

**STATE OF FLORIDA**  
**FLORIDA HOUSING FINANCE CORPORATION**

Walton County Development Corporation  
Petitioner,

vs.

Florida Housing Finance Corp.,  
Respondent.

FHFC Case No. 2002-~~719H~~  
Application No. 2002-719H

2002  
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FLORIDA HOUSING  
FINANCE CORPORATION

RECEIVED

**PETITION FOR ADMINISTRATIVE HEARING**  
**PURSUANT TO SECTIONS 120.569 AND 120.57, FLORIDA STATUTES**

Petitioner, Walton County Development Corporation (hereafter "Walton"), by and through its undersigned counsel, hereby files this Petition for Administrative Hearing Pursuant to Sections 120.569 and 120.57, Florida Statutes, and in support thereof, states the following:

1. Petitioner, Walton, is a Florida corporation in the business of developing affordable residential housing in Florida. Walton's office is located at 259 Center Avenue, Santa Rosa, FL 32459, telephone (850)231-3816. Walton submitted an Application seeking funding in the 2002 HOME Rental Application Cycle for the Shady Lane development, which is a proposed 45-unit multiplex development to be located in the City of DeFuniak Springs, Florida.

2. Respondent is the Florida Housing Finance Corporation ("FHFC"), 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, telephone (850) 488-4197. This Petition concerns the funding awards for the 2002 HOME Rental Application funding cycle.

3. Petitioner's attorneys in this matter are Jon C. Moyle, Jr., Esq., and Cathy M. Sellers, Esq., Moyle Flanigan Katz Raymond & Sheehan, P.A., 118 North Gadsden Street, Tallahassee, FL 32301, telephone (850) 681-3828. All papers to be served in this proceeding are to be directed to Mr. Moyle and Ms. Sellers at the above-listed address.

4. Walton received notice of the FHFC's decision regarding the 2002 HOME Rental funding awards through the 2002 HOME Rental Scoring Summary, which was attached to a July 22, 2002 memorandum from Kerrey Carpenter entitled "Final Scores and Notice of Rights."

**Statement of Walton's Substantial Interests in this Proceeding**

5. Walton's substantial interests are affected by the FHFC's 2002 HOME Rental Application Cycle funding award determinations. Walton is a developer of affordable housing in Florida that submitted a HOME Rental Application for the 45-unit multiplex Shady Lane development as part of the 2002 funding cycle. Walton's application was competitively scored against other applications also seeking funding in the 2002 HOME Rental Application Cycle.

6. Under the FHFC's Final Stage dated July 22, 2002 (attached as Exhibit A), Walton's Application received a score of 83.55 points, which is sufficient for Walton to receive funding under the 2002 HOME Rental Cycle. However, Walton's Application was determined not have met the threshold requirement in Part V, Section C of the Application that if the funding commitment for the development is not from a regulated Financial Institution, a copy of FHFC's Letter of Receipt and Acceptance must be included in the Application.

7. As a result of the FHFC's determination that Walton did not meet this

threshold requirement Walton was rendered ineligible to receive funding for the 2002 HOME Rental Application Cycle. The FHFC's determination in this regard negatively affected Walton's competitive position in the 2002 HOME Rental Application cycle, thereby causing Walton to suffer a direct, immediate injury-in-fact to its substantial interests. Accordingly, Walton clearly has standing under Agrico Chemical Co. v. Dept. of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), to challenge its final score in this proceeding.

8. Further, because Walton is an "Applicant" for the 2002 HOME Rental Application cycle funding within the meaning of Chapter 67-48.002, F.A.C., Walton is a "party" pursuant to Section 120.52(12), F.S., and thus is entitled by Sections 120.569, and 120.57, F.S., and by FHFC Rule to an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, concerning Walton's eligibility to receive funding for the 2002 HOME Rental Application Cycle.

