Housing Finance Authority funding renovations

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Subject:
Housing Finance Authority funding renovations

Mr. David G. Fisher
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RE: HOUSING FINANCE AUTHORITY – GRANT OF SURPLUS FUNDS TO NONPROFIT – whether a housing finance authority may grant funds to Habitat for Humanity, a nonprofit corporation, for renovation of one of its Habitat ReStores, which sells used furniture, etc. § 159.608, Fla. Stat. (2017).

Dear Mr. Fisher:

We are in receipt of your letter on behalf of the Housing Finance Authority of Polk County, Florida, requesting an opinion on the following question:

Can the Housing Finance Authority of Polk County, Florida, pursuant to section 159.608(10)(a), Florida Statutes, make a grant to Habitat for Humanity of East Polk County, Inc., a not-for-profit corporation, for the renovation of its Habitat ReStore, which will act as a revenue generator for Habitat's development of affordable housing?

In sum:

Under section 159.608(10)(a), Florida Statutes, the Polk County Housing Finance Authority is authorized to grant surplus funds to Habitat for Humanity for the renovation of its ReStore, which, once renovated, will generate revenues that will permit Habitat to increase the number of affordable houses it can build within Polk County.

You state that the Housing Finance Authority of Polk County, Florida, was established to alleviate and remedy the shortage of housing and of capital for investment in housing in Polk County pursuant to Polk County Ordinance No. 78.20 and section 159.604, Florida Statutes. Habitat for Humanity ("Habitat"), a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of the State of Florida, builds affordable housing throughout East Polk County. Habitat has asked the Housing Finance Authority of Polk County for a one-time grant to assist Habitat in renovating one of its Habitat ReStore ("ReStore") locations in East Polk County. ReStore sells new and gently used furniture, home accessories, appliances, building materials, etc., to the public at a discounted rate. All of the proceeds from sales go to Habitat, which uses such proceeds for the development of

affordable housing. In the 2015-2016 fiscal year, ReStore generated $178,814.00 for Habitat, which was 19.14 percent of Habitat's annual budget, and in 2016-2017, generated $271,133.00, or 21.16 percent of Habitat's budget that fiscal year.

Habitat generally builds six to eight houses annually in East Polk County, and expects to build at least 12 houses annually once the ReStore has been renovated. Without the proposed renovations to ReStore, it is projected that Habitat will not have sufficient staff support to build more than six to eight houses per year.

The Legislature authorized the creation of housing finance authorities for the purpose of carrying out the powers granted in the Florida Housing Finance Authority Law, sections 159.601 through 159.623, Florida Statutes. In section 159.602(3), Florida Statutes, the Legislature found that the "financing, acquisition, construction, reconstruction, and rehabilitation of housing … are exclusively public uses and purposes for which public money may be spent, advanced, loaned, or granted and are governmental functions of public concern."[1]

Section 159.608, Florida Statutes, sets forth the powers of housing finance authorities, and specifically includes the following power:

"(10)(a) To make loans or grant surplus funds to corporations that qualify as not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of this state, for the development of affordable housing[.]"

This office stated in Attorney General Opinion 2000-14 that "housing finance authorities may operate in a variety of capacities in order to accomplish the purposes of the act." For example, in Attorney General Opinion 2000-14, this office concluded that section 159.608(3) authorized the provision of mortgage loans to individuals for the purchase of an apartment complex to be rented to low-income families or individuals. In Attorney General Opinion 2009-17, this office found that section 159.608(10)(b) authorized the loan of surplus funds to a private individual or entity in order to develop affordable housing for profit.

You have represented that a grant of surplus funds to Habitat for Humanity for the purpose of renovating the ReStore, which provides Habitat with all of its proceeds, will allow Habitat to go from building six to eight affordable houses per year, to being able to build at least 12 affordable houses per year. It is my opinion that this satisfies the criteria in section 159.608(10)(a) and the purposes of the Housing Finance Authority Law, thus authorizing such grant of funds.

Sincerely,

Pam Bondi
Attorney General

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[1] *See also State v. Housing Fin. Auth. of Pinellas County*, 506 So. 2d 397, 399 (Fla. 1987).