

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

AMBAR TRAIL, LTD.

Petitioner,

DOAH Case No.: 20-1138BID
FHFC Case No. 2020-005BP

v.

NARANJA LAKES HOUSING PARTNERS, LP,
SLATE MIAMI APARTMETNS, LTD., AND
FLORIDA HOUSING FINANCE CORPORATION,

Respondents.

SIERRA MEADOWS APARTMENTS, LTD.

Petitioner,

DOAH Case No.: 20-1139BID
FHFC Case No. 2020-006BP

v.

NARANJA LAKES HOUSING PARTNERS, LP,
SLATE MIAMI APARTMETNS, LTD., AND
FLORIDA HOUSING FINANCE CORPORATION,

Respondents.

QUAIL ROOST TRANSIT VILLAGE IV, LTD.,

Petitioner,

DOAH Case No.: 20-1140BID
FHFC Case No. 2020-007BP

v.

NARANJA LAKES HOUSING PARTNERS, LP,
SLATE MIAMI APARTMETNS, LTD., AND
FLORIDA HOUSING FINANCE CORPORATION,

Respondents.

PARC GROVE, LLC

Petitioner,

DOAH Case No.: 20-1141BID

FHFC Case No. 2020-009BP

v.

NARANJA LAKES HOUSING PARTNERS, LP,
SLATE MIAMI APARTMETNS, LTD., AND
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 May 28, 2020. Petitioners Ambar Trail, Ltd., (“Ambar Trail”), Sierra Meadows Apartments, Ltd., (“Sierra Meadows”), Quail Roost Transit Village IV, Ltd, (“Quail Roost”), and Parc Grove, LLC (“Parc Grove”), as well as Respondents Naranja Lakes Housing Partners, LP (“Naranja”), Slate Miami Apartments, Ltd., (“Slate Miami”), and Harbour Springs, LLC (“Harbour Springs”) were Applicants under Request for Applications 2019-112, Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County (the “RFA”). The matter for consideration before the Board is a Recommended Order issued pursuant to §§120.57(1) and (3), Fla. Stat. and the Exceptions to the Recommended Order.

On January 24, 2020, Florida Housing Finance Corporation (“Florida Housing”) posted notice of its intended decision to award funding to Naranja, Slate Miami and Harbour Springs. Parc Grove challenged the eligibility of Harbour Springs; no other party challenged the eligibility of any of these applications. Petitioners timely filed notices of intent to protest followed by formal written protests challenging the scoring process in the RFA. The petitions were referred to the Division of Administrative Hearings (“DOAH”) and consolidated. Naranja, Slate Miami, and Harbour Springs filed notices of appearance as specifically named persons.

Naranja and Slate Miami filed a Joint Motion to Dismiss the petitions filed by Ambar Trail, Sierra Meadows, and Quail Roost based on a lack of standing. Florida Housing joined in the Motion to Dismiss. Ambar Trail, Sierra Meadows, and Quail Roost filed a Response to the Joint Motion to Dismiss.

On March 23, 2020, a telephonic hearing on the Joint Motion to Dismiss was conducted before James H. Peterson, III, Administrative Law Judge (“ALJ”) with DOAH. At hearing Ambar Trail, Sierra Meadows, and Quail Roost argued that the entire RFA 2019-112 and the preliminary funding award decisions issued for the RFA should be rescinded. In reviewing a motion to dismiss, the ALJ is required to accept the factual allegations in the Petition as true and consider only those factual matters contained with the Petitions. The ALJ therefore did not conduct an

independent fact-finding hearing, and the factual allegations set forth in the Petitions must be considered as competent substantial evidence.

At the hearing, the Joint Motion to Dismiss, the Response to the Motion to Dismiss, the Petitions filed by Petitioners, and arguments of counsel were considered and discussed. At the end of those discussions, the ALJ orally announced that the Joint Motion to Dismiss was well taken and that a written order to that effect would be entered. On March 24, 2020, Parc Grove filed a notice of voluntary dismissal dismissing its petition. On April 3, 2020, the ALJ issued a Recommended Order of Dismissal, attached as Exhibit A, recommending that Florida Housing enter a Final Order finding that Petitioners Ambar Trail, Sierra Meadows, and Quail Roost lack standing and dismissing the Petitions with prejudice.