**Statement of Facts**  
**Entitling Walton to Relief**

9. Walton alleges the following facts that entitle it to relief in this proceeding:

(a) As previously stated, Part V, Section C of the 2002 HOME Rental Application requires that, if the funding commitment for the proposed development project is not from a regulated Financial Institution, a copy of the FHFC's Letter of Receipt and Acceptance (which indicates the FHFC's acceptance of the funding entity's financial statements and other specified financial documentation) must be included in the Application. (FHFC Letter attached as Exhibit B). Walton's financing is being obtained from Midland Mortgage Investment Company and the Midland Affordable Housing

Group Trust, which submitted their financial statements and other documentation to FHFC and received a Letter of Receipt and Acceptance from FHFC. However, a copy of the FHFC's Letter of Receipt and Acceptance inadvertently was omitted from Walton's Application and Cure. Thus, the FHFC determined that Walton did not meet the Application's threshold requirement in this regard.

(b) Walton submits that because the inadvertent omission of the FHFC's own Letter of Receipt and Acceptance does not have any substantive effect on the ability of Midland Mortgage Investment Company and the Midland Affordable Housing Group Trust to finance Walton's proposed development, the FHFC should not penalize Walton for the inadvertent and insignificant omission of the agency's letter. The FHFC fully evaluated Midland's financial statements and other documentation which were submitted as required by the Application instructions, and accepted Midland as a lender for the Shady Lane development project. Walton's omission of the FHFC Letter of Receipt and Acceptance clearly does not have any effect on the FHFC's determination that Midland is qualified to act as the lender for the Shady Lane development.

(c) Further, Walton's omission of the FHFC Letter of Receipt and Acceptance from its Application and Cure does not substantively affect any other part of Walton's Application, which, as noted above, would qualify for funding for the 2002 HOME Rental Cycle but for the omission of this Letter. Walton's omission of the FHFC's Letter clearly is a nonsubstantive error that has no bearing on Walton's ability to successfully finance and develop the Shady Lane project – particularly given that the FHFC has determined that Walton is otherwise fully qualified to receive funding under the 2002 HOME Rental Cycle, and that Letter is one the FHFC itself wrote and to which it has full

and ready access in its own agency files.

(d) It is important to note that for the 2002 HOME Rental Application Cycle, the FHFC repealed provisions in the application form that provided for the assessment of penalty points for nonsubstantive, insignificant errors such as the error at issue in this proceeding. The effect of the FHFC's disqualification of Walton on the sole basis of what obviously is a nonsubstantive error (the accidental omission of a copy of the agency's own letter) arguably is tantamount to de facto resurrection of the repealed penalty system and application of that system to Walton's Application in the absence of any rule authority to do so.

(e) For these reasons, the FHFC should reevaluate Walton's Application for the Shady Lane development, determine that Walton meets all Application requirements at issue, and award Walton funding for 2002 HOME Rental Cycle.

#### **Rules and Statutes Entitling Walton to Relief**

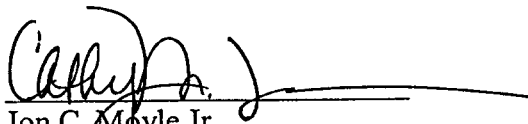
10. The rules and statutes that entitle Walton to relief in this proceeding are Sections 120.569 and 120.57, F.S., Part V of Section 420, F.S., Chapter 67-48, F.A.C., and Part V, Section C of the 2002 HOME Rental Application adopted by FHFC rule.

#### **Relief Requested**

WHEREFORE, Petitioner, Walton County Development Corporation respectfully requests the FHFC to grant its request for an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., to assign a Hearing Officer who will conduct the hearing; and, following the hearing, to revise Walton's final score and ranking as

discussed herein, and to award Walton funding for the Shady Lane development for the  
2002 HOME Rental Cycle.

Filed this 13<sup>th</sup> day of August, 2002.



Jon C. Moyle Jr.

Florida Bar No. 0727016

Cathy M. Sellers'

Florida Bar No. 0784958

Moyle Flanigan Katz Raymond & Sheehan, P.A.

