

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

SP TERRACE, LLC, SP SOUTH, LLC,
SP LAKE, LLC, SP FOREST, LLC,
SP LANDING, LLC, and SOUTHPORT
DEVELOPMENT, INC. d/b/a
SOUTHPORT DEVELOPMENT
SERVICES, INC.,

FHFC Case No.: 2019-033BP
RFA No.: 2018-116

Petitioners,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (the “Board”) for consideration and final agency action on May 10, 2019. On April 25, 2019, SP Terrace, LLC, SP South, LLC, SP Lake, LLC, SP Forest, LLC, SP Landing, LLC, and Southport Development, Inc. d/b/a Southport Development Services, Inc. (collectively “Petitioners”), SP West, LLC (“SP West” or “Royal Arms Gardens Apartments”) and Florida Housing Finance Corporation (“Florida Housing”) executed a Consent Agreement, attached as Exhibit “A.” Affidavits from Arbor Manor Phase I (“Arbor Manor”) and WRDG T3B (“WRDG”) are incorporated into the Consent Agreement.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

James Reamery / DATE: 5/10/19

Based on the Consent Agreement, Arbor Manor and WRDG are ineligible for funding and Royal Arms Gardens Apartments remains eligible but is not selected for funding under the terms of RFA 2018-116 (the "RFA"). Jackson Forest, Lake Wales Gardens, and Mango Terrace are selected for funding, subject to credit underwriting. The Consent Agreement is adopted and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED Arbor Manor (Application No. 2019-142BS) and WRDG (Application No. 2019-158S) are ineligible; Royal Arms Gardens Apartments (Application No. 2019-178BS) remains eligible, but is not selected for funding, and Jackson Forest (Application No. 2019-173BS), Lake Wales Gardens (Application No. 2019-151BS), and Mango Terrace (Application No. 2019-149S) are selected for funding, subject to credit underwriting.

DONE and ORDERED this 10th day of May, 2019.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chair

Copies to:

Hugh R. Brown, General Counsel
Hugh.Brown@floridahousing.org

Jesse Leon, Director of Multifamily Development
Jesse.Leon@floridahousing.org

Marisa Button, Director of Multifamily Allocations
Marisa.Button@floridahousing.org

Betty Zachem, Esq.
Betty.Zachem@floridahousing.org

Lawrence E. Sellers, Jr. Esq.
Larry.sellers@hklaw.com

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

SP TERRACE LLC, SP SOUTH LLC,
SP LAKE LLC, SP FOREST LLC, SP
LANDING LLC and SOUTHPORT
DEVELOPMENT, INC. d/b/a

FHFC Case No. 2019-033BP
RFA 2018-116

SOUTHPORT DEVELOPMENT
SERVICES, INC.,

Petitioners,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

CONSENT AGREEMENT

Petitioners SP Terrace LLC, SP South LLC, SP Lake LLC, SP Forest LLC, SP Landing LLC, and Southport Development, Inc. d/b/a Southport Development Services, Inc. (collectively “Petitioners”), SP West LLC, Arbor Manor Ltd., LLLP and Respondent Florida Housing Finance Corporation (“Florida Housing”), by and through undersigned counsel, hereby present the following Consent Agreement in accordance with Section 120.57(4), Florida Statutes:

BACKGROUND

1. Petitioners submitted Applications (“the Applications”) to Florida Housing in response to Florida Housing’s Request for Applications 2018-116, State Apartment Incentive Loan (“SAIL”) Financing of Affordable Multifamily Housing Developments to be used in conjunction with Tax-Exempt Bonds and Non-Competitive House Credits (“the RFA”). Florida Housing’s Review Committee for the RFA met on March 5, 2019, reviewed all responsive

applications to the RFA, and carried out the funding selection process in accordance with Section 5.B. of the RFA.

2. On March 22, 2019, Florida Housing's Board of Directors (the "Board") approved the recommendation of the Review Committee to select the following twelve Applications for funding and invite the Applicants to enter credit underwriting: Ashley Square, Sunset Pointe II, Marquis Apartments, WRDG T3B, Valencia Grove II, Arbor Manor Phase I, Palm Port, Southlake Towers, Royal Arms Garden Apartments, Granada, Fairlawn Village, and Heron Estates Family.

