

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

OCEAN BREEZE EAST
APARTMENTS, LLC

Petitioner,
vs.

FHFC Case No.: 2018-020BP
RFA No. 2017-113
Application No. 2018-286C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

**FORMAL WRITTEN PROTEST AND
PETITION FOR ADMINISTRATIVE HEARING**

Petitioner, OCEAN BREEZE EAST APARTMENTS, LLC (“OCEAN BREEZE”), pursuant to sections 120.57(3), Florida Statutes (“F.S.”), and Rules 28-110 and 67-60, Florida Administrative Code (“FAC”) hereby files this Formal Written Protest and Petition for Administrative Hearing regarding the review, ranking and scoring decision of Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) to award funding to responsive bidders pursuant to Request for Application 2017-113 Housing Credit Financing for Affordable Housing Developments located in Broward, Duval, Hillsborough, Orange, Palm Beach and Pinellas Counties. (“RFA”). In support OCEAN BREEZE EAST APARTMENTS, LLC provides as follows:

1. OCEAN BREEZE is a Florida limited liability Corporation in the business of providing affordable housing. OCEAN BREEZE is located at 7735 NW 146 Street, Suite 306, Miami Lakes, FL 33016.

2. Florida Housing is the allocating agency for the State of Florida that was granted the authority to issue RFA 2017-113 for the purpose of providing much needed affordable housing. Florida Housing's address is 227 North Bronough Street, Suite 500, Tallahassee, Florida 32301.

3. On October 6, 2017, Florida Housing issued the RFA to offer funding as follows:

This Request for Applications (RFA) is open to Applicants proposing the development of affordable, multifamily housing located in Broward County, Duval County, Hillsborough County, Orange County, Palm Beach County, and Pinellas County. Under this RFA, Florida Housing Finance Corporation (the Corporation) expects to have up to an estimated \$14,601,863 of Housing Credits available for award to proposed Developments located in Broward County, Duval County, Hillsborough County, Orange County, Palm Beach County, and Pinellas County. The Corporation is soliciting applications from qualified Applicants that commit to provide housing in accordance with the terms and conditions of this RFA, inclusive of Exhibits A, B, C, D, E, and F, applicable laws, rules and regulations, and the Corporation's generally applicable construction and financial standards.

4. Through the issuance of the RFA, Florida Housing sought to solicit proposals from qualified Applicants that would provide housing consistent with the terms and conditions of the RFA, applicable laws, rules, and regulations.

5. On December 28, 2018, OCEAN BREEZE submitted an Application in Response to the RFA that included information concerning a 123 unit apartment complex in Palm Beach County, Florida. Through the Application, OCEAN BREEZE was requesting \$2,070,000 in tax credits funding. OCEAN BREEZE satisfied all requirements of the RFA. Florida Housing received five (33) applications in response to the RFA.

6. As the owner of a project seeking funding through the RFA, OCEAN BREEZE is substantially affected by the review, scoring, and ranking of the responses to the RFA. The results of this and related proceedings may affect OCEAN BREEZE' ability to obtain funding through the RFA.

7. Consistent with the primary mission and goal of the RFA, OCEAN BREEZE will provide much needed affordable housing in Palm Beach County. Without the funds provided by the RFA, OCEAN BREEZE will be unable to provide this much needed housing. Accordingly, Ocean Breeze' substantial interests are affected by the decisions made by Florida Housing.

8. On February 22, 2018, consistent with the RFA instructions, the Florida Housing designated Review Committee met and considered the Applications responding to the RFA. At the meeting, the Review Committee orally listed and manually input the scores for each section of each RFA Response and ultimately made recommendations to the Board of Directors for their consideration. The Review Committee consisted of Florida Housing staff.

9. During the meeting, the Review Committee determined the eligibility of each Application. The Review Committee determined that the OCEAN BREEZE Application was eligible for funding and a recommendation was made to award OCEAN BREEZE its requested funding. At the conclusion of the meeting, the Review Committee voted to send a funding recommendation to Florida Housing Board of Directors for approval. (See Attachment A)

10. On March 16, 2018, Florida Housing's Board of Directors accepted the Review Committee's ranking and funding recommendations, which included finding OCEAN BREEZE eligible. (See Attachment B)

11. On March 21, 2018, OCEAN BREEZE in an abundance of caution timely filed its Notice of Intent to Protest the determination that its Application was eligible and tentatively awarded funding. This Formal Written Protest is being timely filed and Florida Housing has waived the bid protest bond requirement for the RFA. As a provider of affordable housing in need of supplemental funding, Ocean Breeze' substantial interests are affected by Florida Housing's decision to award the necessary funding pursuant to the RFA. Without the funding, OCEAN BREEZE will not be able to develop the proposed development.

