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AUTUMN RIDGE APARTMENTS, LTD., AND  
LANDMARK DEVELOPMENT CORP.,

Petitioners,

FHFC Case No: 2021-102BP  
APPLICATION NO: 2022-123C

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, Autumn Ridge Apartments, Ltd. and Landmark Development Corp., (collectively “Autumn Ridge”), 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, Autumn Ridge Apartments, Ltd., is the Applicant entity of a proposed affordable housing development to be located in Palm Beach County, Application #2022-123C. Petitioner, Landmark Development Corp., is a “Developer” entity as defined by Florida Housing in rule 67-48.002, Florida Administrative Code.

3. Autumn Ridge is supporting Florida Housing's determination regarding Autumn Ridge'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 Autumn Ridge and Autumn Ridge'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. Autumn Ridge 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, Autumn Ridge timely filed a Notice of Protest regarding the Corporation’s Notice.

#### Substantial Interests

12. Autumn Ridge timely submitted an application in response to RFA 2021-202, Application #2022-123C (“Autumn Ridge Application”). In the Autumn Ridge Application, Autumn Ridge sought \$2.375 million in Housing Credit funding to help finance the development of its project which includes one hundred and six (106) mid-rise apartments.

13. Autumn Ridge was scored as having satisfied the Eligibility Items and eligible for funding. Autumn Ridge was assigned lottery number five 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 Autumn Ridge.

15. Autumn Ridge and several other applicants filed timely Notices of Intent. Florida Housing correctly determined Autumn Ridge was eligible for and entitled to funding pursuant to the terms of the RFA. However, the results of any challenge may impact Autumn Ridge's funding, and any change would be arbitrary and capricious. As an applicant seeking funding through this RFA, Autumn Ridge is substantially affected by the review, scoring, and ranking of the responses to the RFA. The results of this and related proceedings may affect Autumn Ridge'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 Development Cost Pro Forma and Principals for Applicant and Developer(s) Disclosure Form.

17. The application of River Trail Apartments, Application #2022-136C, 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 preliminarily rankings properly support the eligibility determinations of River Trail Apartments, 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 Autumn Ridge.

21. As a matter of ultimate fact and law, Florida Housing correctly determined that Autumn Ridge 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 River Trail Apartments, and potentially other applicants.

23. As a matter of ultimate fact and law, Florida Housing incorrectly determined the eligibility of River Trail Apartments, 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 Autumn Ridge's Application;

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

- 1) Autumn Ridge 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 River Trail Apartments 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 Autumn Ridge Application eligible for funding, and awarding Autumn Ridge its requested allocation of funding; and,

E. Autumn Ridge 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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