

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
August 8, 2014
Action Items



LEGAL

Action

I. LEGAL

SP Caravel Apartments, LLC, and Southport Development, Inc., d/b/a Southport Development Services, Inc., v. Florida Housing Finance Corporation – FHFC Case No. 14-064BP

SP ST Apartments, LLC, and Southport Development, Inc., d/b/a Southport Development Services, Inc., v. Florida Housing Finance Corporation – FHFC Case No. 14-063BP

1. Background

- a) Petitioners SP Caravel Apartments LLC, Apartments LLC and Southport Development, Inc. d/b/a Southport Development Services, Inc., and SP ST Apartments LLC and Southport Development, Inc. d/b/a Southport Development Services, Inc. (collectively, “Petitioners”), challenged the Corporation's intended decision to disqualify petitioners from eligibility for State Apartment Incentive Loan (“SAIL”) funding to be awarded in response to Request for Applications 2014-103 for “Financing of Affordable Multifamily Housing Developments with SAIL Funding to be Used in Conjunction with Tax-Exempt Bond Financing and Non-competitive Housing Credits” (the “RFA”).
- b) Northwest Gardens V, Ltd., and Coquina Place Associates, Ltd., intervened in Case No. 2014-064BP; Northwest Gardens V, Ltd., Coquina Place Associates, Ltd., Peterborough 2, Ltd., and Talcoy Tuscany Cove I, LLC, intervened in Case No. 2014-063BP.
- c) After the filing of the petitions and during preparation for hearing, the Corporation determined that the application filed by SP Caravel Arms LLC is eligible for funding, and that the application is within the funding range as determined by application of the Funding Selection Process described in the RFA, and that funding the Caravel application will not affect the funding of any other application.

2. Present Situation

All parties have agreed to a resolution to the pending litigation according to the terms contained in the Consent Agreement attached as [Exhibit A](#).

3. Recommendation

Staff recommends that the Board approve the Consent Agreement and issue a Final Order accordingly.

LEGAL

Action Supplement

I. LEGAL

A. **Robert King High Preservation Phase One, LLC v. Florida Housing Finance Corporation, FHFC Case No. 2014-062BP - (Intervenors: Coquina Place Associates, Ltd. and Talcocy Tuscany Cove, LLC, LP, and HTG Broward 3, LLC)**

1. **Background**

- a) This case regards “RFA 2014-103 for Financing of Affordable Multifamily Housing Developments with SAIL Funding to be used in conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits” (the “RFA”). No material facts were in dispute, so the cases were heard by Florida Housing’s Hearing Officer. Robert King High Preservation Phase One, LLC (“Petitioner”) and Intervenors applied for funding through the RFA seeking awards of State Apartment Incentive Loan (SAIL) program funds. Petitioner was notified of the Board’s intended decision on or about March 14, 2014. Petitioner timely filed a notice of intent to protest and formal written protest as required by section 120.57(3), Florida Statutes, challenging the Corporation’s scoring and ranking of Applicants for funding under the RFA. Intervenors properly and timely filed for intervention to participate in the case.
- b) The central issue here is whether Respondent Florida Housing Finance Corporation’s (“Florida Housing”) decisions to award or deny funding under the RFA, as proposed on March 14, 2014, are contrary to the agency’s governing statutes, the agency’s rules or policies, or the solicitation specifications. More specifically, whether Florida Housing’s scoring and ranking decision to reject Petitioner’s application for failure to document site control was within the bounds described above.
- c) Florida Housing’s position on the site control issue was that the Ground Lease submitted by Petitioner included a provision that it would automatically terminate unless approved by the Miami-Dade BOCC, and that no evidence of such approval was included within the Application.
- d) Petitioner has argued that the execution and seal of Ground Lease itself by Miami-Dade officials met the requirement for approval of the BOCC, that additional documentation was unnecessary, and otherwise argued that it should be permitted to submit evidence at hearing to show that such approval had indeed been obtained.

2. **Present Situation**

- a) A hearing was conducted on July 18, 2014, before Florida Housing’s appointed Hearing Officer, Junious D. Brown III. All parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Hearing Officer issued a Recommended Order on July 31, 2014. The Recommended Order affirmed Florida Housing’s scoring and ranking decision as to the site control issue noted above. A copy of the Recommended Order is attached as [Exhibit A](#).

LEGAL

Action Supplement

- b) As of the date of this writing, no exceptions or objections to the Recommended Order have been filed. By stipulation of the parties, exceptions or objections to the Recommended Order may be filed within two days of the filing of the Order, with responses to any such objections due within two additional days.

3. Recommendation

Staff recommends that the Board adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with such decisions.

LEGAL

Action Supplement

B. In Re: Resolution 2014-12; Signature Authority

1. Background

During the ordinary course of business, situations arise wherein an authorized signature is needed by the Corporation on routine financial documents and to effect bond transactions. By a series of resolutions, the Board has previously delegated signature authority to the Executive Director, Chief Financial Officer, and Comptroller to execute corporation bonds and related documents, and has designated certain corporation staff as Assistant Secretaries of the Corporation for purposes of attesting signatures on bond documents.

