

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

HTG OASIS, LLC,

Petitioner,

FHFC Case No. 2021-084BP
DOAH Case No. 21-3488BID

v.

FLORIDA HOUSING FINANCE
CORPORATION; and LOFTS ON
36, LTD.,

Respondents,

and

COCO PALM PLACE, 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 January 21, 2022. Petitioner HTG Oasis, LLC (“HTG Oasis”), Respondent Lofts on 36, Ltd., (“Lofts”), and Intervenor Coco Palm Place, LP, (“Coco Palm”), and Princeton Palms Place, Ltd. (“Princeton Palms”) were Applicants under Request for Applications 2021-203, Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County (the “RFA”). The matter for

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Hom. Ramo DATE: 1/21/2022

consideration before the Board is a Recommended Order issued pursuant to sections 120.57(1) and (3), Florida Statutes.

Florida Housing Finance Corporation (“Florida Housing”) posted notice of its intended decision to award funding to Coco Palm and other applicants. Petitioner timely filed a Formal Written Protest and Petition for Administrative Hearing challenging the eligibility of Coco Palm, Princeton Palms, and Lofts. Florida Housing referred the matter to the Division of Administrative Hearings (“DOAH”).

Prior to final hearing, HTG Oasis, Florida Housing, and Lofts entered into a Joint Stipulation that Lofts was ineligible for funding in the RFA. Also prior to final hearing, Coco Palm appeared in the proceeding for the limited purpose of entering a Stipulation for Entry of Findings of Fact and Recommended Order in which HTG Oasis, Florida Housing, Coco Palm, and Princeton Palms stipulated that Coco Palm’s and Princeton Palms’ respective applications were ineligible for funding in the RFA.

The case was set for an in-person hearing on December 14, 2021, on which date it commenced and concluded. The parties submitted Joint Exhibits 1 and 2, and no testimony was offered. The parties timely submitted a Joint Proposed Recommended Order.

The Recommended Order of Administrative Judge Suzanne Van Wyk was entered on December 22, 2021 recommending that Florida Housing enter a final

order 1) finding Coco Palm, Princeton Palms, and Lofts ineligible for funding; and
2) selecting HTG Oasis for funding subject to the successful completion of credit underwriting.

No exceptions were filed to the Recommended Order.

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.

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

ORDER

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

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 as to funding in RFA 2021-203:

- 1) Coco Palm, Princeton Palms, and Lofts are ineligible for funding; and
- 2) HTG Oasis is selected for funding subject to the successful completion of credit underwriting.

DONE and ORDERED this 21st day of January, 2022.



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.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

HTG OASIS, LLC,

Petitioner,

vs.

Case No. 21-3488BID

FLORIDA HOUSING FINANCE
CORPORATION; AND LOFTS ON 36, LTD,

Respondents,

and

COCO PALM PLACE, LP,

Intervenor.

RECOMMENDED ORDER

Pursuant to notice, a formal administrative hearing was conducted on December 14, 2021, before Administrative Law Judge Suzanne Van Wyk of the Division of Administrative Hearings ("Division").

APPEARANCES

For Petitioner HTG Oasis, LLC ("Oasis"):

J. Stephen Menton, Esquire
Rutledge Ecenia, P.A.
119 South Monroe Street, Suite 202
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For Respondent Florida Housing Finance Corporation ("Florida Housing"):

Betty Zachem, Esquire
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For Respondent Lofts on 36, Ltd. (“Lofts on 36”):

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Tiffany A. Roddenberry, Esquire
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For Intervenor Coco Palm Place, LP (“Coco Palm”):

No appearance.

STATEMENT OF THE ISSUE

Whether Florida Housing’s preliminary award of funding to Coco Palm, and its determination that the application submitted by Lofts on 36 is eligible for funding, is clearly erroneous, contrary to competition, arbitrary or capricious, or contrary to Florida Housing’s governing statutes, rules, policies, or the Request for Application specifications.

