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STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FLORIDA HOUSING
FINANCE CORPORATION

HFH ORCHID PLACE, LLC,

Petitioner,

CASE NO. 2024-018BP
Application #2024-303CGN

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FORMAL WRITTEN PROTEST
AND PETITION FOR ADMINISTRATIVE HEARING

HFH ORCHID PLACE, LLC, (“Petitioner”) files this Formal Written Protest and Petition for Administrative Hearing (“Petition”) pursuant to sections 120.57(1) and (3), Florida Statutes, and Rules 28-110.004, Florida Administrative Code (“F.A.C.”) to challenge the eligibility determinations, evaluations and proposed allocations set forth in the Notice of Intended Decision posted on March 27, 2024, by Respondent, Florida Housing Finance Corporation (“Florida Housing”), relative to Request for Applications 2024-106 for Financing To Develop Housing For Persons With Disabling Conditions/Developmental Disabilities (the “RFA”).

Parties

I. Petitioner is a Florida limited liability company engaged in the business of providing affordable housing. Petitioner filed a response to the RFA for its proposed affordable housing project Orchid Place, which was assigned application number #2024-303CGN (“Petitioner’s Application”). Petitioner’s address is 4087 S. US 1, Suite 3, Rockledge, Florida 32955. For purposes of this proceeding, Petitioner’s address, telephone number and email address are those of its undersigned counsel.

2. Florida Housing is the affected agency.

3. Florida Housing is a public corporation created by Section 420.504, Florida Statutes, to administer the governmental function of financing or refinancing affordable housing and related facilities in Florida.

4. Florida Housing's address is 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301. Florida Housing's file number for Petitioner's application is #2024-303CGN.

Notice

5. Petitioner received notice of Florida Housing's intended decision to award funding pursuant to the RFA on March 27, 2024, when Florida Housing posted RFA 2024-106 Board Approved Preliminary Awards and the Board Approved Scoring Results on its website. See Exhibits A and B.

6. Petitioner's Application was deemed eligible for funding but was not included in the applications selected for a preliminary award based on the sorting and selection criteria in the RFA. For the reasons set forth below, Petitioner contends that its Application should have been selected for funding.

7. Petitioner timely filed its Notice of Intent to Protest Florida Housing's intended award decisions on April 1, 2024. See Exhibit C.

Background

8. Florida Housing administers several programs aimed at assisting developers in building affordable housing in the state in an effort to protect financially marginalized citizens from excessive housing costs.

9. The instant RFA is intended to help communities address the significant need for independent Permanent Supportive Housing for some of their most vulnerable individuals with a

disabling condition or developmental disabilities who lack stable housing and coordinated access to appropriate community-based healthcare and supportive services. Florida Housing is the designated entity in Florida responsible for allocating the funds to assist in financing the construction or substantial rehabilitation of affordable housing. This RFA proposes to utilize Competitive Housing Credits (HC) in conjunction with National Housing Trust Fund (NHTF) resources, Home Investment Partnerships Program funding provided through the American Rescue Plan (HOME-ARP), State Apartment Incentive Loan (SAIL) funding or grants. See RFA @ 2.

The RFA

10. Chapter 67-60, F.A.C., establishes “the procedures by which the Corporation shall . . . [a]dminister the competitive solicitation process to implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.” See Rule 67-60.001(2), F.A.C.

11. On November 9, 2023, Florida Housing issued the RFA seeking applications for the development of independent Permanent Supportive Housing for either (i) persons with a Disabling Condition that also includes a portion of units for Homeless Households as defined in Exhibit B of the RFA; or (ii) Persons with Developmental Disabilities as specified in the RFA. See RFA @ 2.

12. The RFA was issued by Florida Housing as the competitive solicitation method for allocating funding to competing affordable housing developments. The RFA was issued pursuant to and in accordance with Rules 67-60.001 and 67-60.003, F.A.C. Applications in response to the RFA were due by 3:00 p.m. on February 15, 2024 (the “Application Deadline”).

13. Florida Housing received several applications in response to the RFA. Petitioner timely submitted its application in response to the RFA requesting financing for its proposed housing development, Orchid Place, located in Brevard County. Petitioner's application satisfied all of the required elements of the RFA and is eligible for a funding award. See Exhibit B.

