

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

PINNACLE HEIGHTS, LLC,

Petitioner,  
v.

DOAH Case No.: 15-3304BID  
FHFC Case No.: 2015-025BP

FLORIDA HOUSING FINANCE CORPORATION,

Respondent,  
and

RIO AT FLAGLER, LP,

Intervenor.

\_\_\_\_\_ /

**FINAL ORDER**

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on September 18, 2015. The matter for consideration before this Board is a Recommended Order pursuant to §120.57(1) and (3), Fla. Stat. (2014). After a review of the record and being otherwise fully advised in these proceedings, this Board finds:

1. Petitioner and Intervenor submitted applications to Florida Housing seeking allocations for low-income tax credits pursuant to RFA 2014-116. The Board announced its intention to fund certain projects on May 8, 2015.
2. Petitioner Pinnacle Heights, LLC, (“Pinnacle Heights”), timely filed a challenge to proposed funding awards pursuant to §120.57(3), Fla. Stat. (2014). Rio

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

 /DATL: 9-21-15

at Flagler, LP (“Rio”), entered the case as an Intervenor in accordance with Fla. Admin. Code R. 28-106.205(3). A formal hearing was conducted pursuant to §§120.569 and 120.57(3), Fla. Stat. (2014), before D. R. Alexander, Administrative Law Judge, at the Division of Administrative Hearings in Tallahassee, Florida, on August 6, 2015.

3. The issue for determination was whether Respondent's intended decision to award low-income housing tax credits to Rio, was contrary to governing statutes, Florida Housing's rules, or the solicitation specifications. Following the hearing, Pinnacle Heights, Florida Housing, and Rio timely filed Proposed Recommended Orders.

4. After a review of the record and the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order on August 31, 2015, which found that Florida Housing's proposed scoring of Rio's application was clearly erroneous, contrary to competition, arbitrary or capricious, and recommended that Florida Housing enter a Final Order finding Rio's application ineligible and selecting Pinnacle Heights' application for funding. A true and correct copy of the Recommended Order is attached hereto as “Exhibit A.”

5. On September 8, 2015, Rio filed “Rio at Flagler LP's Exceptions to Recommended Order,” challenging four Findings of Fact and Conclusions of Law of the Recommended Order. Respondent Florida Housing filed its Response to Rio

at Flagler, LP's Exceptions to Recommended Order on September 11, 2015. Petitioner Pinnacle Heights did not file a separate response. By agreement of the parties, both filings were deemed timely.

### **RULING ON EXCEPTIONS**

6. Based on a review of the record and the arguments presented by the Parties, the Board grants Rio's Exception 1 to Finding of Fact 12 regarding Rio's representation of which qualifying routes were served by the selected bus stop.

7. Based on a review of the record and the arguments presented by the Parties, the Board specifically rejects Rio's enumerated Exceptions 2-4 for the reasons set forth in the Recommended Order and the Response filed by Florida Housing.

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

8. The Findings of Fact set out in the Recommended Order are supported by competent substantial evidence.

9. Finding of Fact 12 contains a scrivener's error and is accordingly amended below.

10. The Conclusions of Law of the Recommended Order are accepted without changes.

### **ORDER**

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

11. The Findings of Fact 1-11 and 13-16 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.

12. In Finding of Fact 12, the language "Route 6 (Coconut Grove)" should be replaced with "Route 11 (Mall of Americas)".

13. As amended above, Finding of Fact 12 is adopted as Florida Housing's Finding of Fact and incorporated by reference as though fully set forth in this Order.

14. 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.

15. The Recommendation of the Recommended Order is adopted.

**IT IS HEREBY ORDERED** that Rio's application is ineligible for funding and that Pinnacle Height's application is selected for funding under RFA 2014-116.

**DONE and ORDERED** this 18th day of September, 2015.



FLORIDA HOUSING FINANCE CORPORATION

By: \_\_\_\_\_

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.**