

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

**FLAGSHIP MANOR LLC,
Petitioner,**

vs.

2015-009BP
FHFC Case No. _____
Application No. 2015-223S

**FLORIDA HOUSING FINANCE
CORPORATION,
Respondent.**

PETITION

Flagship Manor LLC, a limited liability company organized under the laws of Florida, located at 4612 North 56th Street, Tampa, Florida 33610, and at telephone number (813) 246-4899, through its undersigned attorney, hereby brings this petition against Florida Housing Finance Corporation and alleges:

1. This is a bid protest under Section 120.57(3), *Florida Statutes*.
2. Respondent issued a Request For Applications 2015-101 (*the "RFA"*) entitled SAIL Financing For Smaller Permanent Supportive Housing Developments For Persons With Special Needs.
3. Petitioner submitted Application No. 2015-223S (*the "Application"*) for a SAIL amount and attained a score in the resulting evaluation that would have enabled Petitioner to be ranked for funding by Respondent had Respondent not concluded that Petitioner's application was ineligible.
4. Respondent concluded Petitioner's application was ineligible for the stated reason that Petitioner failed to demonstrate site control of the development property (*the "Property"*) because Petitioner had not included in the Application the "Exhibit A" referenced in the contract to purchase the Property (*the "Purchase Contract"*).
5. Petitioner was notified of the rejection of the Application on March 20, 2015 by the notice posted on Respondent's website that Petitioner's Application was ineligible.
6. Petitioner filed a timely Notice of Intent to Protest with Respondent on March 23, 2015 in accordance with Section 120.57(3), *Florida Statutes*, and Rule 28-110.003, *Florida Administrative Code*, along with a simultaneous public records request.
7. Petitioner determined the Respondent's above stated reason for concluding that Petitioner's Application was ineligible by what was stated in the Application examiner's notes that Petitioner obtained from Respondent in response to the public records request.
8. Respondent's stated reason for rejection of the Application is erroneous because, as a matter of law, the missing "Exhibit A" was merely redundant information that was already provided in the text of the Purchase Contract.

9. Respondent's stated reason for rejection of the Application also is erroneous because, as a matter of law, the missing "Exhibit A" was a minor irregularity that does not constitute a material component of the Purchase Contract or the Application; and Respondent has specified in the RFA its reservation of the right to waive minor irregularities.

10. Petitioner is not aware of any disputed issues of material fact.

11. The Property was identified as the property located at "11721-11725 North 12th Street, Tampa, Florida" and, in the Legal Description section of the Purchase Contract, as "Hillsborough County Property Appraiser Parcel Folio #: 036037.0000 and 036038.0000, more particularly described at Exhibit A attached." Each such Folio Number refers to the foregoing street addresses of the Property, as well as to the same Corporate Warranty Deed (*the "Deed"*) giving rise to the seller's title to the property. The Folio Numbers and Deed are all readily available and easily retrievable on-line or in person from the Public Records of Hillsborough County, Florida. All three documents, as retrieved on-line from the Hillsborough County Property Appraiser's and Clerk's websites, are attached hereto as **Schedule I**. The missing "Exhibit A" from the Purchase Contract was simply a photocopy of the recorded Deed, as included in **Schedule I** hereto, and nothing more.

12. The above quoted street address and legal description of the Property are each legally sufficient to enable Petitioner to enforce the right of specific performance pursuant to the Purchase Contract to purchase the Property without producing a copy of "Exhibit A." The purpose of referring to an "Exhibit A" in the Purchase Contract was simply to provide a convenient reference to what the Purchase Contract already fully described as the Property. The recording information for the Deed, which is specifically identified in both of the above-referenced Folio Numbers, together with the description of the Property in the Deed, are more than sufficient, as a matter of law, to constitute an enforceable contract to purchase the Property.

13. Specifically, Standard 21.1 of the *Uniform Title Standards* promulgated by The Florida Bar provides "[i]f the description of land conveyed in a deed is such that a surveyor, by applying rules of surveying, can located the same, such description is sufficient." Furthermore, *Fund Title Note 13.01.05* promulgated by Attorneys' Title Fund Services, LLC, and Attorneys' Title Insurance Fund, Inc. (*which is widely utilized by real estate attorneys and title insurance underwriters in determining the insurability of title to Florida real estate*) cites numerous Florida cases which have found transfer, devises and conveyances of property by street addresses to be sufficient to describe the applicable property.

14. The RFA requires that only the following two conditions exist for a purchase contract to be an "eligible contract": (i) that it has a term that does not expire before August 14, 2015, and (ii) that it specifically states that the buyer's remedy for default on the part of the seller includes specific performance. Both those eligibility conditions are fully satisfied by the Purchase Contract.

15. The RFA does not prescribe how the legal description of the Property is to be provided in an eligible contract. The words in the Purchase Contract "*more particularly described at Exhibit A*" and the missing exhibit are mere redundancies. That document as submitted with the Application is a binding contract to purchase real property specifically identified in the text of the Purchase Contract without any need to refer to a redundant exhibit that was inadvertently not included with the Application.

