

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

LEGACY POINTE, INC.,

Petitioner,

v.

FHFC Case No. 2009-028GA

FLORIDA HOUSING FINANCE CORPORATION,

Respondent

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**ORDER DISMISSING NOTICE OF PROTEST**

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration of Florida Housing Finance Corporation’s Notice of Intent to Dismiss the “Notice of Intent to Protest RFP 2009-03,” filed by Legacy Pointe. After consideration of the Record, and argument of counsel, Florida Housing finds and orders as follows:

1. Legacy Pointe filed its Notice of Intent to Protest the awards made under Request for Proposal 2009-03 (“RFP”), with Florida Housing at 4:44pm on August 26, 2009. The Notice of Intent to Protest recited that it was filed “in accordance with Section 120.57(3), Florida Statutes.” (A copy of the Notice of Protest is attached as Exhibit “A.”)

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Della Ann Harrell* / DATE: 9/18/09

2. The notice of award was posted by Florida Housing at 8:08am on August 20, 2009. Section 120.57(3)(b), Florida Statutes, requires that any notice of protest must be filed within 72 hours after the notice of award is posted, excluding Saturdays, Sundays, and legal holidays. Notices of protest of the awards under RFP 2009-03 were required to be filed not later than 8:08am, August 26, 2009.

3. On August 28, 2009, Florida Housing served its Notice of Intent to Dismiss on Legacy Pointe, advising that its Notice of Intent to Protest would be dismissed unless Legacy Pointe showed cause otherwise by September 7, 2009, the date on which filing of any written protest would be required.

4. On September 8, 2009, Legacy Pointe filed its "Response to Notice of Intent to Dismiss," which alleged that dismissal would be erroneous, as RFP 2009-03 was "not a contract solicitation or public procurement governed by Section 120.57(3), F.S."

5. RFP 2009-03 solicited responses from persons who would provide the services required to develop and operate affordable housing projects in return for which Florida Housing would provide funding--a contract solicitation, within the meaning of and governed by Rule 67-49,

Florida Administrative Code. As provided in section 420.504(2), Florida Statutes. Florida Housing is an agency for purposes of Chapter 120, Florida Statutes. Protests of its solicitations are governed by section 120.57(3), Florida Statutes.

6. Legacy Pointe did not dispute the time that the notice of award under RFP 2009-03 was posted; nor did it dispute the time its Notice of Intent to Protest was filed with Florida Housing. Absent such dispute, dismissal is appropriate. *See, Bell Atlantic Business Services, Inc., v. Florida Dept. of Labor and Employment Security, 677 So.2d 989 (Fla. 1<sup>st</sup> DCA 1996).*

### **ORDER**

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

The “Notice of Intent to Protest RFP 2009-03,” filed by Legacy Pointe is hereby dismissed.

DONE and ORDERED this 18<sup>th</sup> day of September, 2009.

FLORIDA HOUSING FINANCE CORPORATION



By: Stuart Schanzen  
Chair

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