

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DOUGLAS GARDENS V, LTD.,

Petitioner,

vs.

Case No. 16-0418BID

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent,

and

LA JOYA ESTATES, LTD.,

Intervenor.

_____ /

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on February 9, 2016, before Lawrence P. Stevenson, a duly-designated Administrative Law Judge, sitting as an informal hearing officer pursuant to sections 120.57(2) & (3), Florida Statutes, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Donna Elizabeth Blanton, Esquire
Radey Law Firm, P.A.
Suite 200
301 South Bronough Street
Tallahassee, Florida 32301

For Respondent: Eric Sonderling, Assistant General Counsel
Florida Housing Finance Corporation
Suite 5000
227 North Bronough Street
Tallahassee, Florida 32301

For Intervenor: Michael P. Donaldson, Esquire
Carlton Fields Jordan Burt, P.A.
Post Office Drawer 190
215 South Monroe Street, Suite 500
Tallahassee, Florida 32302

STATEMENT OF THE ISSUES

At issue in this proceeding is whether the decision of the Florida Housing Finance Corporation ("Florida Housing") to award State Apartment Incentive Loan ("SAIL") funding to Intervenor, La Joya Estates, Ltd. ("La Joya"), pursuant to Request for Applications 2015-112 (the "RFA") was contrary to the agency's governing statutes, rules, policies, or the RFA specifications.

PRELIMINARY STATEMENT

On October 29, 2015, Florida Housing issued the RFA, requesting applications for awards of SAIL financing of "Affordable Multifamily Housing Developments to be Used in Conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits." On December 11, 2015, Florida Housing's Board of Directors (the "Board") met to consider the recommendations of the staff review committee regarding the RFA, and posted its Notice of Intended Decision. The Notice set forth the scoring and ranking of the applications, in which both La Joya and Petitioner, Douglas Gardens V, Ltd. ("Douglas Gardens"), were found eligible for funding. La Joya was selected to receive funding due to the RFA preference for a housing development to be located in Miami-Dade County.

Douglas Gardens timely filed with Florida Housing its notice of protest, followed by a Formal Written Protest and Petition for Administrative Hearing ("Petition"), pursuant to section 120.57(3) and Florida Administrative Code Rules 67-60.009 and 28-110.004.

On January 22, 2016, La Joya filed with Florida Housing a Notice of Appearance/Motion to Intervene, pursuant to Florida Administrative Code Rule 28-106.205. Without objection, the Motion to Intervene was granted at the outset of the final hearing.

All parties agreed that the issues raised in the Petition were matters of law and that there were no disputed issues of material fact requiring resolution at the hearing. Consequently, Florida Housing contracted with the Division of Administrative Hearings to provide an Administrative Law Judge ("ALJ") to act as the informal hearing officer in this matter, pursuant to sections 120.57(2) & (3). The parties submitted a Prehearing Stipulation setting forth the agreed facts as to the RFA process and the scoring issue raised in this proceeding.

The informal hearing was held on February 9, 2016. At the hearing, Joint Exhibits 1 through 10 were admitted into evidence. Douglas Gardens' Exhibits 1 through 4 were admitted into evidence. Florida Housing presented brief testimony by

Ken Reecy, its Director of Multifamily Programs. No other party called witnesses. All three parties presented oral argument.

The one-volume Transcript of the final hearing was filed at DOAH on February 18, 2016. All three parties timely submitted Proposed Recommended Orders on February 15, 2016, as agreed at the conclusion of the final hearing. The Proposed Recommended Orders have been given due consideration in the preparation of this Recommended Order.

Unless otherwise stated, all statutory references are to the 2015 edition of the Florida Statutes.

FINDINGS OF FACT

Based on the oral and documentary evidence adduced at the final hearing, and the entire record in this proceeding, the following Findings of Fact are made:

1. Douglas Gardens is a Florida limited partnership based in Coconut Grove, Florida, that is in the business of providing affordable housing.

2. Florida Housing is a public corporation organized pursuant to chapter 420, Part V, Florida Statutes. For the purposes of this proceeding, Florida Housing is an agency of the State of Florida. Florida Housing has the responsibility and authority to establish procedures for allocating and distributing various types of funding for affordable housing.

