

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FLORIDA HOUSING FINANCE CORPORATION,

Petitioner,

vs.

DOAH CASE NO.: 12-2905
FHFC CASE NO.: 2012-031UC
Application Nos: 2011-070C,
2011-076C and 2011-077C

FLAGLER SQUARE APTS, LTD.,
FLAGLER SQUARE DEVELOPERS, LLC,
BISCAYNE RIVER VILLAGE PHASE I, LTD.,
MM BISCAYNE RIVER VILLAGE I, LLC,
BISCAYNE RIVER VILLAGE PHASE II, LTD.,
MM BISCAYNE RIVER VILLAGE II, LLC,
GONZALO DERAMON AND MICHAEL COX,

Respondents,

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation ("Board") for consideration and final agency action on December 7, 2012. The matter before the Board is a Consent Agreement under section 120.57(4), Florida Statutes. The Board has jurisdiction over this matter. After reviewing the Record and being otherwise fully advised in these proceedings, the Board finds:

On or about December 6, 2011, Respondents submitted or caused to be submitted Applications numbered 2011-070C, 2011-076C, and 2011-077C, for

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HOUSING FINANCE CORPORATION

Della M. Farrell /DATE: 12/7/2012

projects known as Flagler Square Apartments, Biscayne River Village I, and Biscayne River Village II, respectively (“the Applications”). Each Application sought an allocation of federal Low Income Housing Tax Credits (“tax credits”) from the Petitioner, through the 2011 Universal Application Cycle, which is explicated more completely below. None of the referenced Applications were awarded tax credits in the 2011 Universal Application Cycle.

On June 6, 2012, Florida Housing filed an Administrative Complaint, which it amended twice, alleging in its Second Amended Administrative Complaint, filed on September 5, 2012 that Respondents had, by including the two Downtown Miami Grocery (“DMG”) stores in the referenced Applications in order to gain tie-breaker points for proximity to services, committed fraud or misrepresentation.

During discovery in preparation for a DOAH hearing, documentary evidence and uncontroverted witness testimony established that on December 6, 2011, both of the DMG locations (1) were retail establishments open to the public, with no membership fee; (2) exceeded 4,500 square feet of air conditioned space; (3) having as their major retail function to sell groceries, including foodstuffs, fresh and packaged meats, produce and dairy products, intended for consumption off-premises, and household supplies. Both DMG locations met all parts of the definition of “grocery store,” in Florida Housing’s rule.

To resolve this matter, the Parties have entered into a Consent Agreement, which *inter alia*, finds that there was no wrongdoing by any Party of any employee of any Party; that each Party will bear its own attorneys fees and costs; that each Party waives its right to any further action in any forum; and that upon the Board's acceptance of the Consent Agreement, that this case will be dismissed with prejudice. A copy of the Consent Agreement is attached as Exhibit "A."

RULING ON THE CONSENT AGREEMENT

The Board finds that the Findings of Fact and Conclusions of Law of the Consent Agreement are supported by competent substantial evidence, and are reasonable under the circumstances.

ORDER

1. The Findings of Fact of the Consent Agreement are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.
2. The Conclusions of Law of the Consent Agreement are adopted as Florida Housing's Conclusions of Law and incorporated by reference as though fully set forth in this Order.
3. The Conditions of Settlement and Stipulated Disposition of the Consent Agreement are adopted.

IT IS HEREBY ORDERED that this matter is DISMISSED WITH PREJUDICE.

DONE AND ORDERED this 7th day of December, 2012.



FLORIDA HOUSING FINANCE CORPORATION

By: _____

Chair

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