14. The RFA sets forth the information required to be submitted by an applicant and provides a general description of the type of projects that will be considered eligible for funding. All applicants must meet the requirements set forth in the RFA, include with their application the specified exhibits and comply with the requirements of applicable statutes and administrative rules. The RFA also delineates the funding selection criteria and specifies that only those applications that meet all of the Eligibility Items will be eligible for funding and considered for funding selection. See RFA @ 79-80.

15. The RFA set forth a goal "to fund one Application that will serve the Demographic Commitment of Persons with Developmental Disabilities, with a preference that it be a Priority 1 Application." See RFA @ 83.

16. The RFA includes a County Award Tally described as follows:

As each Application is selected for tentative funding, the county where the proposed Development is located will have one Application credited towards the County Award Tally.

Throughout the selection process, the Corporation will prioritize eligible unfunded Priority 1 Applications that meet the Funding Test and are located within counties that have the lowest County Award Tally above other eligible unfunded Priority 1 Applications with a higher County Award Tally that also meet the Funding Test, even if the Priority 1 Applications with a higher County Award Tally are higher ranked, and above all Priority 2 Applications.

The Corporation will prioritize eligible unfunded Priority 2 Applications that meet the Funding Test and are located within counties that have the lowest County Award Tally above other eligible unfunded Priority 2 Applications with a higher County Award Tally that also meet the Funding Test, even if the Priority 2 Applications with a higher County Award Tally are higher ranked.

See RFA @ 83.

17. The RFA set forth the following Funding Selection Process for selecting Applications for award as follows:

a. First Application selected for funding

The first Application selected for funding will be the highest-ranking eligible Priority 1 Application that selected the Demographic Commitment of Persons with Developmental Disabilities. If this goal could not be met because there are no Priority 1 Applications that qualify, then the first Application selected for funding will be the highest-ranking eligible Priority 2 Application that selected the Demographic Commitment of Persons with Developmental Disabilities.

b. Remaining Funding

If funding remains, then the highest ranking eligible unfunded Priority 1 Applications that can be fully funded will be selected for funding, subject to the County Award Tally. If funding remains after selecting all Priority 1 Applications that can be fully funded, then the highest ranking eligible unfunded Priority 2 Applications that can be fully funded will be selected for funding, subject to the County Award Tally.

If no eligible unfunded Applications can be fully funded, then no further Applications will be selected for funding and the remaining Housing Credits, Grants and SAIL funding will be distributed as approved by the Board.

See RFA @ 83-84.

18. A Review Committee comprised of Florida Housing staff was assigned to conduct the initial evaluation and scoring of the RFA responses. The Review Committee scored the applications and developed a chart listing the eligible and ineligible applications. See Exhibit B. The Review Committee also applied the funding selection criteria set forth in the RFA to develop a proposed allocation of funding to eligible participants. The preliminary rankings and allocations were presented to and approved by the Florida Housing Board on March 26, 2024. See Exhibit A.

19. Of the applications received in response to the RFA, two (2) applications were preliminarily selected for funding. See Exhibit A. The application filed by Blue CASL 41, LLC, for its proposed development Legacy Village, located in Manatee County, which was assigned application number 2024-304CGN, was selected for funding as the highest ranked application that met the demographic commitment of Persons with Developmental Disabilities. A second Application filed by MC Affordable, LLC, for its proposed development, The Franklin (application number 2024-305CSN), was selected for funding by the Florida Housing Board on March 26, 2024, as the highest ranked application that met the demographic commitment of Persons with a Disabling Condition by utilizing additional outside sources that were available; though this Application is not relevant to this challenge.

20. Despite Petitioner's Application satisfying all of the required elements of the RFA and being determined an eligible Application, it was not preliminarily selected for funding.

21. The RFA and applicable rules provide an opportunity for applicants to file administrative challenges to the scoring and rankings set forth in the preliminary allocations. After resolution of the administrative challenges, results will be presented to the Florida Housing Board for final approval prior to issuing invitations to the applicants in the funding range to enter the credit underwriting process.