One of the programs administered by Florida Housing is the SAIL program, created in section 420.5087, Florida Statutes.

3. Florida Housing has adopted Chapter 67-60, Florida Administrative Code, which governs the competitive solicitation process for several programs, including the SAIL program. Other administrative rule chapters relevant to the selection process are chapter 67-48, F.A.C., which governs competitive affordable multifamily rental housing programs; chapter 67-21, Florida Administrative Code, which governs multifamily mortgage revenue bonds ("MMRB") and non-competitive housing credits; and chapter 67-53, Florida Administrative Code, governing compliance procedures. Applicants for funding, pursuant to the RFA, are required to comply with provisions of the RFA and the applicable rule chapters.

4. La Joya is a Florida limited partnership based in Miami, Florida, and is also in the business of providing affordable housing.

5. On October 9, 2015, Florida Housing issued the RFA, seeking applications from developers proposing to construct multifamily housing for families and for the elderly. The RFA outlined a process for the selection of developments to share the estimated \$49 million in funding for eligible applicants.

6. Among the stated goals of the RFA is to fund one new construction development serving the elderly in a large county,

with priority given to the highest ranked eligible new construction application for the elderly that is located in Miami-Dade County. The RFA provides that if there are no eligible Miami-Dade County applications that qualify, then the highest ranking eligible new construction development serving the elderly in Broward County will be selected.

7. A total of 23 applications were filed in response to the RFA. On November 9, 2015, Douglas Gardens timely submitted its Application, numbered 2016-177BS, seeking \$5,781,900 in SAIL funding to assist in the development of a proposed new construction development for the elderly in Broward County. Douglas Gardens' was the only "new construction" application submitted for Broward County. Also on November 9, 2015, La Joya timely filed its Application, numbered 2016-178S, seeking \$5,778,100 in SAIL funding to assist in the development of a proposed new construction development for the elderly in Miami-Dade County. La Joya's was the only application submitted for Miami-Dade County in any development category.

8. The executive director of Florida Housing selected a review committee to review and score the applications. The review committee issued a recommendation of preliminary rankings and allocations. Florida Housing's Board of Directors approved these recommendations on December 11, 2015. The Board of Directors found both La Joya and Douglas Gardens eligible for

funding, but awarded funding to La Joya on the basis that it was the highest ranked, eligible, elderly, new construction application located in Miami-Dade County.

9. On December 16, 2015, Douglas Gardens timely filed a notice of intent to protest. On December 28, 2015, Douglas Gardens timely submitted a Formal Written Protest and Petition for Administrative Hearing.

10. The RFA awarded up to 18 "proximity points" to an applicant based on its project's location in relation to transit and community services such as grocery stores, medical facilities, and pharmacies. The RFA required each applicant to submit a "Surveyor Certification" form, which included longitude and latitude coordinates corresponding to the location of the proposed development site and the site's proximity to listed services that would presumably serve the proposed development.

11. Each applicant was required to retain a Florida licensed surveyor to prepare and submit the Surveyor Certification form and to sign the form attesting, under penalty of perjury, that the information on the form is true and correct. In the bottom left hand corner of each page of the form is a blank line on which the applicant or surveyor was to indicate the RFA number for which the form was being submitted. Beneath the blank line is a parenthetical indicating the identification number of the form, e.g., (Form Rev. 07-15).

12. Section Four A.6.a.(1) of the RFA provided the following regarding the Surveyor Certification form:

In order to meet the Mandatory requirement and be eligible for proximity points, all Applicants must provide an acceptable Surveyor Certification form, (Form Rev. 07-15), as Attachment 14 to Exhibit A, reflecting the information outlined below. The Surveyor Certification form (Form Rev. 07-15) is provided in Exhibit B of this RFA and on the Corporation's website.... Note: The Applicant may include the Florida Housing Surveyor Certification form that was included in a previous RFA submission for the same proposed Development, provided (i) the form used for this RFA is labeled Form Rev. 07-15, (ii) other than the RFA reference number on the form, none of the information entered on the form and certified to by the signatory has changed in any way, and (iii) the requirements outlined in this RFA are met. The previous RFA number should be crossed through and RFA 2015-112 inserted. If the Applicant provides any prior version of the Surveyor Certification form, the form will not be considered. (Emphasis added).

