

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

DUVAL PARK, LTD.,

Petitioner,

FHFC Case No. 2013-14BP  
DOAH Case No. 13-2898BID

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

\_\_\_\_\_/   
OSPREY APARTMENTS, LLC,  
Petitioner,

FHFC Case No. 2013-14BP  
DOAH Case No. 13-2899BID

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 December 13, 2013. The matter for consideration before this Board is a recommended order pursuant to Section 120.57(1) and (3), Fla. Stat. (2013).

After a review of the record and otherwise being fully advised in these proceedings, this Board finds:

Duval Park, Ltd., and Osprey Apartments, LLC ("Duval Park" and "Osprey," collectively the "Petitioners") timely submitted responses to RFP 2013-08 Special Needs High Priority Affordable Housing Developments ("RFP") seeking allocations

of low income housing tax credits to help fund their respective proposed developments.

On June 21, 2013, Florida Housing's Board of Directors accepted the recommendations of a staff review committee assigned to evaluate the RFP responses, and notified Petitioners and other interested parties of the Board's intended decision to tentatively award an allocation of low-income tax housing tax credits ("Housing Credits") to Duval Park. Insufficient allocation remained to fund another proposed development, leaving Duval Park as the only successful responder to the RFP. Staff then provided all responders with a Notice of Rights pursuant to Sections 120.569, Fla. Stat. (2013).

Both Petitioners timely filed petitions challenging Florida Housing's scoring of their responses. Osprey raised three issues, alleging that the Duval Park response failed threshold requirements that Osprey's development and management teams possessed objectively more experience in Permanent Supportive Housing than Duval Park and should have garnered a higher score (rather than the tie score assigned by the scorer), and that the "reconciliation" process employed by the two scorers assigned to the Access to Resident Services section was arbitrary and capricious.

Duval Park generally alleged that it should have received additional points for developer team experience, in an effort to protect or increase its winning score should a court find Florida Housing erred in the scoring of either response

After reviewing the Petitions, Florida Housing determined that the allegations included dispute issues of material fact, and forwarded both Petitions to the Division of Administrative Hearings for a formal hearing pursuant to Section 120.57(1), Fla. Stat. (2013). The cases were subsequently consolidated, and a formal hearing was held on the consolidated cases on October 3, 2013. At hearing, Osprey abandoned its allegations regarding the Duval Park response failing threshold and the reconciliation process, leaving only the issue of developer and management team experience with Permanent Supportive Housing to be determined.

Following the hearing, all parties timely submitted Proposed Recommended Orders. After considering the testimony, evidence and arguments of the parties, the Administrative Law Judge issued a Recommended Order finding that the review committee did not err in the scoring of the Duval Park and Osprey responses, that Osprey failed to meet its burden of proving that Florida Housing's decision to award funding to Duval Park is clearly erroneous, arbitrary, capricious or contrary to competition, that Osprey failed to demonstrate that this decision is contrary to any statute, rule, policy or RFP specification, and recommending that the Board issue a



Final Order consistent with its initial decision to award funding to Duval Park. A copy of the Recommended Order is attached hereto as Exhibit A.

No exceptions to this Recommended Order have been filed by any party.

### **RULING ON THE RECOMMENDED ORDER**

The Board finds that the findings of fact and the conclusions of law of the Recommended Order are reasonable and appropriate under the circumstances.

### **ORDER**

In accordance with the foregoing, it is hereby found and ordered:

1. 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.

2. 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.

3. The Recommendation of the Recommended Order is adopted.

Accordingly, it is found and **ORDERED** that funding is awarded to Duval Park, Ltd. under RFP 2013-08 and that all relief requested in the Petitions is **DENIED**.

**DONE and ORDERED** this 13th day of December, 2013.



FLORIDA HOUSING FINANCE  
CORPORATION

By:   
Chair

Copies to:

Wellington H. Meffert II  
General Counsel  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

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

Michael P. Donaldson, Esquire  
Carlton Fields, P.A.  
215 South Monroe Street, Suite 500  
Tallahassee, Florida 32301

Joseph M. Goldstein, Esquire  
Shutts & Bowen, LLP  
Wachovia Center, Suite 2100  
200 East Broward Boulevard  
Fort Lauderdale, Florida 33301

**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, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, 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.**