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FLORIDA HOUSING  
FINANCE CORPORATION

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

HOLY CHILD HOUSING INC.

Petitioner,  
vs.  
FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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FHFC Case # 2023-031BP  
RFA No. 2022-206  
Application No. 2023-168H

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

Petitioner, HOLY CHILD HOUSING, INC (“Holy Child”), 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 2022-206 HOME Financing To Be Used For Rental Developments In Certain Hurricane Ian Impacted Counties (the “RFA”). In support Holy Child provides as follows:

1. Holy Child is a Florida limited liability company in the business of providing affordable housing. Holy Child is located at 12629 New Brittany Blvd., Building 16, Ft. Myers, FLORIDA 33907.

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 December 15, 2022, Florida Housing issued the RFA which offered funding as follows:

SECTION ONE  
INTRODUCTION

This Request for Applications (RFA) is open to Applicants proposing the construction of affordable housing utilizing HOME Investment Partnerships (HOME-rental) Program funding for Developments in Hurricane Ian impacted counties.

Florida Housing Finance Corporation (the Corporation) expects to have an estimated \$35 million in HOME funding available for award. In Charlotte County, Non-Competitive Housing Credits with local bond funding or Corporation-issued Multifamily Mortgage Revenue Bonds (MMRB) Program funding\* may be used in conjunction with the HOME funding.

\*If, prior to the submission of the Applicant's Application in response to this RFA, the Applicant submits or has already submitted a Non-Competitive Application for the Development proposed in its Application through this RFA, such previous Non-Competitive Application will not be considered and the Applicant will be required to request the Corporation-issued MMRB and/or Non-Competitive Housing Credits as a part of the Application in this RFA, as outlined above.

If the proposed Development is not selected for funding or if the Applicant's funding award is rescinded, and the Applicant still wishes to receive the MMRB and/or Non-Competitive Housing Credits, the Applicant will be required to submit a new Application for such funding using the Non-Competitive Application Package that is in effect at that time.

Proposed Developments are not eligible for any funding offered in this RFA if the Applicant has already closed on the Tax-Exempt Bond financing prior to the Application Deadline for this RFA. In addition, proposed Developments are not eligible to receive any funding awarded through this RFA if the Applicant closes on the Tax-Exempt Bond financing prior to the issuance of the preliminary commitment for this award. If the Bonds are closed between the Application Deadline and issuance of the preliminary commitment, the Applicant's award will be rescinded.

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.

**Applicants that are selected to receive funding will be invited to enter credit underwriting and will be expected to complete the credit underwriting process, including Board approval of the credit underwriting report, and execute a HOME written agreement within twelve months of the date of the invitation to enter into credit underwriting.**

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 January 25, 2023, Holy Child submitted its Application in response to the RFA that included information concerning the development of a 25 unit complex in Hardee County, Florida, named Holy Child.

6. Through the Application, Holy Child was requesting funding to develop affordable housing. Florida Housing received 8 applications in response to the RFA.

7. As the owner and developer of a project seeking funding through the RFA, Holy Child is substantially affected by the review, scoring, and ranking of the responses to the RFA. The results of this proceeding affects Holy Child's ability to obtain funding through the RFA. Consistent with the primary mission and goal of the RFA, Holy Child seeks to provide much needed affordable housing in Hardee County. Without the funds provided by the RFA, Holy Child will be unable to provide this much needed housing. Accordingly, Holy Child's substantial interests are affected by the decisions made by Florida Housing.

8. On February 28, 2023, 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 Board for their consideration. The Review Committee consisted of Florida Housing staff. During the meeting, the Review Committee found Holy Child's application to be ineligible.

9. On March 10, 2023, the Florida Housing Board of Directors accepted and approved the Review Committee's ranking and funding recommendation.

10. On March 15, 2023, Holy Child timely filed its Notice of Intent to Protest. (See Attachment A) This Formal Written Protest is being timely filed and Florida Housing has waived the bid protest bond requirement for the RFA.

11. In this action Holy Child challenges the eligibility and funding determinations made by Florida Housing as it relates to the Holy Child Application.

12. Florida Housing determined that Holy Child provided incorrect information at RFA Section 4.A.4, General Proposed Development Information. Specifically Florida Housing determined that Holy Child incorrectly completed the Unit Characteristic Chart at page 5 of 29 of its Application.