22. A correct determination of the developments eligible for funding under the RFA has not been made.

23. Legacy Village was deemed eligible for funding and was preliminarily ranked higher than Petitioner's application. For the reasons set forth below, Legacy Village's application should have been deemed ineligible and not included in the rankings and preliminary funding allocations posted on March 27, 2024. The eligibility determination and preliminary ranking of

the Legacy Village application failed to take into account the failure of that applicant to meet certain mandatory Eligibility Items set forth in the RFA and applicable Rules. Under the terms of the RFA and Florida Housing's rules, Legacy Village should be deemed ineligible and Petitioner's Application should be awarded housing tax credits for its proposed development. As is more fully explained below, Legacy Village should be deemed ineligible for funding because: (i) it failed to include and properly disclose an officer from their Principal Disclosures for the Applicant and Principal Disclosures for the two Developers lists; (ii) it failed to timely and fully resolve the issues that led to one of the Affiliate's of the Applicant and Co-Developer, Community Affordable Supported Living, Inc. ("CASL Affiliate"), being listed on Florida Housing's Past Due Report dated 2/15/2024; and, (iii) it failed to fully comply with the requirements of the Uniform Relocation Act ("URA") and failed to fully and accurately answer the questions on Exhibit A to the RFA pertaining to the URA.

Substantial Interests Affected

24. Petitioner's substantial interests are affected because deeming Legacy Village eligible for funding results in that application being ranked higher for funding selection purposes than Petitioner's Application. See Madison Highlands, LLC v. Florida Housing Finance Corp., 220 So. 3d 467, 474 (Fla. 1st DCA 2017). Petitioner's Application is next in line for funding pursuant to the Persons with Developmental Disabilities funding goal in the RFA and a correct determination of eligibility based on the RFA and rule requirements will result in the funding of Orchid Place.

Errors in the Preliminary Awards and Determinations of Eligibility

Legacy Village Did Not Properly Identify and Disclose the Principals of the Applicant Entity and the Co-Developer on the Principal's Disclosure Form

25. As a mandatory eligibility item, the RFA requires an Applicant to identify the Applicant, Developer and all Principals of the proposed Development as of the Application Deadline on a properly completed Principals Disclosure Form. See RFA, @ 79. The RFA further provides, in pertinent part, that:

c. Principals Disclosure for the Applicant and for each Developer and Priority Designation (5 points)

(1) Eligibility Requirements

To meet the submission requirements, upload the Principals of the Applicant and Developer(s) Disclosure Form (Form Rev. 05-2019) (“Principals Disclosure Form”) as outlined in Section Three above. Prior versions of the Principal Disclosure Form will not be accepted.

To meet eligibility requirements, the Principals Disclosure Form must identify, pursuant to subsections 67-48.002(94), 67-48.0075(8) and 67-48.0075(9), F.A.C., the Principals of the Applicant and Developer(s) as of the Application Deadline. A Principals Disclosure Form should not include, for any organizational structure, any type of entity that is not specifically included in the Rule definition of Principals. Per subsection 67-48.002(94), F.A.C., any Principal other than a natural person must be a legally formed entity as of the Application deadline.

For Housing Credits, the investor limited partner of an Applicant limited partnership or the investor member of an Applicant limited liability company (or a placeholder for the investor) must be identified on the Principal Disclosure Form.

See RFA @ 21. Rule 67-48.075(8), F.A.C., requires:

(8) Unless otherwise stated in a competitive solicitation, disclosure of the Principals of the Applicant must comply with the following:

(a) The Applicant must disclose all of the Principals of the Applicant (first principal disclosure level). For Applicants seeking Housing Credits, the Housing Credit Syndicator/Housing Credit investor need only be disclosed at the first principal disclosure level and no other disclosure is required;

(b) The Applicant must disclose all of the Principals of all the entities identified in paragraph (a) above (second principal disclosure level);

(c) The Applicant must disclose all of the Principals of all of the entities identified in paragraph (b) above (third principal disclosure level). Unless the entity is a trust, all of the Principals must be natural persons; and

(d) If any of the entities identified in (c) above are a trust, the Applicant must disclose all of the Principals of the trust (fourth principal disclosure level), all of

whom must be natural persons.