3. Petitioners timely filed a Formal Written Protest and Petition for Formal Administrative Hearing ("Petition") challenging the Board's determination that the Arbor Manor Phase I Application (Application No. 2019-142BS) is eligible for funding.

4. Petitioner SP Terrace, LLC (Application No. 2019-149S) proposed to construct a development in Hillsborough County to be known as Mango Terrace.

5. Petitioner SP South, LLC (Application 2019-153BS) proposed to construct a development in Sarasota County to be known as Beneva Oak Apartments.

6. Petitioner SP Lake, LLC (Application No. 2019-151BS) proposed to construct a development in Polk County to be known as Lake Wales Gardens.

7. Petitioner SP Forest, LLC (Application No. 2019-173S) proposed to construct a development in Leon County to be known as Jackson Forest.

8. Petitioner SP Landing, LLC (Application No. 2019-146BS) proposed to construct a development in Indian River County to be known as Sebastian's Landing.

9. On April 15, 2019, Florida Housing sent a Notice to All Bidders on RFA 2018-116 ("Notice"), including those bidders who had been preliminarily selected for funding. The Notice

informed all bidders that their substantial interests might be affected by the disposition of Petitioners' Petition and advised the bidders of their opportunity to intervene.

10. SP West LLC filed a Notice of Appearance of SP West as a Specifically Named Party (Notice of Appearance). SP West (Application No. 2019-178BS) proposed to rehabilitate a development in Bay County to be known as Royal Arms Gardens.

11. Florida Housing has reviewed the Board's preliminary RFA funding decision, the Arbor Manor Phase I Application, the RFA, and the Petition, and has determined that the Arbor Manor Phase I Application is not eligible for funding and should not be funded, and that instead that the Jackson Forest Application should be selected. Florida Housing also has determined that the Lake Wales Gardens Application would also be selected, but pursuant to the funding selection process outlined in the RFA, Royal Arms Gardens Apartments would not be selected for funding.

12. An authorized representative of Arbor Manor Phase I executed the attached affidavit by which it acknowledges Florida Housing's position that its application is ineligible and waives the right to challenge that determination. (Attachment "A").

13. In addition, another Applicant selected for funding, WRDG T3B (Application No. 2019-158S), accepted an invitation to enter credit underwriting in RFA 2018-112. Pursuant to the terms of the RFA, WRDG T3B is no longer eligible for funding in RFA 2018-116. According to

the funding selection process outlined in the RFA, Mango Terrace would be selected for funding. No other applicants would be displaced.

14. An authorized representative of WRDG T3B executed the attached affidavit by which it acknowledges it is not eligible for funding in RFA 2018-116 by virtue of its acceptance of an invitation to credit underwriting in RFA 2018-112. (Attachment "B").

15. In order to avoid the time, expense and uncertainty of litigation, the parties agree to recommend to the Board the following changes to the preliminarily approved funding recommendations in RFA 2018-116: (1) that Arbor Manor Phase I (Application No. 2019-142BS) and WRDG T3B (Application No. 2019-158S), are ineligible for funding; (2) pursuant to the funding selection process outlined in the RFA, Royal Arms Gardens Apartments (Application No. 2019-178BS) remains eligible but is not recommended for funding; and (3) pursuant to the funding selection process outlined in the RFA, Jackson Forest LLC (Application No. 2019-173BS), Lake Wales Gardens (Application No. 2019-151BS), and Mango Terrace (Application No. 2019-149S) are selected for funding.

16. SP West agrees to withdraw its Notice of Appearance after execution of the consent agreement and prior to May 10, 2019.

17. This Consent Agreement is subject to the approval of the Board. If the Board does not approve this Consent Agreement, this Consent Agreement shall be null and void as if it were never executed and SP West may refile its Notice of Appearance.

18. If this Consent Agreement is approved by the Board, a Final Order will be issued adopting the terms of this Consent Agreement. Upon issuance of such a Final Order, Petitioners

will dismiss their Petition with prejudice, and each party shall bear its own costs and attorney's fees.

STIPULATED FINDINGS OF FACT

17. Florida Housing is a public corporation that is organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. Section 420.504, Florida Statutes, Chapter 67-60, Florida Administrative Code.