16. The terms of the RFA mandate (i) that Petitioner's Application be re-determined to be eligible for funding by Respondent, and (ii) that Respondent grant Petitioner's funding request pursuant to Respondent's announced priorities in determining among competing funding requests.

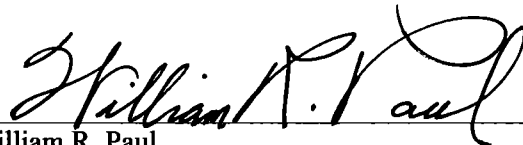
17. Petitioner's substantial interests will be affected by Respondent's determination of the protest that is the subject of this Petition because (i) the funding is vital to Petitioner's ability to fulfill its sole mission to provide affordable housing to persons with special needs; and (ii) Petitioner has incurred substantial expenditures to evaluate and select the Property, plan the proposed construction on the Property, enter into related contracts and the Purchase Contract, and apply for the applicable funding from Respondent.

18. Reclassifying Petitioner's Application as eligible for funding would be consistent with the priority Respondent has given to this solicitation, which is to provide resources to communities previously not receiving awards from Respondent; and not reclassifying Petitioner's Application as eligible would deprive Hillsborough County of a very important opportunity.

19. Petitioner requests (i) an opportunity to submit further written legal authority in support of this Petition and the relief hereby requested, and (ii) an opportunity for its executive officers and legal counsel to participate by telephone in an informal hearing before a hearing officer of Respondent.

20. Petitioner has attached **Schedule I** hereto, consisting of a cover sheet and five additional pages, including Hillsborough County Property Appraiser Parcel Folio #s: 036037.0000 and 036038.0000 and the same Corporate Warranty Deed referred to in each such Folio, as included in the legal description of the Property in the Purchas Contract.

Respectfully submitted this 2nd day of April 2015 by email delivery.

By: 

William R. Paul
Florida Bar No. 301876
Mechanik Nuccio Hearne & Wester, P.A.
305 South Boulevard
Tampa, Florida 33606-2150
Telephone (813) 276-1920 Ext.238
Facsimile (813) 276-1560
E-mail: wrp@floridalandlaw.com

Schedule I

Hillsborough County Property Appraiser Parcel Folio #s: 036037.0000 and 036038.0000

And

Corporate Warranty Deed referred to in each of the above Folios



Bob Henriquez
Hillsborough County Property Appraiser

<https://www.hcpafl.org/>
15th Floor County Ctr.
601 E. Kennedy Blvd, Tampa, Florida 33602-4932
Ph: (813) 272-6100

Folio: 036037-0000

Image Not Found

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Owner Information

Owner Name MAL 3 LLC
Mailing Address 3115 MOSSVALE LN
TAMPA, FL 33618-4318
Site Address 11721 12TH ST, TAMPA
PIN U-07-28-19-1GN-D00000-00035.0
Folio 036037-0000
Prior PIN
Prior Folio 000000-0000
Tax District U - UNINCORPORATED
Property Use 0000 VACANT RESIDENTIAL
Plat Book/Page 31/70
Neighborhood 214009.00 | NW of University Mall Area
Subdivision 1GN | HAMNER'S W E HOMESTEAD ACRES

Value Summary

Taxing District	Market Value	Assessed Value	Exemptions	Taxable Value
County	\$65,975	\$65,975	\$0	\$65,975
Public Schools	\$65,975	\$65,975	\$0	\$65,975
Municipal	\$65,975	\$65,975	\$0	\$65,975
Other Districts	\$65,975	\$65,975	\$0	\$65,975

Note: This section shows Market Value, Assessed Value, Exemptions, and Taxable Value for taxing districts. Because of changes in Florida Law, it is possible to have different assessed and taxable values on the same property. For example, the additional \$25,000 Homestead Exemption and the non-homestead CAP do not apply to public schools, and the Low Income Senior Exemption only applies to countywide and certain municipal millages.

Sales Information

Book	Page	Month	Year	Type Inst	Qualified or Unqualified	Vacant or Improved	Price
22987	0547	12	2014	WD	Unqualified	Vacant	\$80,000
10514	1040	12	2000	WD	Unqualified	Vacant	\$60,000
3739	0484	05	1986	WD	Qualified	Vacant	\$34,000
4760	0038	03	1986	WD	Unqualified	Vacant	\$51,600
0000	0000	01	1900		Qualified	Vacant	\$0

Land Information - Total Acreage:

Use Code	Description	Zone	Front	Depth	Land Type	Total Land Units	Land Value
REA3	Res SF Class 1.75	RMC-20	130.00	290.00	SE SF LOTS W/ EFF SIZE	37,700.00	\$65,975

