

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

AMBAR RIVERVIEW, LTD.,

Petitioner,

FHFC Case No. 2019-014BP
DOAH Case No. 19-1261BID

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent,

and

LAS BRISAS TRACE, 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 June 21, 2019. Petitioner Ambar Riverview, Ltd (“Ambar” or “Petitioner”) and Intervenor Las Brisas Trace, LP (“Las Brisas”) were Applicants under Request for Applications 2018-111, Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County (the “RFA”). The matter for consideration before this Board is a Recommended Order issued pursuant to §§120.57(1) and (3), Fla. Stat. and the Exceptions to the Recommended Order.

On September 6, 2018, Florida Housing Finance Corporation (“Florida Housing”) issued the RFA, which solicited applications to compete for an allocation of low income housing credit funding. On November 9, 2018, 67 applications were submitted in response to the RFA, including applications from Ambar and Las Brisas. On February 1, 2019, Florida Housing posted notice of its intended decision to award funding to three applicants, including Las Brisas. Ambar was eligible, but not recommended for funding.

Ambar, Whaler’s Cove Apartments, LLC and Landmark Development, Corp. (“Whaler’s Cove”), AMC HTG 3, LLC (“AMC HTG 3”), and HTG Rock Ridge, Ltd. (“HTG Rock Ridge”) timely filed formal written protests and petitions for administrative proceedings. Several other applicants filed notices of appearances in the challenges. Ultimately, HTG Rock Ridge, Whaler’s Cove, and AMC HTG 3 voluntarily dismissed their respective petitions.

A formal hearing commenced as scheduled on April 10, 2019 in Tallahassee, Florida, before Administrative Law Judge Darren A. Schwartz (the “ALJ”) at the Division of Administrative Hearings (“DOAH”). At the outset of the hearing, Ambar announced that it would no longer litigate several issues raised in its petition. Thereafter, the hearing proceeded on issues regarding: 1) Las Brisas’ failure to identify the multiple roles of its principals on the Principals Disclosure Form; and 2) Las Brisas’ failure to answer Question 10 of the Public Housing Authority Question

of the RFA. Florida Housing maintained its initial position that Las Brisas' application was properly deemed eligible and selected for funding. After the hearing, all parties timely filed Proposed Recommended Orders.

After consideration of the oral and documentary evidence presented at hearing, and the entire record in the proceeding, the ALJ issued a Recommended Order on May 21, 2019. A true and correct copy of the Recommended Order is attached hereto as Exhibit A. The ALJ determined that Florida Housing's proposed action in awarding housing tax credits to Las Brisas, and not Ambar, is not contrary to the governing statutes, rules, or the RFA specifications, and was not clearly erroneous, contrary to competition, arbitrary, or capricious. The ALJ recommended that Florida Housing dismiss the protest of Ambar and award housing tax credits to Las Brisas.

On May 31, 2019, Ambar filed Exceptions to the Recommended Order. Florida Housing and Las Brisas filed a Joint Response to Ambar's Exceptions. The Exceptions and Joint Response are attached hereto as Exhibits B and C, respectively.

RULING ON EXCEPTION #1

1. Ambar filed an exception to Finding of Fact 14 of the Recommended Order. After a review of the record, the Board finds that this Finding of Fact is supported by competent substantial evidence and the Board rejects Exception #1.

RULING ON EXCEPTION #2

2. Ambar filed an exception to Findings of Fact 34, 35, and 36 of the Recommended Order. After a review of the record, the Board finds that these Findings of Fact are supported by competent substantial evidence and the Board rejects Exception #2.

RULING ON EXCEPTION #3

3. Ambar filed an exception to Findings of Fact 46 and 47 of the Recommended Order. After a review of the record, the Board finds that these Findings of Fact are supported by competent substantial evidence and the Board rejects Exception #3.

RULING ON EXCEPTION #4

4. Ambar filed an exception to the Conclusions of Law 67 and 68 of the Recommended Order. After a review of the record, the Board finds that Conclusions of Law in Paragraphs 67 and 68 are supported by competent substantial evidence and reasonable interpretations of applicable law and the Board rejects Exception #4.

RULING ON THE RECOMMENDED ORDER

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

6. The Conclusions of Law set out in the Recommended Order are supported by competent substantial evidence and reasonable interpretations of applicable law.

7. The Recommendation of the Recommended Order is reasonable and supported by competent substantial evidence.

ORDER

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

A. 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.

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

C. The Recommendation of the Recommended Order is adopted as Florida Housing's Recommendation and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED that Florida Housing's scoring and ranking of RFA 2018-111 is **AFFIRMED** and the relief requested in the Petition is **DENIED**.

DONE and ORDERED this 21st day of June, 2019.

FLORIDA HOUSING FINANCE
CORPORATION



By: *Ray Duboyne*
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, 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.