETE TITLE AND OR SYMBOLS

CRA

ALL PROPERTIES ZONED (CRA) EXCEPT AS NOTED

REPLAT OF BLOCK 71
REPLAT OF BLOCK 72
REPLAT OF BLOCK 73
REPLAT OF BLOCK 74
REPLAT OF BLOCK 75
REPLAT OF BLOCK 76
REPLAT OF BLOCK 77
REPLAT OF BLOCK 78
REPLAT OF BLOCK 79
REPLAT OF BLOCK 80
REPLAT OF BLOCK 81
REPLAT OF BLOCK 82
REPLAT OF BLOCK 83
REPLAT OF BLOCK 84
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REPLAT OF BLOCK 94
REPLAT OF BLOCK 95
REPLAT OF BLOCK 96
REPLAT OF BLOCK 97
REPLAT OF BLOCK 98
REPLAT OF BLOCK 99
REPLAT OF BLOCK 100

[Interactive Map of this parcel](#) [Sales Query](#) [Back to Query Results](#) [New Search](#) [Tax Collector Home Page](#)

19-31-17-74466-052-0040

[Portability Calculator](#)

**Data Current as of
February 25, 2012**

[Print](#)

[Radius Search](#)

[Improvement Value per F.S. 553.844](#)

Ownership/Mailing Address	Site Address
M L F HOUSING INC 540 2ND AVE S ST PETERSBURG FL 33701-4151	540 2ND AVE S ST PETERSBURG 33701-



Property Use: 0310 (Apartments (50 units or more))

Living Units:
0

[click here to hide] 2011 Legal Description
REV MAP OF ST PETERSBURG BLK 52, LOTS 4 THRU 8 & W 10FT OF LOT 3

2011 Exemptions <input checked="" type="checkbox"/> File for Homestead Exemption		2011 Caps/Classified Agricultural Value	
Homestead: No	Government: No	Save-Our-Homes Cap Percentage: 0.00%	
Institutional: Yes	Historic: No	Non-Homestead 10% Cap: Yes	Classified Agricultural: No

2011 Parcel Information 2011 Trim Notice

Most Recent Conveyance	Sales Comparison	Census Tract	Evacuation Zone	Plat Book/Page
05082/1645	Sales Query	12103021400	NON EVAC	0H1/049

2011 Value Information

Year	Save-Our-Homes cap	Just/Market Value	Assessed Value/ SOH Cap	County Taxable Value	School Taxable Value	Municipal Taxable Value
2011	No	\$5,442,707	\$5,442,707	\$0	\$0	\$0

[click here to hide] Value History as Certified (yellow indicates correction on file)

Year	Save-Our-Homes Cap	Just/Market Value	Assessed Value/ SOH Cap	County Taxable Value	School Taxable Value	Municipal Taxable Value
2011	No	\$5,442,707	\$5,442,707	\$0	\$0	\$0
2010	No	\$5,659,985	\$5,659,985	\$0	\$0	\$0
2009	No	\$6,152,708	\$6,152,708	\$0	\$0	\$0
2008	No	\$6,759,000	\$6,759,000	\$0	\$0	\$0
2007	No	\$6,732,900	\$6,732,900	\$0	N/A	\$0

SURVEYOR AFFIDAVIT

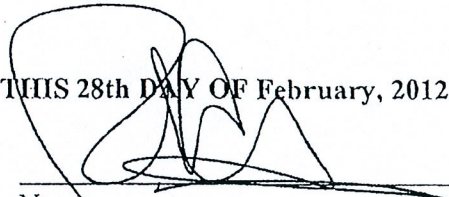
Personally appeared before me, the undersigned Notary Public, duly authorized by law to administer oaths, Richard C. Hinson, who being duly sworn, deposes and states:

1. I have personal knowledge of all of the facts contained herein.
2. I am a Florida Professional Land Surveyor, Number LS3840 and am the Vice President for Hamilton Engineering & Surveying, Inc. (the "Firm") with office at 311 N. Newport Avenue, Tampa, Florida 33606.
3. I reviewed a legal Boundary Survey of MLF Towers dated August 13, 2001 performed by Florida Design Consultants, Inc. and signed by Terry Ferguson, PSM # 4535, (the "Survey") which provided a legal description for three (3) MLF Tower sites (the "Legal Description").
4. I have reviewed: (i) the Revised Map of the City of St. Petersburg, recorded in Plat Book 1, Page 49 of the Public Records of Hillsborough County, Florida dated August 18, 1890 and Filed October 2, 1894 (the "Plat"); (ii) Exhibit 27 of Florida Housing Finance Corporation ("FHFC") Application 2011-106C (the "Application"), containing that certain Purchase and Sale Agreement between MLF Housing, Inc., a Florida non-profit corporation and MLF 2, Ltd., a Florida limited partnership ("Exhibit 27"); and (iii) Exhibit 19 of the FHFC Application, describing Site 1, Site 2, Site 3 ("Exhibit 19").
5. The former SEVENTH AVENUE and EIGHTH AVENUE as shown on the Plat are now marked by municipal street signs and officially known as 2nd Avenue South and 3rd Avenue South, respectively.
6. Block 39 of the Plat is currently bordered on the south by 2nd Avenue South.
7. Block 52 of the Plat is currently bordered on the north by 2nd Avenue South and on the south by 3rd Avenue South.
8. Parcel 1 of the Legal Description on Exhibit 27 exactly matches Site 2 of the scattered sites Exhibit 19.
9. Parcel 2 of the Legal Description on Exhibit 27 exactly matches Site 1 of the scattered sites Exhibit 19.
10. Parcel 3 of the Legal Description on Exhibit 27 exactly matches Site 3 of the scattered site Exhibit 19.
11. The Legal Description in the Survey is the exact same real property as the Legal

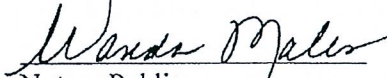
Description in Exhibit 27.

12. The Legal Description in the Survey the exact same real property as the scattered sites locations of Site 1, Site 2 and Site 3 in Exhibit 19.
13. Accordingly, after a complete and exhaustive analysis, it is my professional opinion that the Legal Description in Exhibit 27 is completely and totally consistent with the scattered sites locations of Site 1, Site 2 and Site 3 in Exhibit 19.
14. It is understood that this affidavit is being given in connection with an application for financing from FHFC and I understand that it is relying on the truth of the statements made by me in this affidavit.

FURTHER AFFIANT SAYETH NAUGHT THIS 28th DAY OF February, 2012.


Name: _____

Sworn to and subscribed before me this 28th day of February, 2012.


Notary Public

My Commission expires: 1/17/2016