Legal Description

Legal Description HAMNER'S W E HOMESTEAD ACRES LOT 35 LESS W 15 FT FOR RW BLOCK D



Bob Henriquez
Hillsborough County Property Appraiser

https://www.hcpafll.org/
15th Floor County Ctr.
601 E. Kennedy Blvd, Tampa, Florida 33602-4932
Ph: (813) 272-6100

Folio: 036038-0000

Image Not Found

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Owner Information

Owner Name MAL 3 LLC
Mailing Address 3115 MOSSVALE LN
TAMPA, FL 33618-4318
Site Address 11725 12TH ST, TAMPA
PIN U-07-28-19-1GN-D00000-00036.0
Folio 036038-0000
Prior PIN
Prior Folio 000000-0000
Tax District U - UNINCORPORATED
Property Use 0000 VACANT RESIDENTIAL
Plat Book/Page 31/70
Neighborhood 214009.00 | NW of University Mall Area
Subdivision 1GN | HAMNER'S W E HOMESTEAD ACRES

Value Summary

Taxing District	Market Value	Assessed Value	Exemptions	Taxable Value
County	\$62,422	\$62,422	\$0	\$62,422
Public Schools	\$62,422	\$62,422	\$0	\$62,422
Municipal	\$62,422	\$62,422	\$0	\$62,422
Other Districts	\$62,422	\$62,422	\$0	\$62,422

Note: This section shows Market Value, Assessed Value, Exemptions, and Taxable Value for taxing districts. Because of changes in Florida Law, it is possible to have different assessed and taxable values on the same property. For example, the additional \$25,000 Homestead Exemption and the non-homestead CAP do not apply to public schools, and the Low Income Senior Exemption only applies to countywide and certain municipal millages.

Sales Information

Book	Page	Month	Year	Type Inst	Qualified or Unqualified	Vacant or Improved	Price
22987	0547	12	2014	WD	Unqualified	Vacant	\$80,000
10514	1040	12	2000	WD	Unqualified	Vacant	\$60,000
4687	1402	11	1985	WD	Unqualified	Improved	\$100
4639	0806	09	1985	WD	Unqualified	Improved	\$60,000
4252	1327	01	1984	QC	Unqualified	Improved	\$60,000

Land Information - Total Acreage:

Use Code	Description	Zone	Front	Depth	Land Type	Total Land Units	Land Value
REA3	Res SF Class 1.75	RMC-20	123.00	290.00	SE SF LOTS W/ EFF SIZE	35,670.00	\$62,422

Legal Description

Legal Description HAMNER'S W E HOMESTEAD ACRES LOT 36 LESS W 15 FT FOR RD R/W BLOCK D

This instrument prepared by:

Name: C. Leiman an employee of Executive Title of Florida, Inc.
Address: 170 E. Bloomingdale Ave. Brandon, FL 33511

Return to: Executive Title of Florida, Inc.
FILE NO. 141148
Address: 170 E. Bloomingdale Ave. Brandon, FL 33511

Property Appraisers Parcel Identification Number(s): 036037-0000 & 036038-0000

THIS IS NOT A CERTIFIED COPY

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS CORPORATE WARRANTY DEED Made and executed the 17th day of December, 2014 by DAVANDY CORPORATION, A FLORIDA CORPORATION, and having its principal place of business at 11961 N. FLORIDA AVENUE, SUITE B, TAMPA, FL 33612-5213 hereinafter called the grantor, to MAL 3, LLC, A FLORIDA LIMITED LIABILITY COMPANY whose post office address is 3115 MOSSVALE LANE, TAMPA, FL 33618-4318 hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument, singular and plural, the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH: That the said grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee all that certain land situate in HILLSBOROUGH County, State of Florida, viz:

LOT(S) 35 AND 36, BLOCK "D", OF W. E. HAMNER'S HOMESTEAD ACRES, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 31, PAGE 70, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, LESS THE WEST 15 FEET THEREOF FOR ROAD RIGHT-OF-WAY.

Together, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2013. FURTHER SUBJECT TO restrictions, reservations, covenants and easements of record, if any, however this reference shall not operate to reimpose same.

In Witness Whereof the said grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in the presence of:

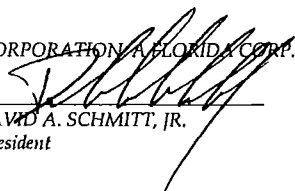
Witness Signature
CHERYL LEIMAN

Printed Name

Witness Signature
TARA FOWKE

Printed Name

DAVANDY CORPORATION, A FLORIDA CORP.

BY: 
DAVID A. SCHMITT, JR.
President

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 17th day of December, 2014 by DAVID A. SCHMITT, JR., President of DAVANDY CORPORATION, A FLORIDA CORPORATION on behalf of the corporation. He/She is personally known to me or who produced DRIVER'S LICENSE as identification and who did/did not take an oath.

Notary Public
My Commission Expires:

[seal]