13. At page 5 of 29 of its Exhibit A Holy Child indicated that its Development Type would be Single Family. In its Unit Characteristics Chart Holy Child inadvertently selected Garden ESS Construction with a number of units as 25. (See Attachment B)

14. In addition to the information provided in the Unit Characteristics Chart Holy Child provided other information which clarifies any confusion caused by the inadvertent selection. For example at page 7 of 29 Holy Child listed its total number of units as 25. (See Attachment C)

Additionally at page 9 of 29 of its Exhibit A Holy Child indicated its number of anticipated residential buildings as 25 (See Attachment D)

15. Holy Child intended to select Single Family ESS Construction at the Unit Characteristic Chart. The selection of Garden ESS Construction however at best is a minor irregularity that should be waived.

16. No competitive advantage was gained by selecting Garden ESS vs. Single Family ESS. Moreover no competitive advantage was gained for purposes of Total Developer Cost (“TDC”) or for purposes of leveraging. Indeed there is no leveraging classification used for sorting and the TDC is one and the same for Garden ESS and Single Family ESS.

17. In essence no material information was omitted by the selection made at the Unit Characteristic Chart and to the extent an error was committed it should be deemed a minor irregularity.

18. Material issues of disputed fact:

- a. Whether Florida Housing has acted arbitrary or capricious in awarding funding in this RFA.
- b. Whether the alleged error in the Holy Child Application is a minor irregularity which should be waived.

19. Holy Child reserves the right to amend this petition as more facts and issues are discovered.

WHEREFORE, Holy Child 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 Holy Child’s application 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 awarding funding to Holy Child.

Respectfully submitted,

CARLTON, FIELDS

/s/ *Michael P. Donaldson*

MICHAEL P. DONALDSON

Florida Bar No. 0802761

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215 S. Monroe St., Suite 500

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*Counsel for Holy Child Housing , Inc.*

**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 27th day of March 2023.

/s/ *Michael P. Donaldson*

MICHAEL P. DONALDSON

RECEIVED

Michael Donaldson  
850 513-3613 Direct Dial  
mdonaldson@carltonfields.com

MARCH 15 2023 8:00 AM

FLORIDA HOUSING  
FINANCE CORPORATION

Atlanta  
Florham Park  
Hartford  
Los Angeles  
Miami  
New York  
Orlando  
**Tallahassee**  
Tampa  
Washington, DC  
West Palm Beach

March 15, 2023

Florida Housing Finance Corporation  
Ana McGlamory, CP, FCP, FRP  
Corporation Clerk  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

ELECTRONIC TRANSMISSION

Re: RFA 2022-206 – HOME Financing To Be Used For Rental Developments  
In Certain Hurricane Ian Impacted Counties

Dear Ms. McGlamory:

On behalf of Holy Child Housing, Inc. (“Holy Child”) (2023-168H), this letter constitutes a Notice of Intent to Protest (“Notice”) filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, Rules 28-110.003 and 67.60.009, Florida Administrative Code, and the RFA.

This Notice is being filed within 72 hours (not including weekends and holidays) of the posting of the RFA on the Florida Housing’s website on March 10, 2023 at 8:45 a.m. Holy Child reserves the right to file a formal written protest within (10) days of the filing of this Notice pursuant to section 120.57(3), Florida Statutes.

Sincerely,

*Michael P. Donaldson*

Michael P. Donaldson

MPD/rb

cc: Eric Miller



**Exhibit A to RFA 2022-206 HOME Financing To Be Used For Rental Developments In Certain Hurricane Ian Impacted Counties**

**Section 4.A.4  
General Proposed Development Information**

a. Name of the proposed Development: Holy Child

**b. Development Category**

(1) Select the Development Category: New Construction

(2) The Development Category requirements are outlined in Section Four.

**c. Characteristics of Development**

(1) Select the Development Type: Single Family (Your selection for Development Type is NOT confirmed by the Unit Characteristics table below)

Based on the input in the Unit Characteristics Table below, there is 1 predominant unit type and it is New Construction Garden ESS Construction.

(2) Enhanced Structural Systems ("ESS") Construction Qualifications are outlined in Section Four, A.4.c.(2) of RFA.