2. Present Situation

The draft resolution reflects changes in corporate structure, specifically, adding Brantley Henderson, Multifamily Programs Administrator, to the previous designations and delegations as Assistant Secretary for purposes of attesting signatures on bond documents. A copy of the draft resolution is attached as [Exhibit B](#).

3. Recommendation

That the Board adopt Resolution 2014-12 delegating signature authority and designating staff as described in such Resolution.

MULTIFAMILY PROGRAMS

Action

II. MULTIFAMILY PROGRAMS

A. 2014 Rule Development

1. Background/Present Situation

- a) Rule development workshops were held on April 24, 2014 and June 12, 2014, in order to solicit comments concerning the proposed changes to the 2014 Qualified Allocation Plan (QAP) and Rule Chapters 67-21, 67-32, 67-48, and 67-60, F.A.C.
- b) As a result of these workshops, staff has revised the rules governing the various multifamily programs. Staff would like to proceed with the rule development process for these rules and requests the Board's approval of the proposed Rules and QAP. A supplement to the Board Package will be provided which contains the proposed Rules and the proposed 2015 QAP.
- c) If the Board approves the proposed rules and QAP as presented, the Notices of Proposed Rulemaking (NOPRs) will be published in the August 12, 2014 edition of the Florida Administrative Register. The NOPRs will announce the Rule Hearings which are scheduled for September 3, 2014, in Tallahassee. Following review of the public comments received at the Rule Hearings and the comments received from the Joint Administrative Procedures Committee following its review of the NOPRs, staff will proceed as follows:
 - (1) If modification of the proposed rules is not required, staff will file the proposed rules for adoption.
 - (2) If modification of the proposed rules is required, staff will prepare the necessary Notice of Change (NOC) to incorporate all proposed modifications to the proposed rule and, if required, will submit the NOC for Board approval.

2. Recommendation

- a) Approve the proposed rules and QAP and authorize staff to file the rules for adoption if a NOC is not required, and, if a NOC is required, authorize the Chair to determine whether a NOC makes material, substantive changes to the rule chapter. If he determines that it does not, staff recommends that the Board approve such NOC without the requirement of another Board meeting. In the alternative, if the Chair determines that any NOC does make material, substantive changes to the rule chapter, staff recommends that a telephonic board meeting be called to obtain Board approval for any required changes, with such changes to be ratified at the next regularly scheduled Board meeting.

MULTIFAMILY PROGRAMS

Action

B. Request for Applications (RFA) 2014-109 - HOME Financing to be used for Rental Developments in Rural Areas

1. Background

- a) This Request for Applications (RFA) was open to Applicants proposing the construction of affordable housing utilizing HOME Investment Partnerships (HOME-rental) Program funding for Developments in Rural Areas. The RFA was issued on May 29, 2014 and Applications were due on July 1, 2014.
- b) Under this RFA, Florida Housing Finance Corporation (the Corporation) had \$20 million in HOME funding available for award. Fifteen percent of the total HOME funding (\$3 million) was available for Applicants that qualified as HOME Community Housing Development Organization (CHDO) Applicants.

2. Present Situation

- a) Florida Housing received six (6) Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Amy Garmon, Multifamily Programs Manager (Chair), Elizabeth O'Neill, Multifamily Programs Manager, Jean Salmonsens, Housing Development Manager, and David Woodward, Federal Loan Program Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) The Review Committee met on July 31, 2014 to give their scores and submit a recommendation to the Board.
- c) At that Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Five of the RFA.
- d) The RFA 2014-109 Sorting Order chart (provided as [Exhibit A](#)) lists the eligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) are listed in order with all funding selection criteria applied, as outlined in Section Five of the RFA. There were no ineligible Applications.
- e) The Review Committee considered the following two (2) motions:
 - (1) A motion to adopt the scoring results, as set out on [Exhibit A](#); and
 - (2) A motion to tentatively select the Applications set out on [Exhibit B](#) for funding and invite the Applicants to enter credit underwriting.
- f) Both motions passed unanimously.

MULTIFAMILY PROGRAMS

Action

- g) As outlined in Subsection 67-48.0072(1), F.A.C., at the completion of all litigation and approval by the Board of all Recommended Orders with regard to this RFA, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting.

3. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the six (6) Applications (set out on [Exhibit A](#)) and authorize the tentative selection of the four (4) Applications (set out on [Exhibit B](#)) for funding and invitation to enter credit underwriting.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on [Exhibit B](#).
- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

III. PROFESSIONAL SERVICES SELECTION (PSS)

A. Investment Banking Services

1. Background

At its March 14, 2014, meeting, the Board of Directors of Florida Housing directed staff to issue a Request of Qualifications for investment banking services for the Single-Family and Multifamily programs.

