

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

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FLORIDA HOUSING  
FINANCE CORPORATION

TWC THIRTY-FOUR, LTD.  
(WESLEYAN),

Petitioner,

v.

FHFC CASE NO.: 2002-0046  
App No.: 02-115C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

\_\_\_\_\_ /

**FINAL ORDER**

This cause came before the Board of Directors of the Florida Housing Finance Corporation ("Board") for consideration and final agency action on October 10, 2002. On or before April 15, 2002, Petitioner submitted its Application to Florida Housing Finance Corporation ("Florida Housing") to compete for an allocation of housing tax credits. Petitioner timely filed a Petition for Review, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, (the "Petition") challenging Florida Housing's scoring on parts of the Application. Florida Housing reviewed the Petition pursuant to Section 120.569(c), Florida Statutes. An informal hearing was held in this case on September 17, 2002, in Tallahassee, Florida, before Florida Housing appointed Hearing Officer, Christopher H. Bentley. Petitioner and Respondent timely filed a Joint Proposed Recommended Order.

After consideration of the evidence, arguments, testimony presented at hearing, and the Proposed Recommended Orders, the Hearing Officer issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as "Exhibit A." The Hearing Officer

recommended Florida Housing enter a Final Order affirming the scoring of Petitioner's application and that Petitioner's application has met threshold.

The findings and conclusions of the Recommended Order are supported by competent substantial evidence.

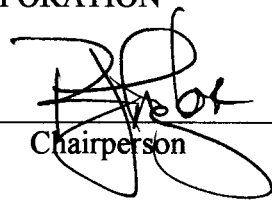
In accordance with the foregoing, it is hereby **ORDERED**:

The Hearing Officer's recommendation that a Final Order be entered affirming the scoring of Petitioner's application and that Petitioner's application has met threshold is approved and accepted as the appropriate disposition of this case. Accordingly, Petitioner has met the threshold requirements.

DONE and ORDERED this 10<sup>th</sup> day of October, 2002.

FLORIDA HOUSING FINANCE  
CORPORATION

By: \_\_\_\_\_

  
Chairperson

**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, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, 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.**

Copies to:

Matthew A. Sirmans  
Assistant General Counsel  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Chris Bowers  
TWC Thirty-Four, LTd.  
655 North Franklin Street, Suite 2200  
Tampa, Florida 32602

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**TWC THIRTY-FOUR, LTD.,**

**Petitioner,**

v.

**FHFC CASE NO. 2002-0046  
Application No. 2002-115C**

**FLORIDA HOUSING FINANCE  
CORPORATION,**

**Respondent.**

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**ORDER**


Pursuant to notice and Sections 120.569 and 120.57(2), Florida Statutes, an informal hearing was held before the undersigned hearing officer on September 17, 2002. At the time of hearing, the parties submitted a Joint Proposed Recommended Order, which is attached hereto as Exhibit A. In essence, the parties have agreed that the financing commitment provided by Petitioner is "firm" and therefore meets the threshold requirement of providing a firm financial commitment.

Based upon this agreement and the Joint Proposed Recommended Order, there is no need for additional Findings of Fact and/or Conclusions of Law, and the issues raised in the Petition are moot. Accordingly, no Findings of Fact or Conclusions of Law are made herein. The parties' jointly executed Joint Proposed Recommended Order, is attached.

**EXHIBIT**

A

Respectfully submitted and entered this  20  day of October, 2002.

  
CHRIS H. BENTLEY  
Hearing Officer for Florida Housing  
Finance Corporation  
Rose, Sundstrom & Bentley, LLP  
2548 Blirstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877-6555

Copies furnished to:

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**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

TWC THIRTY-FOUR, LTD.  
(WESLEYAN),

Petitioner,

v.

FHFC CASE NO.: 2002-0046  
App No.: 02-115C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

**JOINT PROPOSED RECOMMENDED ORDER**

TWC THIRTY-FOUR, LTD. ("PETITIONER") AND FLORIDA HOUSING FINANCE CORPORATION ("FLORIDA HOUSING") hereby present the following Joint Proposed Recommended Order.

**APPEARANCES**

The representatives for the parties at the hearing are as follows:

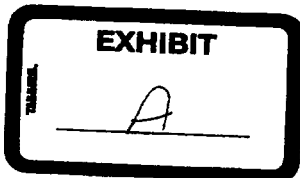
**For Petitioner:**

Chris Bowers  
TWC Thirty-Four, Ltd.  
655 North Franklin Street, Suite 2200  
Tampa, Florida 32602

**For Respondent:**

Matthew Sirmans  
Florida Housing Finance Corporation  
227 N. Bronough Street, Ste. 5000  
Tallahassee, Florida 32301-1329

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION



*41-#1hrq*

### **PRELIMINARY STATEMENT**

On or before April 15, 2002, Petitioner submitted an application to Florida Housing for Housing Tax Credits in the 2002 Universal Cycle program. On July 22, 2002, Florida Housing notified Petitioner of the results of the scoring of Petitioner's application and provided Petitioner with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. On August 13, 2002, Petitioner filed its Election of Rights. On August 13, 2002, Petitioner timely filed its Petition for Review. Petitioner appealed its score and seeks a determination that its application has met threshold. The parties agree that Petitioner has met threshold.