“Principal” is defined as:

(a) For a corporation, each officer, director, executive director, and shareholder of the corporation.

(b) For a limited partnership, each general partner and each limited partner of the limited partnership.

(c) For a limited liability company, each manager and each member of the limited liability company.

(d) For a trust, each trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline.

(e) For a Public Housing Authority, each officer, director, commissioner, and executive director of the Authority. [Emphasis added.]

See Rule 67-48.002(94), F.A.C.

26. Pursuant to the RFA, only Non-Profit entities or for profit entities that are in a joint venture with a non-profit, are eligible for an award. See RFA @ 2. With respect to Legacy Village, the Applicant is a for-profit limited liability company, which partnered with Community Assisted and Supported Living, Inc. (“CASL”), as its non-profit partner entity. See Legacy Village App., p. 67. CASL is a Principal of both the Applicant, Blue CASL 41, LLC, and the Co-Developer, CASL Developer, LLC. See Legacy App. p. 59 (2nd Principal Disclosure level on the Disclosure Form) and p. 63 (1st Principal Disclosure level for the co-developer, CASL Developer, LLC). Based on available evidence, it appears that Phillip J. Brooks is the Chief Operating Officer (COO) for CASL, but he is not listed on the Principals Disclosure Form for either the Applicant or the Co-Developer. Phillip J. Brooks is listed as CASL’s COO on CASL’s website (<https://caslinc.org/leadershipteam/>). Phillip J. Brooks is also listed as CASL’s COO on SunBiz. Finally, the February 15, 2024, Florida Housing Past Due Report which was published as of the Application Deadline identifies Phillip J. Brooks as an Affiliate/Financial Beneficiary/Principal for CASL Affiliate, which has the same officer, director, executive director, and shareholders listed as that for CASL.

27. As the COO for CASL, Rule 67-48.002(94)(a), F.A.C., requires that he, as an officer of a Corporation, be listed as a Principal of the Applicant and the Co-Developer, but the Principals Disclosure Form included with Legacy Village's application fails to list him. Florida Housing considers the failure to properly disclose a Principal to be a material deviation. See HTG Village View, LLC v. Marquis Partners, LTD., and Florida Housing Finance Corp., 220 So. 3d 467, 474 (Fla. 1st DCA 2017). It is required by Florida Housing and the RFA that all Principals be included and disclosed in an application so as to: (i) verify that there are not Related Application's that were submitted which would circumvent the Priority 1 Application limitations established; (ii) verify that they are not in financial arrears to the Corporation; (iii) verify that there have been no recent de-obligations; and, (iv) verify who Florida Housing is doing business with (bad actors). See HTG Village View, LLC v. Marquis Partners, LTD., and Florida Housing Finance Corp., 220 So. 3d 467, 474 (Fla. 1st DCA 2017). Submission of a properly completed Principals Disclosure Form listing all Principals of the Applicant and Developer is a mandatory eligibility item under the terms of the RFA. Because Mr. Brooks is not listed on the Principal Disclosure Form, Legacy Village failed to properly complete the required principal disclosures for the Applicant and Developer. As such, the Legacy Village application is not eligible for funding.

Legacy Village Did Not Timely and Fully Resolve Issues Related to Its Placement on the Past Due Report

28. The RFA sets forth a number of eligibility items that an applicant has to meet in order to be considered for funding selection.

29. One of the mandatory eligibility items is that any and all financial arrearage items of the Applicant or Developer or Principal Affiliate or Financial Beneficiaries of the Applicant or Developer are timely resolved. The RFA provides as follows:

Financial Arrearage Requirement

An Application will be deemed ineligible for funding if, as of close of business *two days** before the Committee meets to make a recommendation to the Board there remains any financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of the Applicant or Developer is in arrears to the Corporation or any agent or assignee of the Corporation as reflected on the most recently published Past Due Report.

The Most recently published Past Due Report is posted to the Corporation's Website under the link <https://www.floridahousing.org/data-docs-reports/past-due-reports> *** but not more recently than seven business days prior to the date the Committee meets to make a recommendation to the Board.

* For example, if a review committee meeting is held on a Wednesday, regardless of the time of the meeting, the arrearages must be paid by Monday close of business.

