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STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

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CITY PLACE APARTMENTS, LTD., AND  
LANDMARK DEVELOPMENT CORP.,

FLORIDA HOUSING  
FINANCE CORPORATION

Petitioners,

FHFC Case No: 2021-101BP  
APPLICATION NO: 2022-124C

vs.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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**PETITION FOR ADMINISTRATIVE HEARING**

Pursuant to sections 120.569, 120.57(3), Florida Statutes (Fla. Stat.), and Chapter 28-106, Florida Administrative Code (“Fla. Admin. Code”), Petitioners, City Place Apartments, Ltd., and Landmark Development Corp., (collectively “City Place”), file this Petition for Administrative Hearing and state:

Affected Agency

1. The agency affected is the Florida Housing Finance Corporation (“Florida Housing”), 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The telephone number is 850-488-4197.

Petitioners

2. Petitioner, City Place Apartments, Ltd., is the Applicant entity of a proposed affordable housing development to be located in Broward County, Application #2022-124C. Petitioner, Landmark Development Corp., is a “Developer” entity as defined by Florida Housing in rule 67-48.002, Florida Administrative Code.

3. City Place is supporting Florida Housing's determination regarding City Place's eligibility for funding and challenging other eligibility determinations under Request for Applications 2021-202 through an administrative hearing before the Department of Administrative Hearing ("DOAH").

4. Counsel for City Place and City Place's address for this proceeding is Craig D. Varn, Manson Bolves Donaldson Varn, 109 North Brush Street, Suite 300, Tampa, Florida 33602.

#### Background

5. Florida Housing is designated as the Housing Credit agency for the State of Florida within the meaning of section 42(h)(7)(A) of the IRC, and Chapters 67-48 and 67-60, Fla. Admin. Code, and has the responsibility and authority to establish procedures for allocating and distributing Housing Credits. Section 420.5099, Fla. Stat.

6. Florida Housing has established a competitive solicitation process known as the Request for Applications to assess the relative merits of proposed developments pursuant to Chapters 67-48 and 67-60, Fla. Admin. Code.

7. On or about July 20, 2021, Florida Housing issued RFA 2021-202, Housing Credit Financing for Affordable Housing Developments Located in Broward, Duval, Hillsborough, Orange, Palm Beach and Pinellas Counties ("RFA" or "RFA 2021-202"). The application deadline for the RFA was August 31, 2021 ("Application Deadline").

8. By submitting an application, each applicant certified that the "Proposed Developments funded under this RFA will be subject to the requirements of the RFA, inclusive of all Exhibits, the Application requirements outlined in Rule Chapter 67-60, F.A.C., the requirements outlined in Rule Chapter 67-48, F.A.C., and/or Rule Chapter 67-21, F.A.C., and the Compliance requirements of Rule Chapter 67-53, F.A.C."

9. The RFA delineates the submission requirements and sets out the information required to be provided by an applicant, including, on pages 73-74, a list of mandatory “Eligibility Items” that must be included in an application.

#### Notice of Agency Action

10. City Place received notice of Florida Housing’s Final Agency Action entitled “RFA 2021-202 Board Approved Preliminary Awards” on or about December 10, 2021 (“Corporation’s Notice”).

#### Notice of Protest

11. On December 15, 2021, City Place timely filed a Notice of Protest regarding the Corporation’s Notice.

#### Substantial Interests

12. City Place timely submitted an application in response to RFA 2021-202, Application #2022-124C (“City Place Application”). In the City Place Application, City Place sought \$2.718 million in Housing Credit funding to help finance the development of its project which includes one hundred and ten (110) high-rise apartments.

13. City Place was scored as having satisfied the Eligibility Items and eligible for funding. City Place was assigned lottery number three as reflected in the document entitled “RFA 2021-202 Board Approved Scoring Results.”

14. On December 10, 2021, Florida Housing’s Board of Directors adopted the scoring committee’s recommendations and tentatively authorized the selection for funding of those applications identified in the Corporation’s Notice, including City Place.

15. City Place and several other applicants filed timely Notices of Intent. Florida Housing correctly determined City Place was eligible for and entitled to funding pursuant to the

terms of the RFA. However, the results of any challenge may impact City Place's funding, and any change would be arbitrary and capricious. As an applicant seeking funding through this RFA, City Place is substantially affected by the review, scoring, and ranking of the responses to the RFA. The results of this and related proceedings may affect City Place's ability to obtain funding under the RFA.

#### Errors in Scoring

16. As stated above, only applications that meet the Eligibility Items are eligible for funding. These Eligibility Items include a properly completed Principals for Applicant and Developer(s) Disclosure Form and the demonstration of Appropriate Zoning.

17. The application of Tallman Pines Villas, Ltd., Application #2022-133C, failed to comply with the RFA requirements. As such, Florida Housing's recommendation that this applicant is eligible for financing was incorrect.

#### Disputed Issues of Law

18. The issues of law in this matter include but are not limited to the following

- a) Whether the preliminary rankings properly support the eligibility determinations of Tallman Pines Villas, Ltd., and other applicants, for funding in accordance with the standards and provisions of the RFA;
- b) Whether the RFA's criteria for determining eligibility, ranking and evaluation of proposals were properly applied; and,
- c) Such other issues as may be revealed during the protest process.

19. Petitioners reserve the right to seek leave to amend this Petition to include additional material facts and issues of law that may become known through discovery.

### Statement of Ultimate Facts and Law

20. As a matter of ultimate fact and law, Florida Housing properly applied the RFA specifications, existing rules and prior Florida Housing interpretations and precedents to City Place.

21. As a matter of ultimate fact and law, Florida Housing correctly determined that City Place was eligible for an allocation of funding.

22. As a matter of ultimate fact and law, Florida Housing failed to properly and/or consistently apply the RFA specifications, existing rules or prior Florida Housing interpretations and precedents to Tallman Pines Villas, Ltd., and potentially other applicants.

23. As a matter of ultimate fact and law, Florida Housing incorrectly determined the eligibility of Tallman Pines Villas, Ltd., and potentially other applicants, for an allocation of funding.

### Statutes and Rules

24. Statutes and rules governing this proceeding are Chapter 420 and sections 120.569, 120.57(3), Florida Statutes, and Chapters 28-106, 28-110, 67-48 and 67-60, Florida Administrative Code.

WHEREFORE, Petitioners request that:

A. An administrative hearing be conducted pursuant to section 120.57(3), Florida Statutes, to confirm Florida Housing's eligibility determination as it affects City Place's Application;

B. The Administrative Law Judge enter a Recommended Order determining that:

- 1) City Place properly completed its application in accordance with the competitive solicitation; that its application was responsive

to and complied with RFA 2021-202; and that its application was properly awarded funding and scored as having satisfied all mandatory Eligibility Items; and,

- 2) Florida Housing erred in determining that the application submitted by Tallman Pines Villas, Ltd. was completed in accordance with the competitive solicitation.

C. The Administrative Law Judge enter a Recommended Order recommending that Florida Housing award Petitioners their requested allocation of funding;

D. Florida Housing enter a Final Order finding the City Place Application eligible for funding, and awarding City Place its requested allocation of funding; and,

E. City Place be granted such other relief as may be deemed appropriate.

RESPECTFULLY SUBMITTED this 27th day of December, 2021.

/s/ Craig D. Varn  
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