18. Florida Housing administers the SAIL Program set forth in Section 420.5087, Florida Statutes. Chapter 67-60, Florida Administrative Code, establishes the procedures by which Florida Housing administers the competitive solicitation funding process for the SAIL Program.

19. Florida Housing issued RFA 2018-116 seeking applications for development of affordable multifamily housing for families and the elderly utilizing SAIL funding in conjunction with Tax-Exempt Bonds and Non-Competitive Housing Credits.

20. The RFA was issued pursuant to and in accordance with Rules 67-60.001 and 67-60.003, Florida Administrative Code, and is adopted and incorporated herein by reference, including all modification to the RFA issued pursuant to Rule 67-60.005, Florida Administrative Code.

21. Petitioners and others timely submitted applications in response to RFA 2018-116.

22. On March 5, 2019 the Review Committee reviewed all responsive applications to the RFA and carried out the funding selection process in accordance with Section 5.B. of the RFA.

23. On March 22, 2019, Florida Housing's Board approved the recommendation of the Review Committee to select the following twelve Applications for funding and invite the Applicants to enter credit underwriting: Ashley Square, Sunset Pointe II, Marquis Apartments,

WRDG T3B, Valencia Grove II, Arbor Manor Phase I, Palm Port, Southlake Towers, Royal Arms Garden Apartments, Granada, Fairlawn Village, and Heron Estates Family.

24. On April 8, 2019, Petitioners timely submitted a Formal Written Protest and Petition for Formal Administrative Hearing Review pursuant to Section 120.57(1), Florida Statutes.

25. The issue raised in the Petition was whether Florida Housing incorrectly determined that the Arbor Manor Phase I Application was eligible due to its failure to select enough Green Building Features in Section 8.d.2 of the RFA so as to meet the minimum point value of the Mandatory Green Building Features requirement.

26. Upon review of the Petition, the Arbor Manor Phase I Application, and the RFA, Florida Housing has determined that the Arbor Manor Phase I Application failed to meet the applicable requirements and therefore is ineligible.

27. The determination that Arbor Manor Phase I is ineligible results in the following changes to the Board's preliminary RFA funding decision: (a) in place of the Arbor Manor Phase I Application, the Jackson Forest Application (Application No. 2019-173BS) should be selected for funding; (b) the Lake Wales Gardens Application (Application No. 2019-151BS) should be selected for funding, and (c) the Royal Arms Gardens Apartments (Application No. 2019-178BS) would not be selected for funding.

28. Additionally, subsequent to the Board's preliminary decision on March 22, 2019, another Applicant selected for funding, WRDG T3B (Application No. 2019-158S), accepted an invitation to enter credit underwriting in RFA 2018-112 and therefore is no longer eligible for

funding in RFA 2018-116. Applying the funding selection process outlined in the RFA, the Mango Terrace Application (Application No. 2019-149S) would be selected for funding.

STIPULATED CONCLUSIONS OF LAW

29. Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 67-60 Florida Administrative Code, the Florida Housing Board of Directors has jurisdiction over the parties to this proceeding.

30. Florida Housing is statutorily authorized to institute a competitive application process for SAIL Program Funding, Section 420.5087, Florida Statutes, and has done so through Rules 67-60.001 and 67-60.003, Florida Administrative Code.

31. Based on the foregoing findings,

a. Arbor Manor Phase I (Application No. 2019-142BS) and WRDG T3B (Application No. 2019-158S) are ineligible for funding;

b. Royal Arms Gardens Apartments (Application No. 2019-178BS) remains eligible but is not selected for funding; and

c. Jackson Forest LLC (Application No. 2019-173BS), Lake Wales Gardens (Application No. 2019-151BS) and Mango Terrace (Application No. 2019-149S) are selected for funding under RFA 2018-116.

STIPULATED DISPOSITION

32. Arbor Manor Phase I (Application No. 2019-142BS) and WRDG T3B (Application No. 2019-158S) are ineligible; Royal Arms Gardens Apartments (Application No. 2019-178BS) remains eligible, but is not selected for funding, and; Jackson Forest LLC

(Application No. 2019-173BS), Lake Wales Gardens (Application No. 2019-151BS) and Mango Terrace (Application No. 2019-149S) are selected for funding.

Respectfully signed this 25th day of April, 2019.