13. Section Three C.1. of the RFA provided that Florida Housing reserved the right to waive "Minor Irregularities" in the applications.

14. Florida Administrative Code Rule 67-002(6) defines "Minor Irregularity" as

[A] variation in a term or condition of an Application pursuant to this rule chapter that does not provide a competitive advantage or benefit not enjoyed by other Applicants, and does not adversely impact the interests of the Corporation or the public.

15. Florida Administrative Code Rule 67-60.008 titled "Right to Waive Minor Irregularities," provides as follows:

The Corporation may waive Minor Irregularities in an otherwise valid Application. Mistakes clearly evident to the Corporation on the face of the Application, such as computation and typographical errors, may be corrected by the Corporation; however, the Corporation shall have no duty or obligation to correct any such mistake.

16. La Joya submitted a Surveyor Certification form as Attachment 14 of its Application. The identification number in the parenthetical in the bottom left hand corner was "(Form Rev. 10-14)" rather than the specified "(Form Rev. 07-15)." Form Rev. 10-14 was the Surveyor Certification form used for 2014 applications. The only difference between Form Rev. 10-14 and Form Rev. 07-15 is that the latter contains a revised list of location coordinates for several Sun Rail stations in the Orlando area. This difference was of no matter to the RFA under discussion. For the substantive purposes of this RFA, the forms were identical.

17. If La Joya's Surveyor Certification form had not been considered and not scored, La Joya would have been ineligible for funding and Douglas Gardens would have been selected as the applicant meeting Florida Housing's goal of funding one new construction development for elderly residents in a large county.

18. Heather Boyd, multifamily loan manager for Florida Housing, sat on the review committee and was assigned to score the proximity portion of the applications. Based on the distances provided in the Surveyor Certification form, Ms. Boyd awarded La Joya a total of 11.5 proximity points as follows: 5.5 points for proximity for Public School Bus Rapid Transit Stop, 3 points for proximity to a Grocery Store, and 3 points for proximity to a Medical Facility. (La Joya also included coordinates for a Public School, but the proposed elderly development was not eligible for Public School proximity points.) To be considered eligible for funding, an applicant needed to receive at least 10.25 proximity points, including at a minimum 2 points for Transit Services.

19. No issue was raised as to the accuracy of the information submitted by La Joya or of Ms. Boyd's calculation. If it was permissible to consider La Joya's Surveyor Certification form, then La Joya satisfied the proximity requirements in the RFA and was properly awarded funding. If La Joya's Surveyor Certification form had been rejected, La Joya would not have been awarded funding and Douglas Gardens would have been awarded funding. Florida Housing's decision to award funding to La Joya was based in part on Ms. Boyd's scoring of the Surveyor Certification form and reflected the agency's support of Ms. Boyd's action.

20. However, during the pendency of Douglas Gardens' protest, Florida Housing changed its position and determined that La Joya's Surveyor Certification form should not have been considered, based on the mandatory language of section Four A.6.a.(1) of the RFA.

21. Ms. Boyd testified that she did not notice that La Joya's Surveyor Certification form was a prior version and that she scored it as if it were the current version. She testified that she should not have scored the form "[b]ecause it specifically says in the RFA, if they do not have the correct form, they will not be considered."

22. Jean Salmonsens, housing development manager, acted as a backup to Ms. Boyd in reviewing the Surveyor Identification forms and verifying the award of proximity points. Ms. Salmonsens testified that she, too, missed the fact that La Joya had filed the wrong version of the form and that she would have rejected the form had she correctly recognized it. Evidence presented at the hearing indicated that in January 2016, Ms. Salmonsens had in fact disqualified an application in a different RFA for submitting the 2014 version of the Surveyor Identification form.

23. Several valid policy reasons were cited for the RFA's requirement that applicants use only the current version of the Surveyor Identification form. Ken Reecy, Florida Housing's

Director of Multifamily Programs, testified that it is important to apply the rules and RFA criteria in a consistent manner because of the tremendous volume of applications the agency receives. Mr. Reecy stated, "For like criteria, yes, consistency. We live and die by consistency, frankly."