RFA @ 80-81

30. The Application deadline for this RFA was February 15, 2024. On February 15, 2024, Florida Housing issued a "Past Due Report" that listed CASL Affiliate as being in financial arrearage. As CASL Affiliate is an Affiliate of CASL, it is inherently relevant. In addition, one of the Principals of CASL Affiliate, along with the Principals of CASL were listed on the Past Due Report. The Past Due Report was posted on Florida Housing's website on February 22, 2024.

31. Under the terms of the RFA, all financial arrearages of the delineated entities and individuals had to be resolved as of the close of business two days before the Review Committee met to review applications and develop its funding recommendation to the Board. The Review Committee for this RFA met on March 12, 2024. Based on the available information, it does not appear that complete documentation was available to conclusively demonstrate the financial arrearage issues for Legacy Village's Principals and their Affiliate were provided prior to the date required in the RFA.

32. Based on the foregoing Legacy Village failed to satisfy a mandatory eligibility item and should be deemed ineligible for funding.

Legacy Village Failed to Correctly Respond and Satisfy the RFA Requirements Regarding the URA

33. “The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) is government-wide legislation which establishes minimum standards for federally-funded programs or projects requiring the acquisition of real property or displacement of persons from the homes, businesses, or farms as a direct result of Acquisition.” Pursuant to the terms of the RFA, applicants are required to answer certain questions to gauge whether the requirements of the URA are applicable. See RFA @ 65. The RFA requires, in pertinent part, that:

11. Uniform Relocation Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) is government-wide legislation which establishes minimum standards for federally-funded programs or projects requiring the acquisition of real property or displacement of persons from the homes, businesses, or farms as a direct result of: Acquisition, Rehabilitation or Demolition.

Applicants should be prepared to familiarize themselves with URA & Section 104(d) statues and regulations at 49 CFR 24 (URA), 24 CFR 42 (104(d), 24 CFR 570 (CDBG) and Section 414 of the Stafford Act.

The URA is triggered at site identification or intended use of federal funds.

A General Information Notice (GIN) should be issued to all occupants at such time there exists the following:

- Documented legal intent of a project triggered by project pre-application/application, AND
- Site identification.

For land proposed for acquisition that may have occupied residential dwellings, compliance begins at the GIN issuance. . .

The questions in Exhibit A must be answered and the following required Uniform Relocation Act information must be obtained prior to application deadline. The information must be provided to the Corporation with the GIN if the Applicant is successful as outlined below:

a. Occupied Units

At question 11.a. of Exhibit A, select "Yes" if any units are occupied as of the Application Deadline.

b. Tenant Relocation Information for Existing Properties

At question 11.b.(1) through (4) of Exhibit A, answer all applicable questions.

(1) State how many total units exist as of the Application Deadline in the proposed Development.

(2) State how many units are occupied as of the Application Deadline.

(3) State whether or not permanent relocation (displacement) is anticipated during or after the construction period. If "Yes", state how many units are affected.

(4) State whether or not temporary relocation of any tenants will be required. If "Yes", state how many tenants will require temporary relocation.

[Emphasis added.]

See RFA @ 65.

34. Correctly answering the questions related to the URA on Exhibit A of the RFA is a mandatory eligibility requirement of the RFA. See RFA @ 80.

35. In its application, Legacy Village answered "No" to the question "Are there any units occupied?". See Legacy App. @ 27. As of the Application Deadline, there is evidence that a 43-unit commercial business (Budget Inn Motel) was operating out of the existing property. As of March 18, 2024, which is well after the Application Deadline, this was again verified and the Motel was still in operation. Because a Motel which is a business, that may be displaced temporarily or permanently as a direct result of Acquisition of a property, qualifies as dwelling under the URA, Legacy Village was required to accurately answer the question in the RFA and acknowledge the application of the requirements of the URA to this project. Had Legacy Village answered "Yes", they would have needed to answer additional questions pertaining to Tenant Relocation which under the URA also applies to businesses.