/s/Lawrence E. Sellers, Jr.

Lawrence E. Sellers, Jr.

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Tallahassee, Florida 32301

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Attorney for Petitioners and SP West LLP



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Florida Housing Finance Corporation

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Tallahassee, Florida 32301

Betty.Zachem@floridahousing.org

Attorney for Respondent FHFC

AFFIDAVIT OF BENJAMIN STEVENSON

Before me, the undersigned authority, personally appeared Benjamin Stevenson, who, being first duly sworn, deposes and states as follows:

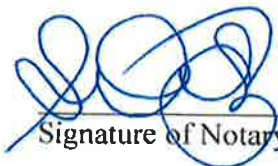
1. I am over the age of 18 and fully competent to testify to the contents and statements contained in this Affidavit.
2. I am the Authorized Principal Representative for the Arbor Manor Phase I Application submitted in response to Florida Housing Finance Corporation's RFA 2018-116. I have authority to bind the Applicant entity, Arbor Manor Ltd., LLP.
3. I do not contest Florida Housing's position that the Arbor Manor Phase I Application should be ineligible for funding under the terms of RFA 2018-116 and I waive the right to challenge that determination.
4. I am aware that a Consent Agreement is being entered into rendering Arbor Manor Phase I ineligible.
5. The statements contained in this Affidavit do not constitute the withdrawal of the Arbor Manor Phase I Application.



Benjamin Stevenson

STATE OF FLORIDA
COUNTY OF Polk

The above named person has subscribed and sworn to me before me this 25 day of April, 2019, and is [] personally know to me or [] has produced as identification.



Signature of Notary Public

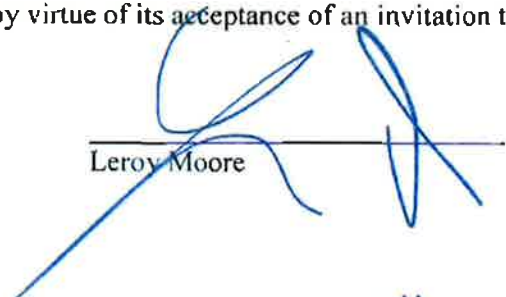


Print, Type or Stamp Commissioned
Name of Notary Public

AFFIDAVIT OF LEROY MOORE

Before me, the undersigned authority, personally appeared Leroy Moore who, being first duly sworn, deposes and states as follows:

1. I am over the age of 18 and fully competent to testify to the contents and statements contained in this Affidavit.
2. I am the Authorized Principal Representative for the WRDG T3B Application submitted in response to Florida Housing Finance Corporation's RFA 2018-116. I have authority to bind the Applicant entity, WRDG T3B Developer, LLC.
3. WRDG T3B was preliminarily awarded funding in RFA 2018-116. However subsequent to the award in RFA 2018-116, WRDG T3B accepted an invitation to credit underwriting in RFA 2018-112.
4. According to the terms of RFA 2018-116, an Application will be deemed ineligible if the Applicant has accepted an invitation to enter credit underwriting for the same Development in a previous RFA. WRDG T3B has accepted an invitation to enter credit underwriting for the same Development in a previous RFA.
5. This Affidavit and the statements contained herein do no constitute a withdrawal of the WRDG T3B Application in RFA 2018-116, or any form of false statement or misrepresentation, and should not affect the ability of WRDG T3B, its Developers or Co-Developers, or any Principal of the Applicant or Developer entities involved in the WRDG T3B Application to participate in future Florida Housing funding programs or the continued participation in RFA 2018-112.
6. WRDG T3B agrees that by the terms of the RFA its Application is now ineligible for funding under RFA 2018-116 by virtue of its acceptance of an invitation to credit underwriting in RFA 2018-112.

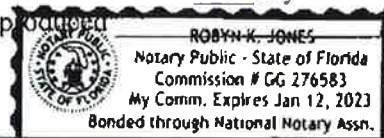


 Leroy Moore

STATE OF FLORIDA
COUNTY OF Hillsborough

The above named person has subscribed and sworn to me before me this 25th day of April, 2019, and is personally know to me or [] has produced identification.

Robyn K. Jones
Signature of Notary Public



Print, Type or Stamp Commissioned
Name of Notary Public