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August 23, 2017

Florida Housing Finance Corporation
Trey Price, Executive Director
Ken Reecy, Director of Multifamily Programs
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301

RE: Comments to RFA 2017-108 SAIL Bond Application

Dear Mr. Price and Mr. Reecy:

Thank you for the opportunity to comment on the upcoming 2017-2018 RFA's and specifically on the RFA-2017-108 SAIL/Bond cycle. To the extent that the subject matter also applies to the LITC RFA, consider the comments to be for both.

First, I want to compliment and support the use of the multiple RFA's that has allowed for a more focused funding effort. This process has been able to successfully fund small properties for group homes and disabled populations that could not compete against larger properties in more urban settings. It has also permitted the FHFC to serve a variety of demographic types.

In addition, you have begun to reduce cost by putting leveraging and TDC requirements and awarding more efficient transactions. Personally, I think this could be further tightened, but beginning to focus back on those issues is important to create more units rather than less.

Having said that, I believe some of the changes that are proposed and appear to be immediately implemented are taking away from what FHFC has worked hard to establish. These changes are moving FHFC further away from being a financier and policy maker/implementer and turning toward a co-developer.

There are several principal areas that these comments address from a general perspective:

- **Purpose and Mission of FHFC**
 - Focus on financing and production and being a good partner with the private sector
- **Developing Policy Driven RFA's**
 - Identify Policies and implement policy through the RFA process
- **Encouraging private Public Partnership**
 - The FHFC is not the deliverer of the product the developer is with the help of outside private partnership. Keep your role narrow but critical
- **Leveraging Federal and State Sources**
 - Ensure that the resources provided leverage significantly to allow more communities and tenants to access safe environments and housing for the longest possible term

General Comments:

Purpose and Mission of FHFC:

The creation and mission of housing finance agencies was to utilize federal resources to encourage the development of affordable housing product, both single and multifamily. Within that process, to develop public policies that would facilitate the partnership with the private sector. It was not to be the developer or take on developer type of activities. With the new CNA process the FHFC is moving further away from being the financier of affordable housing and more toward being a co-developer but without any of the long-term financial liability. It seems that Florida Housing has continued to move into areas that they do not have the level of expertise necessary to perform successfully. In addition, trying to solve for issues that the problem may not have been clearly identified.

Although it may be true that there are other HFA's nationally that are more active in the development process, they do not have near the volume of loans and credits that FHFC process. In addition, they do not have statewide sources of revenue regulated by the state at the levels Florida enjoys. The Codes and requirements in place do not need another layer of complexity or interpretation

This additional layer will add to the delay factor. The FHFC system is currently bogged down between the legal issues and the time of time it takes to go through a cycle is lengthy. For instance, there are properties "funded" in 2015 that have still not been able to move forward due these processes including legal. Decisions are not made quickly and provide for further delay both internally and externally. To believe that one new employee (proposed construction expert) will have the expertise and knowledge to jump into a new system and not further impede efficiency is not realistic under the best of circumstances.

Recommendation:

Florida Housing should secure its processes around their expertise, financial. Focus on leveraging resources, producing units through private public partnerships; ensure compliance and long-term viability of the projects through long-term affordability

Developing a Policy Driven RFA**Identification of the Cause of Additional Requirements:**

Where is the information demonstrating the issues that have led to these extreme changes? How many projects? How many changes? How significant? How many units have been impacted? How big of scope? Demonstration that this process will solve for the specific issue and that the cost of staff, lost projects, and anything else that might will justify the reaction.

Potential Unintended Consequences:

FHFC made the decision to prioritize older Section 8 properties through requirements like 1) Concrete 2) Earlier construction (pre-1986) and 3) Higher percentage of Rent Subsidies based on the greater number of Section 8 units.

These priorities created a preference for properties that could not be significantly changed for full disability create additional bathrooms, width of doors, or floor plans. The reaction at this point is to put forward restrictions that would prohibit these types of units to currently be rehabbed.

Each change should clearly identify the policy associated with that change and the expected results.

Does the fact that these previously rehabbed units would not have had the very desperately needed rehabilitation performed leaving the tenants without significant improvement to their health, safety and welfare overpower the alternative of no improvement at all due to the physical limitation of the property's construction?