### **FINDINGS OF FACT**

1. Florida Housing is a public corporation, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in Florida. (Section 420.504, Florida Statutes).
2. Pursuant to the state statutory mandates, Florida Housing has established a competitive application process that attempts to ensure the most effective use of available funds.
3. On or before April 15, 2002, Petitioner filed an application with Florida Housing to obtain a construction loan to build affordable multi-family housing. (Petition). During this process, an applicant may be allowed to correct, or cure, a defect in its application. Petitioner in fact, provided a proper and timely cure to its application.
4. On May 13, 2002, Florida Housing completed its preliminary review of Petitioner's application and awarded a preliminary score of 71 out of a possible 71 points.
5. As a result of a Notice of Possible Scoring Error (NOPSE), Florida Housing determined that Petitioner failed to meet threshold due to deficiencies related to Item 3T, Part IV, Section A, Exhibit 34 (the verification form), and Item 4T, Part V, sources versus uses.
6. In response to the NOPSE and Florida Housing's preliminary review, Petitioner submitted a corrected Verification of Status of Site Plan Approval, Local Government Verification that Development is Consistent with Zoning and Land Use Regulations and Local Government Verification of Contribution Loan form.
7. Florida Housing scored the application pursuant to Part V, Chapter 420, Florida Statutes and Rule 67-48, Florida Administrative Code.
8. After Florida Housing scored all applications, Florida Housing advised Petitioner by a letter dated July 22, 2002, of the results of the scoring of Petitioner's

application. Florida Housing accepted all of Petitioner's cures and awarded a Final Score of 71 out of a possible 71 points. Florida Housing, however, inadvertently failed to amend its Universal Scoring Sheet, which still indicated that a threshold failure existed concerning Item 3T, Part IV, Section A, Exhibit 34 (the verification form), and Item 4T, Part V, sources versus uses.

9. Petitioner appealed the determination in the Universal Scoring Summary that it failed to meet the threshold requirements.

10. Petitioner asserts, and Florida Housing agrees that Petitioner has satisfied the threshold requirements.

### CONCLUSIONS OF LAW

11. Florida Housing is a public corporation organized under Chapter 420, F.S. to provide and promote the public welfare by administering the governmental function of financing and refinancing homes and related facilities in Florida to provide decent, safe and affordable housing to persons and families of low and moderate income levels. In accordance with its statutory mandate, Florida Housing has established by rule, an application process to evaluate, score, and competitively rank all those who apply for funding through the Housing Credit programs. Section 420.507 et. Seq., F.S. and Section 420.5089, et. Seq.

12. The Universal Cycle is a competitively funding application process, pursuant to Section 67-48, F.A.C.

13. Applications for funding through the Housing Credit program are included in the 2002 Universal Cycle, and are governed by Section 67-48, F.A.C.

14. Florida Housing received requests from applicants for Housing Credit allocations in the 2002 Universal Cycle.

15. Section 67-48.004(6), F.A.C., allows for the submission of additional documentation to address issues that result in a score of less than the maximum score available in the 2002 Universal Cycle. This process is known as the "cure" period.

16. Section 67-48.004(7), F.A.C. allows for the submission of comments to issues created by the revised documents submitted during the "cure" period.

17. Pursuant to Section 67-48.004(9), F.A.C., Florida Housing prepares the final score based upon information submitted in the entire application process. Deficiencies in the threshold requirements will result in the rejection of an application. Florida Housing notifies all applicants of their final score in the Universal Scoring Summary.



18. Florida Housing's failure to amend its Universal Scoring Summary Sheet was in error.

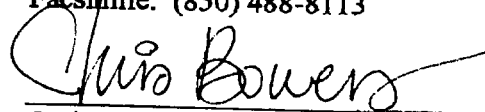
**RECOMMENDATION**

Based on the Findings of Fact and Conclusions of Law stated above, Florida Housing recommends the Hearing Officer enter a Recommended Order affirming the scoring of Petitioner's application and that Petitioner's application has met threshold.

DATED this 17 day of September, 2002 in Tallahassee, Florida.



Matthew Sirmans  
Florida Bar No.: 0961973  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Telephone: (850) 488-4197  
Facsimile: (850) 488-8113



Chris Bowers  
TWC Thirty-Four, LTd.  
655 North Franklin Street, Suite 2200  
Tampa, Florida 32602  
Telephone: (813) 281-8888  
Facsimile: (913) 281-5657

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Regular U. S. Mail to Chris Bowers, TWC Thirty-Four, Ltd., 655 North Franklin Street, Suite 2200, Tampa, FL 32602, and via hand delivery to CHRIS H BOWERS, Hearing Officer, this 17 of September, 2002.



\_\_\_\_\_  
Matthew Sirmans  
Florida Housing Finance Corporation

## **NOTICE OF RIGHT TO SUBMIT WRITTEN ARGUMENT**

All parties have the right to submit written arguments in response to a Recommended Order for consideration by the Board. Any written argument should be typed, double-spaced with margins no less than one (1) inch, in either Times New Roman 14-point or Courier New 12-point font, and may not exceed five (5) pages. Written arguments must be filed with Florida Housing's Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301-1329, no later than 5:00 p.m. on Monday, October 7, 2002. Submission by facsimile will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to Recommended Orders.