118 North Gadsden Street

Tallahassee, FL 32301

Telephone (850) 681-3828

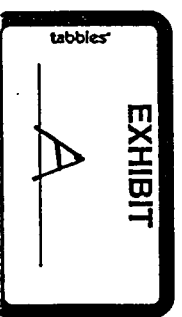
Telefax (850) 681-8788

Attorneys for Walton Housing Partners, Ltd...

**Florida Housing Finance Corporation  
HOME Rental Application Spreadsheet  
Subject to further validation and verification**

File No.	Development Name	Total Development Cost	Developer	County	Non-Entitlement Area	FP/ NP	Applied as a CHDO	Total Units	HOME Request Amount	Currently Local Gov. Issued Bonds	Preliminary		NOPSE		FINAL	
											Score	Threshold Met	Score	Threshold Met	Score	Threshold Met
2002-701H	Villa Salon, Inc.	\$5,150,437.00	Catholic Charities of the Diocese of Palm Beach	St. Lucie	Y	NP	N	50	\$804,934	N	86.00	N	86.00	N	86.00	N
2002-702H	Villas De Mallorca	\$23,120,510.00	Royal Castle Builders, LLC National Development of America, LLC	Broward	N	FP	N	250	\$1,800,000	N	61.00	N	61.00	N	61.00	N
2002-703H	Cypress Pointe	\$5,536,180.00	National Development of America, LLC	Bradford	Y	NP	Y	72	\$4,100,000	N	81.40	N	81.40	N	81.50	Y
2002-704H	Auburn Woods	\$5,900,000.00	National Development of America, LLC	Baker	Y	NP	Y	72	\$4,300,000	N	81.05	N	81.05	N	81.05	Y
2002-705H	Pinnacle Grove	\$19,517,568.00	Pinnacle Housing Group, Inc. Florida Low Income Housing Associates, Inc.	Indian River	Y	FP	N	234	\$3,000,000	N	84.00	N	79.00	N	81.00	Y
2002-706H	Magnolia Village	\$3,561,273.00	Florida Low Income Housing Associates, Inc.	Citrus	Y	NP	Y	42	\$3,000,000	N	82.65	N	82.65	N	82.65	Y
2002-707H	Magic Lake Villas	\$6,444,763.00	Associates, Inc.	Marion	Y	NP	Y	72	\$5,000,000	N	84.00	N	84.00	N	84.00	N
2002-708H	The Villas at Lake Smart	\$18,273,991.00	The Carlisle Group, Inc.	Polk	N	NP	N	220	\$2,000,000	N	58.00	N	58.00	N	56.95	N
2002-709H	Santa Clara Apartments	\$19,331,903.00	The Carlisle Group, Inc.	Miami-Dade	N	FP	N	208	\$2,500,000	N	60.45	N	60.45	N	60.45	Y
2002-710H	Old Cutler Village Apartments	\$27,387,978.00	Pinnacle Housing Group, Inc.	Miami-Dade	N	FP	N	288	\$2,500,000	N	61.00	Y	61.00	Y	61.00	Y
2002-711H	Brookside Apartments	\$12,806,682.00	Sandspur Housing Partners, Ltd.	Alachua	Y	FP	N	176	\$2,600,000	Y	86.00	Y	86.00	Y	86.00	Y
2002-712H	Lakeside Apartments	\$13,500,000.00	LCA Development II, Inc.	Orange	N	NP	Y	297	\$7,000,000	*	52.00	N	52.00	N	52.00	N
2002-713H	Washington Apartments	\$20,813,711.00	LCA Development II, Inc.	Orange	N	NP	Y	523	\$10,450,000	*	52.00	N	52.00	N	52.00	N
2002-714H	Regatta Bay Apartments - Briarley Bay Apartments - Phase III	\$27,844,318.00	Sandspur Housing Partners, Ltd.	Osceola	Y	FP	N	344	\$7,000,000	Y	82.00	Y	82.00	Y	86.00	Y
2002-715H	Moultrie Village Apartments	\$9,743,318.11	The Richman Group of Florida LCA Development II, Inc.	Collier	Y	FP	N	80	\$6,250,000	N	81.00	N	81.00	N	81.55	Y
2002-716H	Griffin Park	\$18,844,184.00	Housing for Rural, Inc.	St. Johns	Y	FP	N	132	\$2,000,000	Y	86.00	Y	86.00	Y	86.00	Y
2002-717H	Woodlawn Terrace	\$6,359,018.00	Heritage Affordable Development, Inc.	St. Johns	Y	NP	Y	76	\$4,555,000	N	86.00	N	85.00	N	86.00	Y
2002-719H	Shady Lane	\$3,735,892.00	Housing for Rural, Inc.	Walton	Y	NP	Y	45	\$3,650,000	N	78.94	N	78.94	N	83.55	N
2002-720H	Azalea Apartments	\$3,550,840.00	Community Housing Partners Corporation	Hardee	Y	NP	Y	40	\$2,325,000	N	81.00	N	81.00	N	86.00	Y
2002-721H	Normandy Apartments	\$4,395,000.00	Florida Non-Profit Housing, Inc. The Center for Affordable Housing, Inc.	Duval	N	NP	Y	100	\$2,035,000	N	61.00	N	61.00	N	61.00	Y
2002-722H	Whispering Pines Apartments	\$8,496,000.00	Regency Development Associates, Inc., CHP Housing Development, LLC, and The Germaine Company, Inc.	Indian River	Y	NP	Y	61	\$5,996,000	N	79.00	N	79.00	N	86.00	Y
2002-723H	Oakwood Apartments	\$2,667,100.00	Regency Development Associates, Inc., CHP Housing Development, LLC, and The Germaine Company, Inc.	Lake	Y	NP	Y	72	\$1,011,100	N	64.00	N	64.00	N	69.00	N
2002-724H	La Mirada Gardens, Ltd.	\$12,893,673.00	Manatee	Manatee	Y	FP	N	144	\$800,000	Y	80.00	N	80.00	N	85.00	Y