New Requirement for one (1) bedroom Apartments:

What is the rationale or policy behind the requirement for four (4) one-bedroom apartments for Medium County and six (6) one-bedroom apartments for Large county properties? From a pure architectural and construction perspective, requiring a specific number of one-bedroom apartments is not based on market need (since it is being required across the board) nor does it consider the design needs of a specific project.

Recommendation:

Remove this requirement or provide guidance or information as to why this requirement was included

Credit Underwriting Process and Education

This has been my constant request for the past three years. The inconsistency between the various credit underwriters is nothing if not consistent. To be clear it this is not a complaint directed toward the underwriters but appears to be a variety of interpretations by the underwriters by lack of direction or inconsistent direction from FHFC. Determinations and processes made in one review can change 100% by another staff member or underwriters review. This is causing delays, additional cost, and provides interpretations sometimes inconsistent with best practices.

It is difficult for developers that depend on certainty to make economic decisions when evaluating properties to be submitted for funding. In addition, without certainty that one staff decision will be the same decision on the same set of facts, creates uncertainty and has the potential to have huge economic impact on proposed projects. When it occurs after submission it can make a previously viable project, non-viable.

Additionally, underwriters should not be given more and more responsibility with FHFC abdicating their role in policy making.

Recommendation:

Workshops should be held by FHFC, at a minimum annually, that allow for full disclosure on the process policies and the practical effects of the underwriting process. This will allow a continual education process for either those who have not had a project underwritten by FHFC Underwriters or those that wish to be brought up to speed on recent changes or interpretations prior to responding to an RFA.

Comments on Exhibit F "CNA Requirements"

Setting standards and requiring, once set, that there is mechanism to implement and ensure that those standards are met is important. The process described goes further. The new CNA process is a significant change for FHFC funding requirements and the process by which it is reviewed. A question is raised as to why such an extensive process that has been created for such a small percentage of the FHFC overall portfolio.

Scope of Work Determination:

The most problematic concept presented is that the Credit underwriter will be "determining the scope of work" when they do not have any financial obligation or participation in the project. It will be difficult to separate out the work proposed by those

who are ultimately financially and managerially responsible for the long-term success of the property and those that may have oversight responsibility.

The evaluation of a purchase of an older property by the developer comes with a studied look at the needs based on age and type of tenant. Owners of these properties have real money on the line as well as guarantees for the life of these properties. When looking at the long-time viability, second-guessing the need or amount of funds to be committed must come with the realistic expectations of maintenance of these properties as well as capital needs over a long period of time. The opportunity to recapitalize comes only with major new financing.

There is a model that can be used which is the same system that HUD has been doing for 223(f) and 221(d)4 for years with CNAs. HUD CNAs go beyond normal scopes and do 20-year reserve tables. They do not tell you what your scope should be, but they do highlight life safety, critical, non-critical and voluntary items. Also, their AEC (Architecture, Engineering, Comparison) which is just a plan and cost review is very totaled and typically is where component on scope and budget are addressed. I truly believe that you are underestimating the cost and time the CAN process is going to take. Why not piggy back or accept their analysis as they have significantly more staff and experience in these areas especially for preservation?

This is a complex and somewhat problematic role for FHFC to play.

Increased Requirements Beyond Current Federal, State and Local Building Codes including Accessibility, Fair Housing:

FHFC does not nor should it have the staffing or knowledge to put themselves in the middle of the state and federal codes and the interpretation by the local building officials. This is referencing not only the adopted building codes but the federal standards associated with accessibility, fair housing and any other layers of codes that impact the construction of multifamily housing. It really is not the best use of FHFCs time, effort and expertise.

In the field, during the construction, both prior to plan approval and after plan approval, changes are made to accommodate actual conditions. Even with the most structured construction project conditions change as walls are removed or the actual inspector may alter interpretations code and guidelines. These changes cannot be anticipated.

Based on the game of chance (lottery) that the Florida system still reverts to, it is not cost effective to perform the engineering test and analysis as well as completion of plans prior to submission.