24. As to the Surveyor Certification form specifically, Mr. Reecy explained that over the years Florida Housing had used a number of different forms with different contents. Allowing applicants to submit different forms would add to the difficulty of scoring the hundreds of applications received from around the state. Uniformity and consistency as to applicant submissions allow Florida Housing to process all of these applications in a cost efficient manner.

25. Though he expressed his concern with consistency of review and ensuring that all applicants provide the same information as reasons for rejecting La Joya's submission of the 2014 Surveyor Certification form, Mr. Reecy conceded that one of the reasons Florida Housing moved away from the previous rigid Universal Application Cycle allocation process was to allow for flexibility in determining that insignificant scoring errors need not be the basis for disqualifying an otherwise acceptable application. Florida Housing's recent adoption in 2013 of the "Minor Irregularity" rule is further indication of its intent to

employ more flexible evaluation criteria than it has in the past. See Findings of Fact 14 and 15, supra.

26. Mr. Reecy acknowledged that in the instant case, the substance of the 2014 and 2015 Surveyor Certification forms was identical, and that the information provided by La Joya using the 2014 form was the same information required by the 2015 form.

CONCLUSIONS OF LAW

27. Florida Housing has jurisdiction over this matter, pursuant to sections 120.569 and 120.57(2)&(3), Florida Statutes. Florida Housing has contracted with DOAH to provide an Administrative Law Judge to conduct the informal hearing in this case.

28. All parties have standing to participate in this proceeding. §§ 120.52(13) & 120.569(1), Fla. Stat. The "substantial interests" of La Joya, as the proposed recipient of funding pursuant to the RFA, are affected because Douglas Gardens has alleged that Florida Housing made a mistake in considering La Joya's Surveyor Certification form. The substantial interests of Douglas Gardens are affected because it is next in line for a funding award under the RFA's criteria, and Douglas Gardens would be the proposed recipient of funding if La Joya is deemed ineligible. See, e.g., Preston Carroll Co. v. Fla. Keys Aqueduct Auth., 400 So. 2d 524 (Fla. 3d DCA

1981) (second lowest bid establishes substantial interest in bid protest).

29. This is a competitive procurement protest proceeding and as such is governed by section 120.57(3) (f), which provides as follows in pertinent part:

. . . Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed agency action. In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge shall conduct a de novo proceeding to determine whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the solicitation specifications. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. . . .

30. Pursuant to section 120.57(3) (f), the burden of proof rests with Douglas Gardens as the party opposing the proposed agency action to prove "a ground for invalidating the award." See State Contracting and Eng'g Corp. v. Dep't of Transp., 709 So. 2d 607, 609 (Fla. 1st DCA 1998). Douglas Gardens must prove by a preponderance of the evidence that Florida Housing's proposed award of SAIL funding to La Joya is arbitrary, capricious, or beyond the scope of Florida Housing's discretion as a state agency.^{1/} Dep't of Transp. v. Groves-Watkins Constructors, 530 So. 2d 912, 913-914 (Fla. 1988); Dep't of

Transp. v. J.W.C. Co., 396 So. 2d 778, 787 (Fla. 1st DCA 1981).

See also § 120.57(1)(j), Fla. Stat.

31. The First District Court of Appeal has interpreted the process set forth in section 120.57(3)(f) as follows:

A bid protest before a state agency is governed by the Administrative Procedure Act. Section 120.57(3), Florida Statutes (Supp. 1996)^{2/} provides that if a bid protest involves a disputed issue of material fact, the agency shall refer the matter to the Division of Administrative Hearings. The administrative law judge must then conduct a de novo hearing on the protest. See § 120.57(3)(f), Fla. Stat. (Supp. 1996). In this context, the phrase "de novo hearing" is used to describe a form of intra-agency review. The judge may receive evidence, as with any formal hearing under section 120.57(1), but the object of the proceeding is to evaluate the action taken by the agency. See Intercontinental Properties, Inc. v. Department of Health and Rehabilitative Services, 606 So. 2d 380 (Fla. 3d DCA 1992) (interpreting the phrase "de novo hearing" as it was used in bid protest proceedings before the 1996 revision of the Administrative Procedure Act).