36. In its application, Legacy Village answered "No" to the question "Does the Applicant own the Development Site?". See Legacy App. @ 27. That answer is incorrect. CASL, the affiliated Non-Profit entity to the Applicant Blue CASL 41, LLC, for purposes of the

application owns the property. As noted above, the RFA is only open to non-profit entities, either alone or in a joint venture with for-profit entities. A “non-profit” is defined in Rule 60-48.002(84), F.A.C., as:

“Non-Profit” unless otherwise set forth in a competitive solicitation, means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under Chapter 617, F.S., if a Florida Corporation, or organized under similar state law if organized in a jurisdiction other than Florida, to provide housing and other services on a not-for-profit basis, which owns at least 51 percent of the ownership interest in the Development held by the general partner or managing member entity, which shall receive at least 25 percent of the Developer Fee, and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing, as further described in Rule 67-48.0075, F.A.C. [Emphasis added.]

An “Applicant” is defined as:

. . . any person or legal entity of the type and with the management and ownership structure described herein that is seeking a loan or funding from the Corporation by submitting an Application or responding to a competitive solicitation pursuant to rule Chapter 67-60, F.A.C., for one or more of the Corporation’s programs. For purposes of Rules 67-48.0105, 67-48.0205 and 67-48.031, F.A.C., Applicant also includes any assigns or successors in interest of the Applicant. Unless otherwise stated in a competitive solicitation, as used herein, a ‘legal entity’ means a corporation, limited partnership or limited liability company legally formed as of the Application deadline. [Emphasis added.]

37. For purposes of this RFA, “Non-Profit Applicant entities may consist of either 100 percent Non-Profit entities or joint ventures between Non-Profit and for-profit entities, if the Applicant meets the definitions of Non-Profit, as defined in Rule Chapter 67-48, F.A.C.”

38. CASL is an integral part of the ownership structure of the for-profit applicant entity.

Moreover, in the application, Legacy Village explains that:

Community Assisted and Supported Living, Inc. (CASL) and Blue Sky Communities, LLC (collectively the Applicant) propose to develop a 60-unit Permanent Supported Housing (PSH) community in Manatee County. CASL will serve as the Non-Profit Applicant, Servicer Provider and Co-Developer. Blue Sky’s principals will serve as the For-Profit Applicant and Co-Developer. [Emphasis added.]

See Legacy App. @ 35. Thus, CASL, as the Non-Profit, is also the Applicant under both the terms of this RFA and under Rule 60-48.002(9), F.A.C.. To determine otherwise, the intent and purpose of the URA would be circumvented merely by allowing an affiliated entity to own the property even though the housing credits would be issued to the benefit of both the profit and non-profit affiliated entities.

39. Based on the forgoing, the correct answer to the question of whether the Legacy Village applicant owned the property is – YES – because the Applicant, which includes the non-profit affiliate does own the property.

40. Part 24, Subpart A, Subsection 24.203(d) of the URA also requires that a written notice of intent to acquire the property be issued to those being displaced, such as a business. No evidence has been provided that the Legacy Village made such notice to the operating motel business it intended on displacing prior to its acquisition of the property.

41. Legacy Village failed to properly and fully answer the URA questions contained on Exhibit A to the RFA and, thus, failed to comply with a mandatory eligibility item. Consequently, Legacy Village should be deemed ineligible.

Reservation of the Right to Amend

42. Petitioner is entitled to a formal administrative hearing pursuant to Sections 120.57(1) and 120.57(3), Florida Statutes, to resolve the issues set forth in this Petition.

Disputed Issues of Material Fact and Law

43. Disputed issues of fact and law include, but are not limited to the following:
- a. Whether Legacy Village properly and fully answered the questions in Exhibit A to the RFA relating to the URA as of the Application Deadline;
 - b. Whether Legacy Village met the requirements of the RFA to identify and disclose all of the Applicant's Principals as of the Application Deadline;

- c. Whether the CASL Affiliate properly satisfied the requirements of Financial Arrears as of close of business two days before the Review Committee in order to be removed from the 2/15/24 Past Due Report;
- d. Whether Florida Housing's removal of CASL Affiliate from the 2/15/24 Past Due Report is clearly erroneous, arbitrary and capricious and/or contrary to competition;
- e. Whether Legacy Village answered/complied with all of the RFA's Mandatory Eligibility requirements;
- f. Whether Legacy Village is eligible for funding under the RFA;
- g. Whether the proposed awards are consistent with the RFA and the grounds on which the funding is to be allocated;
- h. Whether the proposed awards are based on a correct determination of the eligibility of the applicants, including Legacy Village;
- i. Whether Florida Housing's proposed award of funding to Legacy Village is clearly erroneous, arbitrary and capricious and/or contrary to competition;
- j. Whether Florida Housing's determination that Legacy Village is an eligible Applicant is erroneous, arbitrary and capricious and/or contrary to competition; and
- k. Such other issues as may be revealed during the protest process.

