

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: MICHAEL K. RUNYAN

FHFC Case No.: 2016-045GA

ADMINISTRATIVE COMPLAINT AND ORDER OF INELIGIBILITY

This cause came before the Board of Directors (“Board”) of the Florida Housing Finance Corporation (“Florida Housing”) on October 28, 2016, for consideration and final agency action declaring Michael K. Runyan ineligible to participate in any funding programs administered by Florida Housing, pursuant to §420.507(35), Fla. Stat. (2016) and Fla. Admin. Code R. 67-48.004(2).

After careful review and consideration of the record, and being otherwise fully advised, the Board hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the party before the Board.
2. Michael K. Runyan (“Runyan”) owned and operated BJ&K, a general contractor that built, among other construction projects, low-income housing developments. BJ&K built a number of low-income housing developments for Carlisle Development Group (“CDG”), a low-income housing developer in Miami, Florida.
3. Between 2006 and 2009 CDG applied for federal tax credits and grant monies issued by the federal government through a program administered by Florida Housing to build several low-income housing developments.

4. On August 31, 2015 Runyan entered into a Plea Agreement with the United States Attorney for the Southern District of Florida, pleading guilty to one count of conspiracy to steal government money and property, in violation of Title 18 United States Code §371.

5. Runyan's Plea Agreement included a Factual Proffer in which Runyan admitted to conspiring to unjustly enrich himself and others by submitting fraudulently inflated low-income housing construction contracts to Florida Housing and its agents, in order to obtain excess federal tax credits and grant monies to which they were not entitled, and then to use the proceeds for their personal use and benefit.

6. §420.507(35), Fla. Stat. (2016), authorizes Florida Housing to preclude from further participation in any of the corporation's programs any Applicant¹ or Affiliate² of an applicant who has made a material misrepresentation or engaged in fraudulent actions in connection with any application for a Florida Housing funding program. Fla. Admin. Code R. 67-48.004(2)(Rev. 10-8-14) creates a rebuttable presumption that an Applicant has engaged in fraudulent actions if the applicant or any principal, financial beneficiary or Affiliate of the Applicant:

- a. Has been convicted of fraud, theft or misappropriation of funds;
- b. Has been excluded from federal or Florida procurement programs for any reason;
- c. Has been convicted of a felony in connection with any Corporation program; or
- d. Has offered or given consideration with respect to a local contribution.

7. The Board finds that Runyan has engaged in fraudulent actions and has materially misrepresented information to the Corporation regarding prior Developments. The Board further finds that these actions, considering the Applicant's compliance history, the type of

¹ As defined in Fla. Admin. Code R. 67-48.002 (Rev. 10-8-14).

² *Id.*

misrepresentation and fraud committed, and the degree of harm to Florida Housing's programs, are sufficiently egregious to warrant the maximum penalty allowed under §420.507(35), Fla. Stat. (2016), and Fla. Admin. Code R. 67-48.004(2) (Rev. 10-8-14).

IT IS THEREFORE ORDERED:

8. Michael K. Runyan is permanently ineligible for and precluded from participation in any program administered by Florida Housing. Any response to any solicitation from Florida Housing, including any response to a currently active solicitation for which no preliminary funding award has been made, in which Michael K. Runyan has participated shall be deemed ineligible.

9. If Michael K. Runyan or an Applicant who is an Affiliate of Michael K. Runyan has been the recipient of a preliminary funding award, any such funding award is hereby rescinded.

10. If an administrative challenge to this Order is filed, all pending transactions in which Michael K. Runyan is involved are suspended until this Order becomes final agency action.

DONE and ORDERED this 28th day of October, 2016.

FLORIDA HOUSING FINANCE CORPORATION

By:


Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was provided via USPS on this 5th day of January, 2017.



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NOTICE OF RIGHTS

Florida Housing's Order of Ineligibility will be considered final unless a timely petition for administrative hearing is filed under Sections 120.569 and 120.57 of the Florida Statutes before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by Florida Housing's proposed action may petition for an administrative hearing under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed with the Corporation Clerk of Florida Housing at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-2390.

Petitions by the applicant must be filed within 21 days of receipt of this written notice. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative hearing under Sections 120.569 and 120.57 of the Florida Statutes.

All petitions must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which Florida Housing's actions is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, Florida Administrative Code.

Because the administrative hearing process is designed to formulate final action, the filing of a petition means that Florida Housing's final action may be different from the position taken by it in this notice.

Mediation is not available in this proceeding.