\* Unable to determine based on commitments provided.



EXHIBIT

tabbles

B



May 20, 2002

Ms. Kathleen Mott  
Muni Mae Midland, LLC  
33 North Garden Ave., Suite 1200  
Clearwater, Florida 33755

Jeb Bush  
Governor

Robert Jay Taylor  
Chairman

Orlando J. Cabrera  
Vice Chairman

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**Letter of Receipt and Acceptance**

Dear Ms. Mott:

This letter is to acknowledge receipt and acceptance of financial information listed below for the purpose of the 2002 Universal Application and the HOME Rental Application.

Muni Mae Midland Construction Finance, LLC  
Midland Affordable Housing Group Trust  
Midland Mortgage Investment Corporation

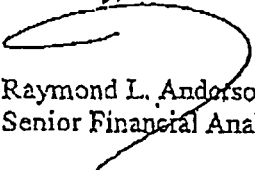
Annual Financial Statements	12/31/01
Annual Financial Statements	12/31/00

This acceptance in no way represents or purports to warrant the financial strength or stability of the lending institution by the Corporation. This merely alleviates the necessity of submitting your financial statements with the application package as required in the instructions on Form 4 of the application.

If you will be issuing multiple commitment letters, and there are not sufficient resources to fund all the commitments, all commitments will not be scored firm unless prioritized. If commitments are prioritized, resources will be applied to the highest prioritized commitment then move down the priority list until funds are exhausted. For the purpose of scoring the financial forms within the application, funds available for loans will be measured by liquid assets. Liquid assets include, but are not limited to, cash, marketable equity securities and account receivable earned in the normal course of the entity's business.

A copy of this Letter of Receipt and Acceptance must accompany each commitment letter submitted by your institution in the application during this cycle.

Sincerely,

  
Raymond L. Anderson, Jr.  
Senior Financial Analyst

MAY 21 2002