State Contracting and Eng'g Corp., 709 So. 2d at 609.

32. The ultimate issue in this proceeding is "whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the bid or proposal specifications." In addition to proving that Florida Housing breached this statutory standard of conduct, Douglas Gardens also must establish that the Department's violation was either

clearly erroneous, contrary to competition, arbitrary, or capricious. § 120.57(3)(f), Fla. Stat.

33. The First District Court of Appeal has described the "clearly erroneous" standard as meaning that an agency's interpretation of law will be upheld "if the agency's construction falls within the permissible range of interpretations. If, however, the agency's interpretation conflicts with the plain and ordinary intent of the law, judicial deference need not be given to it." Colbert v. Dep't of Health, 890 So. 2d 1165, 1166 (Fla. 1st DCA 2004) (citations omitted). See also Anderson v. Bessemer City, 470 U.S. 564, 573-74; 105 S.Ct. 1504, 1511; 84 L.Ed.2d 518, 528 (1985) ("Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.")

34. An agency decision is "contrary to competition" when it unreasonably interferes with the objectives of competitive bidding. Those objectives have been stated to be:

[T]o protect the public against collusive contracts; to secure fair competition upon equal terms to all bidders; to remove not only collusion but temptation for collusion and opportunity for gain at public expense; to close all avenues to favoritism and fraud in various forms; to secure the best values for the [public] at the lowest possible expense; and to afford an equal advantage to all desiring to do business with the [government], by affording an opportunity for an exact comparison of bids.

Harry Pepper & Assoc., Inc. v. City of Cape Coral, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1977) (quoting Wester v. Belote, 138 So. 721, 723-724 (Fla. 1931)).

35. An agency action is capricious if the agency takes the action without thought or reason or irrationally. An agency action is arbitrary if it is not supported by facts or logic. See Agrico Chem. Co. v. Dep't of Env'tl. Reg., 365 So. 2d 759, 763 (Fla. 1st DCA 1978).

36. To determine whether an agency acted in an arbitrary or capricious manner, it must be determined "whether the agency: (1) has considered all relevant factors; (2) has given actual, good faith consideration to those factors; and (3) has used reason rather than whim to progress from consideration of these factors to its final decision." Adam Smith Enterprises v. Dep't of Env'tl. Reg., 553 So. 2d 1260, 1273 (Fla. 1st DCA 1989).

37. However, if a decision is justifiable under any analysis that a reasonable person would use to reach a decision of similar importance, the decision is neither arbitrary nor capricious. Dravco Basic Materials Co. v. Dep't of Transp., 602 So. 2d 632, n.3 (Fla. 2d DCA 1992).

38. In the instant case, Douglas Gardens contends that the plain language of Section Four A.6.a.(1) of the RFA mandates that La Joya's Surveyor Certification form be rejected. The cited provision expressly states: "If the Applicant provides

any prior version of the Surveyor Certification form, the form will not be considered." La Joya concedes that its submission did not comply with the literal terms of the RFA, but argues that its deviation was no more than a "minor irregularity" which Florida Housing retained the authority to waive.

39. In Lockheed Martin Information Systems v. Department of Children & Family Services., Case No. 98-2570BID (DOAH Dec. 21, 1998), ALJ Ella Jane P. Davis wrote the following language that provides guidance as to the instant proceeding:

76. This case hangs on what the words "shall, will, and must" mean in this particular RFP, what constitutes a material deviation from the specifications of the RFP, and how waiver of such terms affect cost and competitive bidding.

77. Courts favor an interpretation of bid contract provisions using the plain meaning of the words. Quesada v. Director, Federal Emergency Management Agency, 577 F.Supp. 695 (S.D. Fla. 1983), and Tropabest Foods, Inc. v. State, Department of General Services, 493 So. 2d 50 (Fla. 1st DCA 1986). Common sense suggests that a straight-forward analysis of bid language is always best, but not every failure of a proposer to adhere to "shall, will, and must" language is a fatal deviation. . . .

