

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

LA ESTANCIA, LTD.,

Petitioner,

FHFC Case No. 2020-0047BP

DOAH Case No.: 20-3582BID

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent,

and

PARTNERSHIP IN HOUSING, INC.,

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 October 16, 2020. Petitioner La Estancia, Ltd. (“La Estancia”) and Intervenor Partnership in Housing, Inc. (hereinafter “Pueblo Bonito”) were Applicants under Request for Applications 2020-104, SAIL Funding for Farmworker and Commercial Fishing Worker Housing (“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 July 17, 2020, Florida Housing posted notice of its intended decision to award funding to Pueblo Bonito. The Board found that La Estancia satisfied all mandatory and eligibility requirements but was not awarded funding based upon the ranking criteria in the RFA. Petitioner timely filed a notice of intent to protest and formal written protest as required by section 120.57(3), Fla. Stat. challenging the Corporation's scoring and ranking of Applicants for funding under the RFA. Pueblo Bonito timely filed a Notice of Appearance/Motion to Intervene. Florida Housing referred the petition to the Division of Administrative Hearings for a formal hearing.

The central issue is whether Florida Housing's decision to award funding under the RFA was contrary to the agency's governing statutes, the agency's rules or policies, or the solicitation specifications. More specifically, the issue is whether Florida properly scored the narrative portion of the RFA for La Estancia and Pueblo Bonito.

Applicants in this RFA were to be scored on a 100-point scale. Up to 15 points could be awarded for the narrative portion of the application called "Current and Future Need for Farmworker or Commercial Fishing Worker Housing in the Area ("Need")." Both La Estancia and Pueblo Bonito were awarded 12 points for this section. La Estancia contended that it should have received more points than Pueblo Bonito for this section, and thus received more total points and been awarded funding instead of Pueblo Bonito. La Estancia also contended that the action of

Florida Housing's Board of Directors was invalid because it had not been briefed on the designation of Limited Development Areas that occurred after the application deadline.

A hearing was conducted on September 10, 2020 before Administrative Law Judge Garnett Chisenhall. All parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order on October 1, 2020. The Recommended Order found that Florida Housing's scoring of both applications was reasonable, that the Board action was not invalid, and recommended that the petition of La Estancia be dismissed. A copy of the Recommended Order is attached as Exhibit A.

On October 6, 2020, La Estancia filed Exceptions to the Administrative Law Judge's recommendations. Also on October 6, 2020, Florida Housing filed a response to those exceptions. On October 7, 2020, Pueblo Bonito filed a response to the exceptions. Copies of the Exceptions and Responses to Exceptions are attached as Exhibits B, C, and D respectively.

RULING ON EXCEPTIONS

La Estancia's Exception to Finding of Fact 13

1. Las Estancia filed an exception to the Finding of Fact set forth in the third sentence of Paragraph 13 of the Recommended Oder.

2. After a review of the record, the Board finds that the third sentence in Finding of Fact 13 is not supported by competent substantial evidence and is modified as follows:

13. The occupancy rate for the housing stock in Lee County for the period of August 2019 through January 2020 was 91.67 percent as compared to 95.83 percent for the period of September 2018~~9~~ through 2019~~20~~.

3. The Board accepts La Estancia's exception to the third sentence of Finding of Fact 13.

La Estancia's Exception to Finding of Fact 27

4. La Estancia filed an exception to the Finding of Fact in Paragraph 27 of the Recommended Order.

5. After a review of the record, the Board finds that the Finding of Fact in Paragraph 27 is reasonable and supported by competent substantial evidence.

6. The Board rejects the exception to the Finding of Fact in Paragraph 27.

La Estancia's Exception to Conclusion of Law 34

7. La Estancia filed an exception to the Conclusion of Law set forth in Paragraph 34 of the Recommended Order.

8. After a review of the record, the Board finds that the Conclusion of Law set forth in Paragraph 34 is reasonable and supported by competent substantial evidence.

9. The Board rejects the exception to the Conclusion of Law in Paragraph 34.

La Estancia's Exception to Conclusion of Law 35

10. La Estancia filed an exception to the Conclusion of Law in Paragraph 35 of the Recommended Order.

11. After a review of the record, the Board finds that the Conclusion of Law set forth in Paragraph 35 is reasonable and supported by competent substantial evidence.

12. The Board rejects the exception to the Conclusion of Law in Paragraph 35.

La Estancia's Exception to Conclusion of Law 36

13. La Estancia filed an exception to the Conclusion of Law set forth in Paragraph 36 of the Recommended Order.

14. After a review of the record, the Board finds that the Conclusion of Law in Paragraph 36 is reasonable and supported by competent substantial evidence.

15. The Board rejects the exception to the Conclusion of Law in Paragraph 36.

La Estancia's Exception to Conclusion of Law 38

16. La Estancia filed an exception to the Conclusion of Law in Paragraph 38 of the Recommended Order.

17. After a review of the record, the Board finds that the Conclusion of Law set forth in Paragraph 38 is reasonable and supported by competent substantial evidence.

18. The Board rejects the exception to the Conclusion of Law in Paragraph 38.

La Estancia's Exception to the Recommendation

19. La Estancia filed an exception to the Recommendation set forth in the Recommended Order.

20. After a review of the record, the Board finds that the Recommendation is reasonable and supported by competent substantial evidence.

21. The Board rejects the exception to the Recommendation in the Recommended Order.

Ruling on the Recommended Order

22. The Findings of Fact set out in the Recommended Order are supported by competent substantial evidence with the exception of Finding of Fact in Paragraph 13 which is modified as stated herein.

23. The Conclusions of Law set out in the Recommended Order are reasonable and supported by competent substantial evidence.

24. 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 in the Recommended Order are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order with the exception of Finding of Fact in Paragraph 13 which is modified as stated herein.

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 Order and incorporated by reference as though fully set forth in this Order.

It is hereby ORDERED that La Estancia's formal written protest is dismissed, and funding is awarded to Pueblo Bonito, subject to the successful completion of credit underwriting.

DONE and ORDERED this 16th day of October, 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.