2. Present Situation

a) An RFQ process was initiated and RFQ 2014-03 was issued on Tuesday, June 17, 2014 ([Exhibit A](#)). The deadline for receipt of responses was 2:00 p.m., Tuesday, July 8, 2014. Following are the seventeen (17) responses received timely:

- (1) Academy Securities, Inc.
- (2) Bank of America Merrill Lynch
- (3) Citigroup Global Markets, Inc.
- (4) City Securities Corporation
- (5) Dougherty & Company, LLC.
- (6) First Southwest Company
- (7) IFS Securities, Inc.
- (8) Janney Montgomery Scott, LLC.
- (9) J.P. Morgan Securities, LLC.
- (10) Merchant Capital, LLC.
- (11) Morgan Stanley & Co., LLC.
- (12) Raymond James & Associates, Inc.
- (13) RBC Capital Markets, LLC.
- (14) Seelaus & Company, Inc.
- (15) Stern Brothers & Co.
- (16) Toussaint Capital Partners, LLC.
- (17) Wells Fargo Securities

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- b) Responses were received from Fidelity Capital Markets and George K. Baum, but were not scored as they were deemed non-responsive.
- c) Members of the Review Committee were Melanie Weathers, Senior Financial Administrator (Chairperson); Brantley Henderson, Multifamily Bond Administrator; Charles White, Single Family Program Administrator; Kenny Derrickson, Assistant Comptroller; and Michelle Connelly, Bond Administration Manager.
- d) Each member of the Review Committee individually reviewed the Proposals prior to convening the series of Review Committee meetings. The Review Committee meetings were held at 10:00 a.m., Tuesday, July 15, 2014 and 10:00 a.m., Thursday, July 17, 2014.
- e) At its July 17, 2014, meeting the Review Committee provided final scores and ranking. The Final Scoring and Ranking is provided in [Exhibit B](#).

3. Recommendation

- a) Based on outcomes of the ranking and scoring process of the Review Committee, a separate analysis of the scores and ranking, and the RFQ selection language, staff recommends that the Board authorize contract negotiations with the following Offerors (in alphabetical order):

Citigroup Global Markets, Inc., Morgan Stanley & Co., LLC., and RBC Capital Markets, LLC. as book running Senior Managers for the Single Family bond program. Bank of America Merrill Lynch, J.P. Morgan Securities, LLC. and Raymond James & Associates, Inc. as non-book running Co-Managers for the Single Family bond program. City Securities Corporation, Janney Montgomery Scott, LLC., Stern Brothers & Co., and Wells Fargo Securities as members of the selling group for the Single Family bond program.

- b) The Review Committee recommends that the Board authorize staff to enter into contract negotiations with the following Offerors (in alphabetical order):

Bank of America Merrill Lynch, Citigroup Global Markets, Inc., J.P. Morgan Securities, LLC., Morgan Stanley & Co., LLC., Raymond James & Associates, Inc., RBC Capital Markets, LLC., Stern Brothers & Co., and Wells Fargo Securities as members of the Multifamily Investment Banker Pool.

- c) The Review Committee recommends that the Board authorize staff to enter into contract negotiations with the following Offeror:

RBC Capital Markets, LLC., to track the genealogy of repayments and to run consolidated cash flows. If contract negotiations fail with RBC Capital Markets, allow staff to enter into contract negotiations with second highest ranked Offeror.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- d) The Review Committee recommends that the Board authorize staff to enter into contract negotiations with the following Offeror: Raymond James & Associates, Inc., to provide a no risk forward delivery TBA program for all conventional loans. If contract negotiations fail with Raymond James, allow staff to enter into contract negotiations with the second highest ranked Offeror.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Solicitation for an Insurance Agent of Record

1. Background

Chapter 420.507, Powers of the corporation (11) provides the following: “to insure and procure insurance against any loss in connection with any bonds of the corporation and the corporation’s operations or property...” To implement this provision, Florida Housing carries business insurance to cover Commercial General Liabilities, Director and Officers Liability, Employment Practices and Commercial Crime.

2. Present Situation

At the December 9, 2011, Board of Directors Meeting, approval was given to appoint Rogers-Gunter-Vaughn Insurance as the insurance broker for Florida Housing Finance Corporation, FHFC II and FHFC III for three years – 2012, 2013 and 2014.

3. Recommendation

Authorize staff to begin the solicitation process to select an insurance agent of record. Authorize the Executive Director to establish a Review Committee to make a recommendation to the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

C. Procurement Process for Electronic Payroll/Human Resources System

1. Background

Since 1998, Florida Housing has used Automated Data Processing (ADP) services for timekeeping, payroll processing and maintenance of pay/human resources information.

2. Present Situation

Florida Housing's price agreement with ADP expires in August 2015. At renewal in 2015, we anticipate that the annual cost for these services will reach or exceed the purchasing threshold of \$35,000 for such services.

3. Recommendation

Authorize staff to begin the solicitation process to select an electronic payroll/human resources solution. Authorize the Executive Director to establish a Review Committee to make a recommendation to the Board.