12. OCEAN BREEZE takes the position that Florida Housing's scoring of its Application was neither erroneous, arbitrary, capricious or contrary to competition.

13. Several other notices of intent to protest however have been filed and Florida Housing's scoring actions may be changed by those challenges. The results of any challenge may impact Ocean Breeze' funding and OCEAN BREEZE believes that any change to the current scoring would be arbitrary and capricious.

14. OCEAN BREEZE reserves the right to amend this petition as additional documents and facts are discovered to raise issues concerning the eligibility of other Applications which responded to the RFA and may challenge the Ocean Breeze Application.

15. Material issues to be resolved:

- a. Whether the review of Ocean Breeze' Application in response to the RFA was consistent with the RFA requirements, or Florida Housing policies.
- b. Whether Florida Housing's review and actions taken concerning Ocean Breeze' Applications were arbitrary or capricious, clearly erroneous or contrary to competition.
- c. Whether Florida Housing's review of all Applications submitted in response to the RFA was arbitrary, capricious, clearly erroneous or contrary to competition.

WHEREFORE, OCEAN BREEZE requests that a settlement meeting be scheduled and if settlement is not reached, a hearing be scheduled and ultimately an order be entered determining that Florida Housing's review and scoring of Ocean Breeze' Application was consistent with the RFA specifications and to Florida Housing's governing statutes, rules and policies to such an extent as to not be arbitrary, capricious, contrary to competition, and clearly erroneous.

Respectfully submitted,

CARLTON, FIELDS, JORDEN BURT, P.A.

/s/ Michael P. Donaldson
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*Attorneys for OCEAN BREEZE EAST
APARTMENTS, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a copy of the foregoing has been filed by E-Mail and Hand Delivery to Ana McGlamory, Corporation Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301, this 2nd day of April 2018.