PRELIMINARY STATEMENT

This case arises from Florida Housing’s notice of preliminary award of funding for applications submitted pursuant to RFA 2021-203, “Housing Credit Financing For Affordable Housing Developments Located In Miami-Dade County” (“the RFA”). In response to the RFA, Oasis; Coco Palm; Princeton Palms Place, Ltd. (“Princeton Palms”); and Lofts on 36 submitted applications seeking funding. Coco Palm was preliminarily selected for funding. Oasis, Princeton Palms, and Lofts on 36 were found eligible for funding but were not selected for funding. Oasis timely filed a Formal Written Protest and Petition for Administrative Hearing challenging the eligibility and selection of Coco Palm’s application for funding. In particular, Oasis alleged that the applications for Coco Palm and Princeton Palms¹

¹ Princeton Palms’ application was determined eligible, but was not selected for funding. Princeton Palms’ application was not within the funding range.

violated Florida Administrative Code Rule 67-48.004(1). Oasis also challenged Florida Housing's determination that Lofts on 36 was eligible for funding. Lofts on 36 appeared in this proceeding as a named party.

Prior to the Final Hearing, Oasis, Florida Housing, and Lofts on 36 entered into a Joint Stipulation that Lofts on 36 was not eligible for funding in this RFA. The only issue remaining for resolution was Oasis' challenge to Coco Palm's application. Prior to hearing, Coco Palm appeared in this proceeding for the limited purpose of entering the Stipulation for Entry of Findings of Fact and Recommended Order with Oasis and Florida Housing. Coco Palm, Princeton Palms, Oasis, and Florida Housing stipulated that Coco Palm's and Princeton Palms' respective applications are ineligible for funding under the RFA.

Pursuant to an Amended Notice of Hearing, the hearing was held on December 14, 2021. The parties submitted Joint Exhibits 1 and 2, and no testimony was offered. The parties timely submitted a Joint Proposed Recommended Order, which has been considered in preparing this Recommended Order.

FINDINGS OF FACT

1. On July 20, 2021, Florida Housing issued the RFA seeking applications for Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County.

2. Oasis, Coco Palm, Princeton Palms, and Lofts on 36 all submitted applications in response to the RFA.

3. Florida Housing's Review Committee for the RFA met and reviewed all responsive applications to the RFA and carried out the funding selection process in accordance with section 5.B. of the RFA. On October 22, 2021, Florida Housing's Board of Directors approved the recommendation of the

Review Committee to select the following three applications for funding and invite the applicants to enter credit underwriting: Cordova Estates; Naranja Grand; and Coco Palm.

4. The Coco Palm and Princeton Palms' applications are ineligible for funding.

5. Lofts on 36's application is ineligible for funding.

6. Oasis' application is next in line for funding after Coco Palm and Lofts on 36.

7. Oasis' application has not been challenged and is eligible for funding.

8. Given the agreements of ineligibility by other applicants for this RFA and, pursuant to the terms of the RFA, Oasis' application will be selected for funding subject to the successful completion of credit underwriting.

CONCLUSIONS OF LAW

9. The Division has jurisdiction over the parties to, and subject matter of, this proceeding. § 120.57(1) and (3), Fla. Stat. (2021).

10. This is a competitive procurement protest proceeding and as such is governed by section 120.57(3)(f), Florida Statutes, which provides that the burden of proof rests with Petitioner as the party opposing the proposed agency action.

11. Oasis met its burden to demonstrate that the applications submitted by Coca Palm and Lofts on 36 are ineligible for funding, and that Oasis' application should be selected for funding.

12. Oasis met its burden to prove that Florida Housing's intended award to Coco Palm, and its determination that the application submitted by Lofts on 36 is eligible for funding, are clearly erroneous.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Florida Housing enter a final order as to RFA 2021-203

finding that Coco Palm, Princeton Palms, and Lofts on 36 are ineligible for funding, and that Oasis be selected for funding subject to the successful completion of credit underwriting.

DONE AND ENTERED this 22nd day of December, 2021, in Tallahassee,
Leon County, Florida.



SUZANNE VAN WYK
Administrative Law Judge
1230 Apalachee Parkway
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(850) 488-9675
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Filed with the Clerk of the
Division of Administrative Hearings
this 22nd day of December, 2021.

COPIES FURNISHED:

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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.