Concise Statement of Ultimate Facts

47. Petitioner participated in the RFA process in order to compete for a funding award based on the scoring and ranking criteria in the RFA. A development preliminary scored higher than Petitioner was incorrectly deemed eligible and unjustifiably elevated ahead of the Petitioner. Petitioner will erroneously be denied funding if the eligibility determination of Legacy Village is not correct and if the current proposed award to Legacy Village is allowed to become final. The

funding of Legacy Village would be contrary to the provisions of the RFA and Florida Housing's governing statutes and rules.

49. The process set forth in the RFA for determining eligible projects supports a determination that Legacy Village should be determined ineligible for funding based on the failure to meet the requisite mandatory items for funding eligibility set forth in the RFA.

50. Petitioner's Application for Orchid Place should be selected for funding.

Reservation to Amend

51. Petitioner reserves the right to identify and raise additional scoring and ranking errors based upon information revealed during the protest process.

Statutes and Rules Entitling Relief

52. The statutes and rules which are applicable in this case and that require modification of the proposed allocations include, but are not limited to, Section 120.57(3) and Chapter 420, Part V, Florida Statutes, and Chapter 28-110 and 67-60, F.A.C.

Demand for Relief

53. Pursuant to Section 120.57(3), Florida Statutes, and Rules 28-110.004, F.A.C., the Petitioner requests the following relief:

- a. An opportunity to resolve this protest by mutual agreement within seven days of the filing of this Petition as provided by Section 120.57(3)(d)1., Florida Statutes.
- b. If this protest cannot be resolved by mutual agreement, that the matter be referred to the Division of Administrative Hearings for a formal hearing to be conducted before an Administrative Law Judge pursuant to Section 120.57(1) and (3), Florida Statutes.

- c. Recommended and Final Orders be entered determining that Legacy Village is ineligible for an award of funding pursuant to RFA 2024-106 and that Orchid Place be awarded funding and invited to credit underwriting.

Respectfully submitted this 11th day of April 2024.

/s/ J. Stephen Menton
J. Stephen Menton
Florida Bar No. 331181
Tana D. Storey
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Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this original has been filed with the Agency Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000 Tallahassee, Florida 32301 via email at: CorporationClerk@floridahousing.org and an electronic copy provided to Ethan Katz, Assistant General Counsel, Florida Housing Finance Corporation, Hugh.Brown@floridahousing.org, via email, this 11th day of April 2024.

/s/ J. Stephen Menton
Attorney

RFA 2024-106 Board Approved Scoring Results

Application Number	Name of Development	County	Name of Authorized Principal	Name of Developers	Demo	Total Units	HC Request Amount	Total SAIL Request Amount (SAIL + ELI)	Grants Requested	Eligible For Funding?	Priority Level	Total Points	Operating/Managing Experience Points Preference	Accessibility Preference	Qualifying Financial Assistance Preference	Total Corp Funding Per Set-Aside	A/B Leveraging	Florida Job Creation Preference	Lottery Number
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Eligible Applications

2024-303CGN	Orchid Place	Brevard	Rob Cramp	HTG Orchid Place Developer, LLC; HFH Orchid Place Developer, LLC	DD	60	\$2,142,000	-	\$4,600,000	Y	1	148	N	Y	N	\$366,129.33	A	Y	3
2024-304CGN	Legacy Village	Manatee	Julian S. Eller	Blue 41 Developer, LLC ; CASL Developer, LLC	DD	60	\$1,950,000	-	\$4,600,000	Y	1	155	Y	Y	Y	\$272,998.75	A	Y	1
2024-305CSN	The Franklin	Hillsborough	Roaya Tyson	DDA Development, LLC	DC	80	\$2,500,000	6,000,000	\$0	Y	1	146	Y	Y	N	\$261,044.42	A	Y	2
2024-307CSN*	Willow Way Village	Okaloosa	Bonnie Barlow	Bridgeway Housing Development, LLC; Willow Way Developer, LLC	DC	72	\$2,142,000	6,000,000	\$0	Y	1	154	Y	N	N	\$318,734.00	A	Y	5