/s/ Michael P. Donaldson
MICHAEL P. DONALDSON

RFA 2017-113 Board Approved Scoring Results

Application Number	Name of Development	County	Name of Authorized Principal Representative	Name of Developers	Demo. Commitment	Total Units	HC Funding Amount	Eligible For Funding?	NP?	Total Points	Proximity Funding Preference	Per Unit Construction Funding Preference	Development Category Preference	Development Category	Total Corp Funding Per Set-Aside	Leveraging Classification	Florida Job Creation Preference	Lottery Number
Eligible Applications																		
2018-272C	Venetian Isles	Pinellas	Joseph F. Chapman, IV	Royal American Properties, LLC	E, Non-ALF	86	1,660,000.00	Y	N	15	Y	Y	Y	NC	117,358.14	A	Y	11
2018-273C	Hawthorne Park	Orange	Jonathan L. Wolf	Hawthorne Park Developer, LLC	E, Non-ALF	116	2,110,000.00	Y	Y	15	Y	Y	Y	NC	117,505.17	A	Y	3
2018-274C	Pendana at West Lakes Senior Residences	Orange	Eddy Moratin	New Affordable Housing Partners, LLC; LIFT Orlando	E, Non-ALF	120	2,110,000.00	Y	Y	20	Y	Y	Y	NC	130,960.67	A	Y	22
2018-275C	Berkeley Landing	Palm Beach	Jonathan L. Wolf	Berkeley Landing Developer, LLC	E, Non-ALF	120	2,110,000.00	Y	Y	15	Y	Y	Y	NC	113,588.33	A	Y	6
2018-277C	Bristol Manor	Orange	Jonathan L. Wolf	Bristol Manor Developer, LLC	E, Non-ALF	98	2,110,000.00	Y	Y	15	Y	Y	Y	NC	130,906.12	A	Y	13
2018-278C	Channel Side Apartments	Palm Beach	William T Fabbri	The Richman Group of Florida, Inc.; BDG Channel	F	108	2,100,000.00	Y	N	20	Y	Y	Y	NC	125,611.11	A	Y	24
2018-279C	Marquis Apartments	Broward	Mara S. Mades	Cornerstone Group Partners, LLC	F	100	1,727,000.00	Y	N	20	Y	Y	Y	NC	94,829.57	A	Y	9
2018-280C	Banyan Station	Palm Beach	Matthew A Rieger	HTG Banyan Developer, LLC	F	80	2,050,000.00	Y	N	20	Y	Y	Y	NC	136,325.00	B	Y	17
2018-281C	Madison Landing	Orange	Patrick E Law	American Residential Communities, LLC	E, Non-ALF	88	2,110,000.00	Y	N	15	Y	Y	Y	NC	127,559.09	A	Y	19
2018-282C	Madison Plaza	Orange	Patrick E Law	American Residential Communities, LLC	E, Non-ALF	88	2,110,000.00	Y	N	15	Y	Y	Y	NC	127,559.09	A	Y	21
2018-283C	The Boulevard at West River	Hillsborough	Jerome D Ryans	WRDG T3A Developer, LLC	F	118	2,110,000.00	Y	N	20	Y	Y	Y	NC	118,160.00	A	Y	15
2018-284C	Sailboat Bend Apartments II	Broward	Kenneth Naylor	APC Sailboat Bend II Development, LLC; HEF-Dixie	E, Non-ALF	110	2,561,000.00	Y	Y	20	Y	Y	Y	NC	114,661.80	A	Y	5
2018-285C	Anderson Terrace Apartments	Orange	Matthew A Rieger	HTG Anderson Terrace Developer, LLC	F	120	1,625,000.00	Y	N	15	Y	Y	Y	NC	126,072.92	A	Y	4
2018-286C	Ocean Breeze East	Palm Beach	Lewis V Swezy	RS Development Corp; Lewis Swezy	F	123	2,070,000.00	Y	N	20	Y	Y	Y	NC	108,717.07	A	Y	8
2018-289C	Heron Estates Family	Palm Beach	Matthew A Rieger	HTG Heron Estates Family Developer, LLC	F	79	1,541,751.00	Y	N	20	Y	Y	Y	NC	126,072.30	A	Y	10
2018-291C	Springfield Plaza	Duval	Clifton E. Phillips	Roundstone Development, LLC	F	84	1,660,000.00	Y	N	15	Y	Y	Y	NC	127,661.90	A	Y	25
2018-293C	Lofts at Jefferson Station	Duval	James R. Hoover	TVC Development, Inc.	F	98	1,660,000.00	Y	N	20	Y	Y	Y	NC	126,160.00	A	Y	32
2018-294C	Birch Hollow	Orange	Matthew A Rieger	HTG Birch Hollow Developer, LLC	E, Non-ALF	120	1,625,000.00	Y	N	15	Y	Y	Y	NC	126,072.92	A	Y	18

RFA 2017-113 Board Approved Scoring Results

Application Number	Name of Development	County	Name of Authorized Principal Representative	Name of Developers	Demo. Commitment	Total Units	HC Funding Amount	Eligible For Funding?	NP?	Total Points	Proximity Funding Preference	Per Unit Construction Funding Preference	Development Category Preference	Development Category	Total Corp Funding Per Set-Aside	Leveraging Classification	Florida Job Creation Preference	Lottery Number
2018-296C	City Edge	Hillsborough	William T Fabbri	The Richman Group of Florida, Inc.; Corporation to	E, Non-ALF	120	2,110,000.00	Y	Y	20	Y	Y	Y	NC	130,960.67	A	Y	20
2018-297C	ETHANS WALK APARTMENTS	Orange	DEION R LOWERY	DRL EW DEVELOPMENT LLC	E, Non-ALF	88	1,576,344.00	Y	N	15	Y	Y	Y	NC	115,717.98	A	Y	7
2018-299C	Sandpiper Court	Pinellas	Domingo Sanchez	DDER Development, LLC	E, Non-ALF	64	1,660,000.00	Y	N	15	N	Y	Y	NC	137,987.50	B	Y	33
2018-300C	Casa Sant'Angelo Apartments	Broward	Kenneth Naylor	Casa Sant'Angelo Development, LLC	E, Non-ALF	113	2,383,228.00	Y	Y	15	Y	Y	Y	NC	115,808.01	A	Y	30
2018-302C	Parramore Oaks Phase Two	Orange	Paula McDonald Rhodes	InVictus Development, LLC; ADC Communities, LLC; Royal	F	89	1,603,777.00	Y	N	15	Y	Y	Y	NC	143,894.44	B	Y	14
2018-303C	Village View	Broward	Matthew A. Rieger	HTG Village View Developer, LLC	E, Non-ALF	96	2,561,000.00	Y	N	15	Y	Y	Y	NC	120,633.77	A	Y	1
2018-304C	Eagle Ridge	Pinellas	Richard Higgins	Norstar Development USA, LP; Tarpon Springs	F	71	1,660,000.00	Y	N	20	Y	Y	Y	NC	151,036.62	B	Y	16

