

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

AMELIA COURT AT CREATIVE VILLAGE –
PHASE II PARTNERS, LTD.

Appellants,

FHFC CASE NO. 2019-019BP

v.

FLORIDA HOUSING FINANCE
CORPORATION, DURHAM PLACE,
LTD., DURHAM PLACE DEVELOPER, LLC,
HAWTHORNE PARK, LTD., and
HAWTHORNE PARK DEVELOPER, LLC,

Appellees.

_____ /

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 December 13, 2019. On November 19, 2019, Amelia Court at Creative Village – Phase II Partners, Ltd (“Amelia Court”) and Florida Housing Finance Corporation executed a Settlement Agreement, attached as Exhibit A. Based on the Settlement Agreement, Amelia Court is eligible and selected for funding in RFA 2018-112.

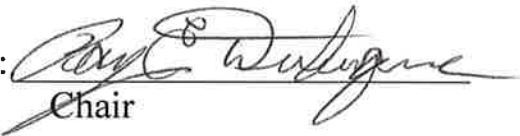
The Settlement Agreement is adopted and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED that Amelia Court is eligible and selected for funding in RFA 2018-112, subject to credit underwriting.

DONE AND ORDERED this 13th day of December, 2019.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chair

Copies to:

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

Chris McGuire, Assistant General Counsel
Chris.Mcguire@floridahousing.org

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

M. Christopher Bryant
cbryant@ohfc.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.

AMELIA COURT AT CREATIVE VILLAGE –
PHASE II PARTNERS, LTD.

Appellants,

v.

CASE NO. 5D19-1934

FLORIDA HOUSING FINANCE
CORPORATION, DURHAM PLACE,
LTD., DURHAM PLACE DEVELOPER, LLC,
HAWTHORNE PARK, LTD., and
HAWTHORNE PARK DEVELOPER, LLC,

FHFC CASE NO. 2019-019BP

Appellees.
_____ /

SETTLEMENT AGREEMENT

Petitioner Amelia Court at Creative Village – Phase II Partners, Ltd and Respondent Florida Housing Finance Corporation jointly stipulate to the matters set forth in this Agreement and further agree to a resolution of the matters set forth herein.

Preliminary Statement

Florida Housing issued RFA 2018-112 in September 2018. Hawthorne Park and Amelia Court each filed applications for funding under this RFA for proposed developments in Orange County, Florida. On February 1, 2019, Florida Housing’s Board of Directors found that while both Applicants were eligible for funding, Hawthorne Park would be selected for funding based on the criteria in the RFA.

Amelia Court timely challenged Florida Housing's selection of Hawthorne Park for funding by filing a Notice of Protest and a Formal Written Protest and Petition for Formal Administrative Proceedings. The Petition was referred to the Division of Administrative Hearings ("DOAH"), and assigned to an Administrative Law Judge ("ALJ"). Hawthorne Park intervened in the proceeding.

Amelia Court alleged that the application of Hawthorne Park should have been found ineligible because the Local Government Area of Opportunity (LGAO) funding committed to by Orange County was invalid. In a separate proceeding in the Circuit Court of the Ninth Judicial Circuit in Orange County (Case No. 2018-CA-12227-O), Amelia Court challenged the process by which Orange County had awarded LGAO funding to Hawthorne Park. The Circuit Court in that case issued a temporary injunction which included a preliminary finding that Orange County had illegally awarded State Housing Initiative Partnership (SHIP) funds to Hawthorne Park, and enjoined Orange County from awarding such funds. Orange County and Hawthorne Park appealed that temporary injunction to the Fifth District Court of Appeal (Case No. 5D19-1934). To date, neither the Circuit Court case nor the Appellate case have reached a final resolution.

The ALJ in the DOAH case conducted an evidentiary hearing on April 15, 2019. In his Recommended Order, issued on June 7, 2019, the ALJ found that the central issue in Amelia Court's challenge was the impact of the temporary

injunction. He concluded that the temporary injunction did not constitute a binding or final ruling that the LGAO contribution from Orange County was invalid, and recommended that Florida Housing enter a final order dismissing Amelia Court's petition and awarding funding to Hawthorne Park. Florida Housing's Board of Directors adopted the Recommended Order as its Final Order on June 21, 2019.

Amelia Court appealed this Final Order to the Fifth District Court of Appeal. To date, that case remains pending.

Agreement

In order to avoid the time, expense, and uncertainty of litigation, and with neither party confessing error, the parties agree to the following:

1. Amelia Court will be awarded funding under RFA 2018-112, subject to all applicable rules and provisions of the RFA.
2. The funding of Amelia Court will not rescind or otherwise negatively impact the funding awarded to any other application in RFA 2018-112.
3. The parties understand and agree that each side shall be responsible for the payment of its own attorney's fees and costs and, subject to the terms of this agreement, additionally agree to waive any right to further action on the matters addressed herein, unless necessary to enforce the terms of a Final Order adopting the terms of this Settlement Agreement.

4. Upon issuance of a Final Order adopting the terms of this Settlement Agreement, Amelia Court agrees to timely dismiss with prejudice its appeal of Florida Housing's Final Order to the Fifth District Court of Appeal in Case No. 5D19-1934. Amelia Court also agrees to drop any and all challenges to Hawthorne Park's application no. 2018-123C and to timely voluntarily dismiss the Circuit Court Case No. 2018-CA-12227-O pending in the Circuit Court of the Ninth Judicial Circuit for Orange County. Failure to do any and all of these things will result in the funding award being rescinded.

5. This Settlement Agreement is subject to approval of Florida Housing's Board of Directors. If the Board does not approve this Settlement Agreement, no Final Order will be issued, and this Settlement Agreement shall be null and void as if it were never executed.

6. The undersigned attorneys represent that they have the authority to execute this Settlement Agreement on behalf of their respective clients.

Executed this 19th day of November, 2019.



Chris McGuire
Assistant General Counsel
Florida Housing Finance Corporation
Florida Bar No. 0622303
Chris.McGuire@floridahousing.org


11/18/2019

M. Christopher Bryant
Oertel, Fernandez, Bryant &
Atkinson, P.A.
Florida Bar No. 434450
cbryant@ohfc.com