

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

TRANQUILITY MILTON, LLC

FHFC Case # 2020-019BP

Petitioner,

RFA No. 2019-113

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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

Petitioner, TRANQUILITY MILTON, LLC (“Tranquility”), 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, scoring and eligibility decisions of Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) in awarding funding pursuant to Request for Application 2019-113 Housing Credit Financing For Affordable Housing Developments Located In Medium And Small Counties (the “RFA”). In support Tranquility provides as follows:

1. Tranquility is a Florida limited liability corporation in the business of providing affordable housing. Tranquility is located at 310 South Dillard Street, Suite 135, Winter Garden, FL 34787.

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

3. On August 20, 2019, Florida Housing issued the RFA which offered funding as follows:

SECTION ONE
INTRODUCTION

This Request for Applications (RFA) is open to Applicants proposing the development of affordable, multifamily housing located in the Medium and Small Counties listed in Section Four A.5.a. of the RFA.

Under this RFA, Florida Housing Finance Corporation (the Corporation) expects to have (i) up to an estimated \$14,805,028 of Housing Credits available for award to proposed Developments that are located in Medium Counties and (ii) up to an estimated \$1,413,414 of Housing Credits available for award to proposed Developments that are located in Small Counties.

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 all Exhibits, 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 affordable housing consistent with the terms and conditions of the RFA, applicable laws, rules, and regulations.

5. On November 5, 2019, Tranquility submitted its Application in response to the RFA that included information concerning the development of a 72 unit apartment complex in Santa Rosa County, Florida, named Tranquility at Milton.

6. Through the Application, Tranquility was requesting funding to supplement the construction of affordable housing. Florida Housing received 184 applications in response to the RFA.

7. As the owner and developer of a project seeking funding through the RFA, Tranquility is substantially affected by the review, scoring, and ranking of the responses to the

RFA. The results of this proceeding as well as others that may be filed affects Tranquility's ability to obtain funding through the RFA. Consistent with the primary mission and goal of the RFA, Tranquility seeks to provide much needed affordable housing in Santa Rosa County. Without the funds provided by the RFA, Tranquility will be unable to provide this much needed housing. Accordingly, Tranquility's substantial interests are affected by the decisions made by Florida Housing.

8. On February 18, 2020, the designated Review Committee met and considered the Applications submitted in response to the RFA. At the meeting the Review Committee orally listed and manually input the scores for each section of the Application and ultimately made a recommendation to the Florida Housing Board of Directors for their consideration. The Review Committee consisted of Florida Housing staff. During the meeting, the Review Committee found Tranquility's Application to be eligible and recommended the Application to be funded.

9. On March 6, 2020, the Board accepted and approved the Review Committee's ranking and funding recommendation.

10. On March 11, 2020, Tranquility timely filed its Notice of Intent to Protest. Additionally several other Applicants not in the funding filed Notices that may either challenge Tranquility or other Applications that could result in removal from the funding which would negatively impact Tranquility's substantial interests.

11. This Formal Written Protest is being timely filed and Florida Housing has waived the bid protest bond requirement for the RFA. As a Developer of affordable housing in need of supplemental funding, Tranquility's substantial interests are affected by Florida Housing's decisions in this case and others to award funding pursuant to the RFA. In this action Tranquility challenges the eligibility determination made by Florida Housing as it relates to Application #2020-212C Retreat at Cocoa Commons ("Retreat").

12. If successful in its challenge Tranquility will protect its substantial interests in the event that Application #2020-311C Westside Phase I (“Westside”) is challenged and deemed ineligible for the Local Community Revitalization Initiative Goal and therefore is recommended for funding under the Local Government Area of Opportunity Goal. If this were to occur Tranquility would be bumped out of the four funding slots for the Local Government Area of Opportunity Goal and would not be funded.

13. Tranquility challenges Retreat’s Application as being ineligible for several reasons. First, Retreat has not accurately completed its Development Cost Pro Forma. Next, Retreat has not provided acceptable information to demonstrate Site Control of its Development site. Additionally, the “Ability to Proceed Forms have been altered which renders them unacceptable.

14. As to the first issue, the RFA requires each applicant to provide as an eligibility item a Development Cost Pro Forma. The instructions provide as follows:

“Totals must agree with Pro Forma. Provide component descriptions and amounts for each item that has been completed on the Pro Forma that requires a detailed list or explanation.”

15. In response to this RFA requirement Retreat provided a Development Cost Pro Forma that at the Impact Fee section simply put “admin, water & sewer fees.” No amount or total was were provided. In violation of the RFA requirements, Retreat has provided no detailed list or explanation at the Impact Fee Section.

16. The RFA at section Four(A)(7)(a) requires an applicant to demonstrate readiness to proceed, site control. One of the ways an applicant can demonstrate Site Control is by providing an eligible contract and assignment if necessary.

17. In response to this requirement Retreat submitted a Contract for Sale and Purchase and an Assignment of Contract for Sale and Purchase. The Assignment is unacceptable.

18. Specifically the Assignment lists the Seller that is in the contract being assigned as SR 524 Cocoa II LLC, WC DEMETREE TRUSTEE. The addendum to the contract being assigned however specifically strikes through “WC DEMETREE TRUSTEE” in red ink and both the Seller and Buyer initial next to it. The Assignment also inexplicably references that the land, presumably the Development site is “situated in the City of Pensacola, Florida.” The Development site however based on the indicated Development Location Point is in the City of Cocoa, Florida.

19. Additionally the Assignment is dated 10/25/19, with the Assignor dating his signature as 10/25/2019 and the Assignee dating his signature as 10/25/2018. These dates are problematic for several reasons. First the Assignor was not in existence on the date 10/25/2018, but even if you can chalk that up to an error and say that it should have been 10/25/2019, the actual contract that is being assigned doesn’t have an effective date until 10/29/2019.

20. The RFA at section Four (A)(7)(b) requires an applicant to demonstrate that as of the Application Deadline water and sewer service is available to the Development Site.

21. In response to this requirement Retreat submitted with its Application a Water and Sewer Availability Form. The Forms themselves make clear that if there are alterations made to the form that change the meaning of the form, the form will not be accepted.

22. In response to this RFA requirement retreat provided a Water and Sewer Form but the form has been altered to an extent the meaning of the forms has changed, the Forms are therefore unacceptable.

23. Tranquility reserves the right to amend this Petition as necessary.

Material Issues in Dispute

- a. Whether Florida Housing’s review and actions taken concerning the Retreat Application in response to the RFA was arbitrary or capricious, clearly erroneous or contrary to competition.

- b. Whether the review of the Retreat Application was inconsistent with the RFA requirements.

WHEREFORE, Tranquility requests that a settlement meeting be scheduled and to the extent no settlement is reached a hearing scheduled and ultimately the entry of a Recommended and Final Order determining that Florida Housing's review and scoring of applications was contrary to the RFA specifications and to Florida Housing's governing statutes, rules and policies to such an extent as to be arbitrary, capricious, contrary to competition, and clearly erroneous and maintaining an award of funding to Tranquility.

Respectfully submitted,

CARLTON, FIELDS

/s/ Michael P. Donaldson

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Formal Written Protest and Petition for Administrative Proceedings has been filed by e-mail with the Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301, this 20th day of March 2020.

/s/ Michael P. Donaldson

MICHAEL P. DONALDSON