On April 13, 2020, Ambar Trail, Sierra Meadows, and Quail Roost filed nine Exceptions to the Administrative Law Judge's Recommended Order of Dismissal. On April 23, 2020, Florida Housing filed its Response to Petitioners' Exceptions, Naranja and Slate Miami filed a Joint Response to Exceptions, and Harbour Springs filed a Joinder to the Responses filed by Florida Housing and Naranja and Slate Miami. Copies of the Exceptions and Responses are attached as Exhibits B, C and D.

Ruling on Exception #1

Petitioners take exception to Finding of Fact #15, alleging that it is incomplete and lacks context. After a review of the record, the Board finds that Finding of Fact #15 is consistent with the allegations in the Petitions and is supported by competent substantial evidence, and therefore rejects Exception #1.

Ruling on Exception #2

Petitioners take exception to Findings of Fact #17 and 28, alleging that they are incomplete and inaccurate. After a review of the record, the Board finds that Findings of Fact #17 and #28 are consistent with the allegations in the Petitions and are supported by competent substantial evidence, and therefore rejects Exception #2.

Ruling on Exception #3

Petitioners take exception to Findings of Fact #18 and 23, alleging that they are incomplete. After a review of the record, the Board finds that Findings of Fact #18 and #23 are consistent with the allegations in the Petitions and are supported by competent substantial evidence, and therefore rejects Exception #3.

Ruling on Exception #4

Petitioners take exception to Conclusions of Law #36, 44, 46, 47, 48, 50, 51 and 52, alleging that they are incomplete and inaccurate because they do not address other possible remedies or accept Petitioners legal arguments. To the extent that these Conclusions relate to the legal concept of standing in an administrative

proceeding, the Board lacks substantive jurisdiction to modify or reject these Conclusions. To the extent, if any, that these Conclusions address issues within the Board's substantive jurisdiction, the Board finds that these Conclusions are reasonable, consistent with the allegations in the Petitions, and supported by competent substantial evidence. For these reasons, Exception #4 is rejected.

Ruling on Exception #5

Petitioners take exception to Conclusion of Law #37, alleging that it misstates the legal criteria for standing. This Conclusion relates to the legal concept of standing in an administrative proceeding, and the Board therefore lacks substantive jurisdiction to modify or reject this Conclusion. For this reason, Exception #5 is rejected.

Ruling on Exception #6

Petitioners take exception to the last sentence of Conclusion of Law #43, apparently disagreeing that any negative impact on Petitioners was "mere speculation." After a review of the record, the Board finds that Conclusion of Law #43 is reasonable, consistent with the allegations in the Petitions, and supported by competent substantial evidence. For this reason, Exception #6 is rejected.

Ruling on Exception #7

Petitioners take exception to Conclusion of Law #45, alleging that it misstates one of Petitioners' arguments. After a review of the record, the Board finds that

Finding of Fact #15 is consistent with the allegations in the Petitions and is supported by competent substantial evidence, and therefore rejects Exception #7.

Ruling on Exception #8

Petitioners take exception to Conclusion of Law #49, alleging that the ALJ's discussion of a particular case, while accurate, stood for some undiscussed proposition. This Conclusion relates to the legal concept of standing in an administrative proceeding, and the Board therefore lacks substantive jurisdiction to modify or reject this Conclusion. For this reason, Exception #8 is rejected.

Ruling on Exception #9

Petitioners take exception to the ALJ's recommendation that the Petitions be dismissed. After a review of the record, the Board finds that the ALJ's recommendation is based on Findings of Fact that are consistent with the allegations in the Petitions and supported by competent substantial evidence. The Board also finds that the ALJ's Conclusions of Law are either reasonable and supported by competent substantial evidence or are not within the substantive jurisdiction of the Board. For these reasons, Exception #9 is rejected.

Ruling on the Recommended Order

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

The Conclusions of Law set out in the Recommended Order are reasonable and supported by competent substantial evidence or are not within the substantive jurisdiction of the Board.

The Recommendation of the Recommended Order is reasonable and supported by competent substantial evidence and is based on Conclusions that are not within the substantive jurisdiction of the Board.

ORDER

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

A. Petitioner's Exceptions #1-9 are **REJECTED**;

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

IT IS HEREBY ORDERED that the Petitions of Ambar Trail, Sierra Meadows, and Quail Roost are dismissed.

DONE and ORDERED this 11th day of June, 2020.



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, 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.