78. A variance is material only when it gives the bidder a substantial advantage over other bidders and restricts or stifles competition. See Tropabest Foods, Inc. v. State of Florida, Department of General Services, supra. A bid containing a material variance is unacceptable. The courts have applied two criteria to

determine whether a variance is substantial and hence cannot be waived.

[F]irst, whether the affect [sic] of a waiver would be to deprive the municipality of its assurance that the contract would be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition.

See Robinson Electrical Company, Inc. v. Dade County, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982) and Harry Pepper and Associates, Inc. v. City of Cape Coral, [352 So. 2d 1190 (Fla. 2nd DCA 1977)].

40. La Joya deviated from a mandatory provision of the RFA. However, under all the facts of the case, that deviation cannot be considered as anything but a minor irregularity. La Joya achieved no competitive advantage over the other applicants by virtue of its submission of a 2014 Surveyor Certification form that was in all relevant particulars identical to the mandated 2015 form. The information submitted by La Joya on the 2014 form was the same as that required by the 2015 form. The deviation was so slight that two experienced Florida Housing reviewers did not notice it until Douglas Gardens pointed it out in its Petition.

41. None of the policy considerations cited by Mr. Reecy would be transgressed by an award of funding to La Joya under the specific circumstances of this case. La Joya's application was in all relevant respects consistent with the other RFA applications. While the Surveyor Certification form submitted by La Joya was not the one specified in the RFA, its contents were the same for purposes of scoring this RFA. Waiving the minor irregularity in this case would not be inconsistent with Florida Housing's overall concern with maintaining consistency and predictability in the competitive procurement process.

42. There is in this case no element of collusion, favoritism, fraud, or unfair competition. Florida Housing was able to make an exact comparison of the applications. An award of funding to La Joya in this case is a reasonable exercise of the agency's authority to waive minor irregularities and is neither arbitrary nor capricious.

43. It is concluded that Douglas Gardens has failed to carry its burden of proving that Florida Housing's decision to award funding to La Joya's application was clearly erroneous, arbitrary, or capricious, contrary to the governing statutes, rules, or RFA specifications, or was contrary to competition.

RECOMMENDATION

Based on the foregoing, it is

RECOMMENDED that a final order be entered by the Florida Housing Finance Corporation dismissing the Formal Written Protest and Petition for Administrative Hearing filed by Douglas Gardens V, Ltd., and finding that La Joya, Ltd. is eligible for funding under Request for Applications 2015-112.

DONE AND ENTERED this 29th day of February, 2016, in Tallahassee, Leon County, Florida.

Lawrence P. Stevenson

LAWRENCE P. STEVENSON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 29th day of February, 2016.

ENDNOTES

^{1/} Despite Florida Housing's reversal of position at the time of the hearing, the decision under review in this proceeding remains the initial award of funding to La Joya. The burden remains with Douglas Gardens.

^{2/} The meaning of the operative language has remained the same since its adoption in 1996:

In a competitive-procurement protest, no submissions made after the bid or proposal opening amending or supplementing the bid or proposal shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed agency action. In a competitive-procurement protest, other than a rejection of all bids, the administrative law judge shall conduct a de novo proceeding to determine whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the bid or proposal specifications. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. . . .

§ 120.57(3)(f), Fla. Stat. (1997).

COPIES FURNISHED:

Michael P. Donaldson, Esquire
Carlton Fields Jordan Burt, P.A.
Post Office Drawer 190
215 South Monroe Street, Suite 500
Tallahassee, Florida 32302
(eServed)

Donna Elizabeth Blanton, Esquire
Radey Law Firm, P.A.
Suite 200
301 South Bronough Street
Tallahassee, Florida 32301
(eServed)

Hugh R. Brown, General Counsel
Florida Housing Finance Corporation
Suite 5000
227 North Bronough Street
Tallahassee, Florida 32301
(eServed)

Eric Sonderling, Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
(eServed)

Kate Flemming, Corporation Clerk
Florida Housing Finance Corporation
Suite 5000
227 North Bronough Street
Tallahassee, Florida 32301-1329
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 10 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.