Even your CNA providers and credit underwriting cannot predetermine specific aspects of a property. In most cases, the remaining Section 8 properties that are available for sale or rehabilitation are old enough to not have "original plans and specifications" available. If they did that does not guarantee that the building was constructed as plans indicate.

An unintended consequence of this effort is that a more experienced developer may choose not to participate in preservation or rehabilitation cycle due to the uncertainty and aggressiveness of this new requirement. This will be to the detriment of tenants currently living in deteriorating conditions.

But if this is the process that the FHFC has decided to move forward with **and is a priority of the Board**, more time and thought should be utilized.

To implement this new element in an extremely competitive program without testing this in a smaller setting is setting the process up for failure. Testing would go far beyond looking at one property with one underwriter and one CNA provider. This should be carried out with a team including the developer

Recommendation:

- 1. Delay the implementation of the expanded CNA process and test the proposed process thoroughly. Implement only if found to solve for identified issues.**
- 2. Review past applications and issues and identify the specific issue that is going to be resolved by the current actions.**
- 3. Review the past requirements and determine if they were realistic given the nature of preservation and rehabilitation**
- 4. Look at existing systems in place that are tried and true and piggyback or utilize the systems in place rather than reinventing the wheel.**

If you choose to move forward, take one previously approved rehabilitation transaction and give it to each of your CNA providers and to each of the approved credit underwriters and look at the different interpretations and requirements that are brought forward. Determine which are critical and then rewrite the requirements or thresholds to reflect the problematic opinions rendered.

Required Information -- Exhibit F 2(c-d)

The implementation of this aspect is very concerning. Each local government interprets and enforces building codes on a jurisdiction-by-jurisdiction basis, which is impacted by their staffing and experience. There appears to be a thought that somehow there is a coherent and consistent process in each local government. It demonstrates a lack of understanding of building officials, inspectors and local government capacity. Another factor is that the year in which a building was approved and built will impact the availability of historical information. Although your listing does indicate, "to the extent available" it is unrealistic to believe that the requested information will be available in each local government especially within an expedited time frame.

Has FHFC contacted each county statewide to check on the availability of this information and the process to access this information? By doing this you might find that it is not available or would require a public records request adding more time than anticipated.

Rather than to go into detail on the complexity of the code process in Florida I have attached a document to help you understand this process (at least on the surface) and why it might impact your thoughts on implementing this proposed change to the CNA process. (Attachment A). This only addresses the base codes (construction, electric, plumbing, engineering) and does not include the process involved in federally adopted accessibility codes or fair housing.

This is a complex system and should not be something that Florida Housing tries to change, master, or be responsible for understanding. As you will also see it is a multi-disciplinary code body and one person in your shop will not have the experience based on disciplines or statewide knowledge to fulfill this role.

Recommendation:

FHFC should not go beyond requiring that all properties will meet codes and standards based on their agreed upon activities. In addition, mandate that all safety, health and welfare violations be addressed in a satisfactory manner.

Timeline for each stage:

Although a flow chart is submitted, I do not see a projected timeline for each stage of the CNA process, which would be extremely beneficial to determine that amount of time, anticipated by FHFC to move through the entire process.

Recommendation:

Provide a timeline associated with each stage of this proposed CNA process

Clarification Needed:

Accessibility Features:

Reinforced walls in every unit bathroom c. (2)

This indicates that 100% of all units must have this reinforced wall requirement, which appears to go beyond what the code currently requires or it would not be called out separately. Is this for new construction and rehabilitation? It is unclear and will clearly add cost into the development Rehabilitation properties appear to be required to have all units partially accessible

Residence Programs:

24-hour support for both elderly and ALF (page 41)

This appears to be overkill for properties that are not ALF. I believe it could create a liability for the property, but if 800 numbers were acceptable, it would probably than would not add any cost to implement. Despite what the facts are associated with the requirement are the bottom-line is that this should not be applied to properties that are not ALF properties.

Provide an "other" option-- on page 43

It is possible that the management company may have a better idea for a tenant program that is more responsive to their tenant base. It can still be in the LURA and just state it must be documentable.