Ineligible Applications

2024-306CGN	The Residences	Lee	Stephanie Berman	Carrfour Supportive Housing, Inc.	DD	60	\$2,142,000	-	\$4,575,000	N	1	141	N	Y	Y	\$293,988.23	A	Y	6
2024-308CGN	Special Compass Living	Broward	Jim Sayih	Special Compass Living Dev, LLC; GM Special Compass Living Dev, LLC	DD	60	\$2,992,500	-	\$4,600,000	N	1	117	N	Y	N	\$370,166.32	A	Y	4

*Applicant's HC request amount was adjusted during scoring. This also affected the Corporation Funding Per Set-Aside but did not affect the A/B Leveraging.

On March 26, 2024, 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 2024-106 Board Approved Preliminary Awards

Total HC Available for RFA	3,264,800
Total HC Allocated	4,450,000
Additional 9% HC approved by Board on 3-26-24	1,185,200
Total HC Remaining	-
Total SAIL Available for RFA	6,000,000
Total SAIL Allocated	6,000,000
Total SAIL Remaining	-

Total Grants Available for RFA	4,600,000
Total Grants Allocated	4,600,000
Total Grants Remaining	-

Application Number	Name of Development	County	Name of Authorized Principal	Name of Developers	Demo	Total Units	HC Request Amount	Total SAIL Request Amount (SAIL + ELI)	Grants Requested	Eligible For Funding?	Priority Level	Total Points	Operating/Managing Experience Points Preference	Accessibility Preference	Qualifying Financial Assistance Preference	A/B Leveraging	Florida Job Creation Preference	Lottery Number
2024-304CGN	Legacy Village	Manatee	Julian S. Eller	Blue 41 Developer, LLC ; CASL Developer, LLC	DD	60	\$1,950,000	-	\$4,600,000	Y	1	155	Y	Y	Y	A	Y	1
2024-305CSN	The Franklin	Hillsborough	Roaya Tyson	DDA Development, LLC	DC	80	\$2,500,000	6,000,000	\$0	Y	1	146	Y	Y	N	A	Y	2

On March 26, 2024, 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.

April 1, 2024

RECEIVED

APR 1 2024 9:56 AM

FLORIDA HOUSING
FINANCE CORPORATION

Sent via email

CorporationClerk@floridahousing.org

Corporation Clerk
Florida Housing Finance Corporation
227 North Bronough, Suite 5000
Tallahassee, FL 32301

Re: Notice of Intent to Protest, Request for Applications (RFA) 2024-106 Proposed
Funding Selections

Dear Corporation Clerk:

On behalf of Applicant HFH Orchid Place, LLC, for its proposed development Orchid Place (Application No. 2024-303CGN), we hereby give notice of the intent to protest the Preliminary Awards and the scoring and ranking of applications for RFA 2024-106 posted by Florida Housing Finance Corporation ("Florida Housing") on March 27, 2024, at 12:17 p.m. concerning Financing To Develop Housing For Persons With Disabling Conditions/ Developmental Disabilities.

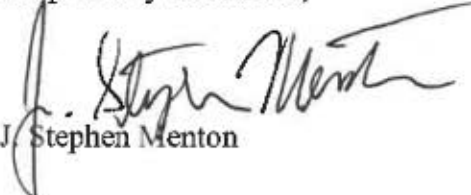
= [Board Approved Preliminary Awards/Notice of Intended Decision \(posted March 27, 2024 at 12:17 p.m.\)](#)

▶ [RFA 2024-106 Received Applications](#)

▶ [RFA 2024-106 Applications Selected](#)

A formal written petition will be submitted within ten (10) days of this Notice as required by law.

Respectfully Submitted,



J. Stephen Menton

JSM/tds

cc: Ethan Katz, FHFC Counsel