

STATE OF FLORIDA

FLORIDA HOUSING FINANCE CORPORATION

SAS Fountains at Pershing Park, Ltd.,
a Florida limited partnership

Petitioner,

v.

DOAH Case No.: 10-8219
FHFC Case No.: 2010-028GA

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 February 26, 2010. APD Housing Partners 20, LP, ("Petitioner") timely submitted its 2009 Universal Cycle Application ("Application") to Florida Housing Finance Corporation ("Florida Housing") to compete for an allocation of competitive housing credits under the Housing Credit (HC) Program administered by Florida Housing. Petitioner timely filed its Petition for Review, pursuant to Sections 120.569 and 120.57(1), Florida Statutes, (the "Petition") challenging Florida Housing's scoring of its Application. Florida Housing reviewed the Petition pursuant to Section 120.569(2)(c), Florida Statutes, and determined that the

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M Harrell / DATE: 10/22/10

Petition raised disputed issues of material fact. A formal hearing was held in this case on September 13-14, 2010, in Tallahassee, Florida, before Administrative Law Judge W. David Watkins, at the Division of Administrative Hearings. The timing of the hearing and deadlines for post-hearing submittals were expedited in recognition of the Exchange program expenditure requirements.

Petitioner and Respondent timely filed Proposed Recommended Orders.

After consideration of the evidence and arguments presented at hearing, and the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as "Exhibit A." The Hearing Officer found and concluded that Petitioner met the threshold requirements for developer experience, recommended that Florida Housing enter a Final Order directing Petitioner to proceed to closing on Petitioner's requested tax credit and Exchange Program financing.

The Board's previous decision was based on a Credit Underwriting Report prepared by First Housing Development Corporation, dated July 16, 2010. That Credit Underwriting Report, in addition to disallowing the Developer Experience, also found that the proposed Guarantors did not have sufficient resources to back the guarantees.

The parties have requested that the July 16, 2010, Credit Underwriting be approved for use in closing on the requested financing, with the following changes:

Mitigating Factors Item 1, (Page A-6) AND Special Conditions Item 2, (Page B-1)

would be deleted and replaced with:

Operating Deficit Guarantee of FL Tax Holdings, Ltd., Michael J. Sciarrino and Michael J. Sciarrino Revocable Trust, in the amount of nine (9) months of operating expenses (inclusive of replacement reserves) and nine (9) months of debt service, or \$540,081, for the full 15 years of the compliance period.

All other terms and conditions of the Final Credit Underwriting Report dated July 16, 2010 would remain the same, except that any negative recommendations related to the Developer and the negative recommendations for approval of the TCEP loan or Housing Credit allocation would be disregarded.

Upon consideration of the foregoing, the Board enters this as its Final Order in this matter.

RULING ON THE RECOMMENDED ORDER

1. The findings of fact set out in the Recommended Order are supported by competent substantial evidence.

2. The conclusions of law of the Recommended Order are supported by competent substantial evidence.

The Recommendation in the Recommended Order is consistent with Florida Housing's rules and applicable law.

ORDER

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

The findings of fact of the Recommended Order are adopted as Florida Housing's findings of fact and incorporated by reference as though fully set forth in this Order.

The conclusions of law of the Recommended Order are adopted as Florida Housing's conclusions of law and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED that Petitioner, SAS Fountains at Pershing Park, Ltd; proceed to closing on its requested tax credit and Exchange Program financing, based on the July 16, 2010, Credit Underwriting Report considered by the Board on July 30, 2010, with the following changes:

1. Any negative recommendations related to the Developer and negative recommendations for the Exchange funding or Housing Credit allocation are hereby deleted and disregarded and;

2. Mitigating Factors Item 1, (Page A-6) AND Special Conditions Item 2, (Page B-1) of the Credit Underwriting Report are hereby deleted and replaced with:

Operating Deficit Guarantee of FL Tax Holdings, Ltd., Michael J. Sciarrino and Michael J. Sciarrino Revocable Trust, in the amount of nine (9) months of operating expenses (inclusive of replacement reserves) and nine (9) months of debt service, or \$540,081, for the full 15 years of the compliance period.”

No other closing terms, conditions, and requirements applicable to other 2009 Tax Credit projects with Exchange funding and which are applicable to SAS Fountains at Pershing Park, Ltd.'s closing are waived.

DONE and ORDERED this 22nd day of October, 2010.



FLORIDA HOUSING FINANCE CORPORATION

By: Stuart Schraga
Chair

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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.