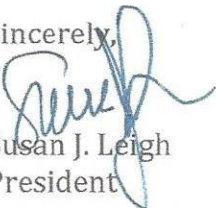
In closing, I would just want to say it is important not to get off track and focus on what the mission of the FHFC is and allow the outside systems that surround the construction and development of affordable housing focus on what they do well.

To be clear, the CNA process should immediately be withdrawn from the upcoming RFA's until more time can be spent on reviewing and understanding the impact to the extent it is implemented.

I apologize for the length of these comments, but I think it is important to articulate these issues and provide input to this process. Again, there is so much that has been improved in the overall process and there is no intent to take anything away from that progress. New ideas take time to make sure that they achieve the desired goal

Thank you for allowing comments to this process.

Sincerely,



Susan J. Leigh
President

Attachment A:

This information was taken from various online websites concerning The Florida Building Code is only meant to pass on general information about the code process, historically and currently in Florida as a matter of information.

Background on Building Codes in Florida:

The State of Florida first mandated statewide building codes during the 1970's at the beginning of the modern construction boom. The first law required all municipalities and counties to adopt and enforce one of the four state recognized model codes known as the "state minimum building codes". During the early 1990s a series of natural disaster's together with the increasing complexity of building construction regulation in vastly changed markets, led to a comprehensive review of the state building code system. The study revealed that the building code adoption and enforcement was inconsistent through the state and those local codes thought to be the strongest provided inadequate when tested by major events.

Building codes have been an ongoing issue in Florida since the 1950's. Everything from the Fire Code, adopting of specific model codes, electric, plumbing, to septic tanks were an ongoing discussion with commissions, legislation, adopting a patchwork of National Codes and the overlapping regulations which were difficult to manage on a case by case basis. Although there were many hallmarks of progress, 1996 brought an effort, which finally consolidated and identified a way to move forward.

In 1996 The Florida Building Codes Study Commission was established to evaluate the existing system and to recommend ways to improve or reform the system if they found it necessary. During the 16 months of study, what they found was a complex and confusing patchwork system of code and regulations developed amended administer and enforced differently by more than 400 local jurisdictions and state agencies with a variety of building code responsibilities. It became clear that Florida needed a single statewide building code system.

The Florida Building Code was authorized by the 1998 Florida Legislature to be the sole document incorporating all using standards adopted by all enforcement agencies and state agencies that license different types of facilities. This code was developed and was to be updated and maintained by a state commission whose goal the law directs to provide consistency of standards through the state and full accessibility to information on the standards. The law allows for differences in the standards in different locales based on compelling differences in physical conditions. However, it established procedures for administration of the code at all levels that will constrain unwarranted differences and ensure the availability of information on local differences to all parties through the state and nation.

The law established the Florida Building Commission as the body, which is responsible for the development of the Code and the other elements of the system, which support its implementation. The Commission has 23 members representing Engineers, Architects, contractors, Building Owners and Insurers, State and Local Government and Person with Disabilities. The Chairman is appointed by and serves at the pleasure of the Governor.

The single statewide Code is the heart of the new building code system but it is just one component of an integrated approach to improving the safety and efficacy of the build environment in Florida. In addition to the code, a networked education and training system and a uniform system for the approval of products statewide were established for the first time. Also, procedures are established by law for appealing the validity of locally adopted amendments to the code and local interpretations of the code to the state Commission and for obtaining binding interpretations of the Code from the Commission. The purpose of these new systems and procedures was to general providing consistency in requirements through the state.

The Florida Building Commission updates the Florida Building Code every three years. A new addition is set to go into effect in December 2017. They may amend the code once a year to incorporate interpretation and update standards upon finding that delaying the application of the amendment would be contrary to health safety and welfare of the public or the amendment provides an economic advantage to the consumer.

Local governments may amend the code no more than one each six months. However, any local amendment must address a unique local condition and be more stringent than the Florida Building Code.

Interpretations of the Florida Building Code will be made by the local government plans examiner during the plan review process and by the local government-building inspector during the construction process. Any disagreement regarding the interpretation will be resolved by first the building official and then by a local board of appeal and finally by an appeal to the Florida building Commission.

This is an ongoing process and codes and interpretations change constantly. There is also a certain amount of flexibility in interpretation and implementation locally, which would impact the ability to carry out specific directives from an outside scope of work.