Ineligible Applications

2018-276C	Durham Place	Orange	Jonathan L. Wolf	Durham Place Developer, LLC	E, Non-ALF	116	2,110,000.00	N	Y	15	N	Y	Y	NC	117,505.17		Y	23
2018-287C	Anchorage Apartments	Pinellas	William T Fabbri	The Richman Group of Florida, Inc.	E, Non-ALF	87	1,600,000.00	N	N	15	N	Y	Y	NC	136,974.71		Y	28
2018-288C	Douglas Gardens IV	Broward	Matthew A. Rieger	Douglas Gardens IV Developer, LLC	E, Non-ALF	120	2,561,000.00	N	N	20	Y	Y	Y	NC	117,187.09		Y	31
2018-290C	FOUR6 Skyway	Pinellas	Bowen A Arnold	DDA Development, LLC	E, Non-ALF	80	1,660,000.00	N	N	20	Y	Y	Y	NC	126,160.00		Y	2
2018-292C	Village of Valor	Palm Beach	Kathy S Makino-Leipsitz	KSM Holdings Florida, LLC	F	157	2,110,000.00	N	Y	15	Y	Y	Y	NC	104,050.38		Y	29
2018-295C	Heritage at Arbor Ridge	Orange	Robert G Hoskins	NuRock Development Partners, Inc.	E, Non-ALF	80	1,475,990.00	N	N	15	Y	Y	Y	NC	137,414.67		Y	12
2018-298C	Residences at Barnett Park	Orange	Robert G Hoskins	NuRock Development Partners, Inc.	F	97	1,819,892.00	N	N	15	Y	Y	Y	NC	139,737.69		Y	27
2018-301C	CHANDLERS CROSSING APARTMENTS	Orange	DEION R LOWERY	DRL CC DEVELOPMENT LLC	F	88	1,576,344.00	N	N	15	Y	Y	Y	NC	115,717.98		Y	26

On March 16, 2018, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to adopt the scoring results above.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

RFA 2017-113 Board Approved Preliminary Awards

Total HC Available for RFA	14,601,863.00
Total HC Allocated	13,898,000.00
Total HC Remaining	703,863.00

Application Number	Name of Development	County	Name of Authorized Principal Representative	Name of Developers	HC Funding Amount	NP?	Total Points	Proximity Funding Preference	Per Unit Construction Funding Preference	Development Category Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
Broward County Application													
2018-284C	Sailboat Bend Apartments II	Broward	Kenneth Naylor	APC Sailboat Bend II Development, LLC; HEF-Dixie Court Development, LLC	2,561,000.00	Y	20	Y	Y	Y	A	Y	5
Duval County Application													
2018-293C	Lofts at Jefferson Station	Duval	James R. Hoover	TVC Development, Inc.	1,660,000.00	N	20	Y	Y	Y	A	Y	32
Hillsborough County Application													
2018-283C	The Boulevard at West River	Hillsborough	Jerome D Ryans	WRDG T3A Developer, LLC	2,110,000.00	N	20	Y	Y	Y	A	Y	15
Orange County Application													
2018-274C	Pendana at West Lakes Senior Residences	Orange	Eddy Moratin	New Affordable Housing Partners, LLC; LIFT Orlando Community Development, LLC	2,110,000.00	Y	20	Y	Y	Y	A	Y	22
Palm Beach County Application													
2018-286C	Ocean Breeze East	Palm Beach	Lewis V Swezy	RS Development Corp; Lewis Swezy	2,070,000.00	N	20	Y	Y	Y	A	Y	8
Pinellas County Application													
2018-304C	Eagle Ridge	Pinellas	Richard Higgins	Norstar Development USA, LP; Tarpon Springs Development, LLC	1,660,000.00	N	20	Y	Y	Y	B	Y	16

RFA 2017-113 Board Approved Preliminary Awards

Application Number	Name of Development	County	Name of Authorized Principal Representative	Name of Developers	HC Funding Amount	NP?	Total Points	Proximity Funding Preference	Per Unit Construction Funding Preference	Development Category Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
Non-Profit Application or 2nd Broward County Application													
2018-279C	Marquis Apartments	Broward	Mara S. Mades	Cornerstone Group Partners, LLC	1,727,000.00	N	20	Y	Y	Y	A	Y	9

On March 16, 2018, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above Applications for funding and invite the Applicants to enter credit underwriting.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.