**d. Unit Characteristic Chart**

Complete the chart below reflecting the number of units for each of the Development Categories, Development Types, or ESS/non-ESS Construction, for purposes of the Total Development Cost Per Unit Limitation calculation and the Leveraging Calculation. The last row of the far right column is the Leveraging Factor.

| Unit Characteristics    |                        |                             | Enter the applicable number of units |
|-------------------------|------------------------|-----------------------------|--------------------------------------|
| <b>New Construction</b> | <b>Garden</b>          | <b>ESS Construction</b>     | 25                                   |
|                         | <b>Garden</b>          | <b>Non-ESS Construction</b> |                                      |
|                         | <b>Mid-Rise</b>        | <b>ESS Construction</b>     |                                      |
|                         | <b>Mid-Rise</b>        | <b>Non-ESS Construction</b> |                                      |
|                         | <b>High-Rise</b>       | <b>ESS Construction</b>     |                                      |
|                         | <b>Single Family</b>   | <b>ESS Construction</b>     |                                      |
|                         | <b>Single Family</b>   | <b>Non-ESS Construction</b> |                                      |
|                         | <b>Other Dev Type*</b> | <b>ESS Construction</b>     |                                      |
|                         | <b>Other Dev Type*</b> | <b>Non-ESS Construction</b> |                                      |
|                         | <b>Total Units:</b>    |                             |                                      |

The number of units calculated here matches the 25 units in stated at 6.a.

\* Other Dev(elopment) Type means any Development Type that is not specifically identified in the chart but could be selected in drop-down menu in A.4.A.c.

\*\* Not all decimal places of the actual number for the overall Leveraging Classification Development Type Multiplier may be displaying. Nonetheless, the full actual number will be used to calculate the Applicant's overall Corporation's funding amount in the 'Funding' tab. The final Leveraging Multiplier is calculated by summing together the products of multiplying the number of units for each applicable Development Type by their Leveraging Classification Development Type Multiplier and dividing the results by the amount of Total Units.

e. Has any physical construction activity commenced on the proposed Development? No

Note: If "Yes", all rules and regulations in 24 CFR Part 92, which includes cross-cutting Federal Regulations, will apply.



**Exhibit A to RFA 2022-206 HOME Financing To Be Used For Rental Developments In Certain Hurricane Ian Impacted Counties**

**Section 4.A.6  
Number of Units and Buildings**

**a. Enter the total number of units in the proposed Development upon completion:** 25  
 Minimum number of units of 10 is met. Maximum number of units of 50 is met.  
 The marked-out section below is not available for developments that are not located in Charlotte County.

**b. Set-Aside Commitments**

**(1)** Select one of the following minimum set-aside commitments for Charlotte County Bond transactions ONLY: (HOME Set-Aside Commitments are determined in the Funding tab.)

<select one>

**(2)** Total Set-Aside Breakdown Chart

**(a)** Applicants committing to the minimum IRS set-aside commitment of 20 percent of the total units at 50 percent of the Area Median Income or less or 40 percent of the total units at 60 percent of the Area Median Income or less must complete the following chart for HC Set-Aside Commitments.

| Number of Residential Units | Percentage of Units | AMI Level, at or below: | Types of Units            |
|-----------------------------|---------------------|-------------------------|---------------------------|
| 0                           |                     | 25%                     | Housing Credit Units      |
| 0                           |                     | 28%                     |                           |
| 0                           |                     | 30%                     |                           |
| 0                           |                     | 33%                     |                           |
| 0                           |                     | 35%                     |                           |
| 0                           |                     | 40%                     |                           |
| 0                           |                     | 45%                     |                           |
| 0                           |                     | 50%                     |                           |
| 0                           |                     | 60%                     |                           |
| 0                           | 0%                  | Above 60%               |                           |
| 0                           | 0%                  |                         | Total Qualifying HC Units |
| 0                           | 0%                  |                         | Total Units               |

*This area intentionally left blank.*

**(b)** Applicants committing to the IRS Average Income Test must complete this chart for Housing Credit Set-Aside Commitments. The minimum ELI Set-Aside Commitment is 0% of Total Units, or 0 units at 30% AMI or less.

| Number of Residential Units | Percentage of Units | AMI Level, at or below: | Types of Units |
|-----------------------------|---------------------|-------------------------|----------------|
|                             | 0.000%              | 20%                     |                |
|                             | 0.000%              | 30%                     |                |

**Exhibit A to RFA 2022-206 HOME Financing To Be Used For Rental Developments In Certain Hurricane Ian Impacted Counties**

|                          |           |
|--------------------------|-----------|
| 4 Bedrooms/2 bathrooms   | 21        |
| 4 Bedrooms/2.5 bathrooms |           |
| 4 Bedrooms/3 bathrooms   |           |
| 4 Bedrooms/3.5 bathrooms |           |
| 4 Bedrooms/4 bathrooms   |           |
| <b>Totals</b>            | <b>25</b> |

The total number of units calculated in the Unit Mix Chart matches the total number of units of 25 stated at 6.a. above.

*This area intentionally left blank.*

**d. Number of Buildings**

Number of anticipated residential buildings: 25

**e. Compliance Period**

All Applicants are required to set aside the units for this number of years, as further described in Section Four of the RFA.

50 Years