



Jerrick Hernandez <jhernandez@guamopa.com>

Re: Docket No. OPA-PA-25-001; In the Appeal of Summer Vista II DE, LLC and Summer Vista III DE, LLC (Submission of Several Documents)

Eliseo M. Florig, Jr. <emflorig@ghura.org>

Mon, Feb 24, 2025 at 2:21 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

Cc: Elizabeth Napoli <efnapoli@ghura.org>, "Joyce C.H. Tang" <jtang@civilletang.com>, "R. Marsil Johnson" <rmarsjohnson@bsjmlaw.com>

Hafa Adai, Mr. Hernandez:

Please see attached **Agency Report; Agency Statement; Declaration Re Court Action; and Request for Hearing** for efilng in the above-subject matter. Kindly confirm receipt via reply email. Thanks.

Here's the link on the Agency Report in case there are any issues accessing the documents: https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvK0WhH?usp=drive_link

Should you have any questions or require further information, do not hesitate to contact me.

Sincerely,

Eliseo M. Florig, Jr., Esq.**In-House Counsel**

Guam Housing and Urban Renewal Authority

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Docket No. OPA-PA-25-001 Agency Report, Agency Statement, Declaration of Court Action, and Request for Hearing.pdf
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5 *Attorney for Guam Housing and*
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7 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
8 **PROCUREMENT APPEAL**

9 In the Appeal of

10 SUMMER VISTA II DE, LLC and
SUMMER VISTA III, DE, LLC,

11 Appellants.

DOCKET NO. OPA-PA-25-001

AGENCY REPORT

12
13 The Guam Housing and Urban Renewal Authority (“GHURA”) hereby submits its
14 Agency Report, pursuant to 2 GAR § 12105:

- 15
16 (a) A copy of the protest:

17 **Please click on the link below:**

[https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive link](https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive_link)

- 18 (b) A copy of the bid or offer submitted by the Appellant and a copy of the bid or offer
19 that is being considered for award or whose bid or offer is being protested, if any
20 had been submitted prior to the protest:

21 **Please click on the link below:**

[https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive link](https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive_link)

- 22 (c) A copy of the solicitation, including the specifications or portions thereof relevant
23 to the protest:

24 **Please click on the link below:**

[https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive link](https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive_link)

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2 (d) A copy of the abstract of bids or offers or relevant portions to the protest: **Please**
3 **note that GHURA did not administer the 2024 LIHTC QAP or any previous**
4 **LIHTC QAP as a procurement matter subject to the Guam Procurement Law**
5 **as the allocation of tax credits are not considered buying, purchasing, renting,**
6 **leasing, or otherwise acquiring any supplies, services, or construction by**
7 **GHURA. As such, no abstract of bids or offers or relevant portions of the**
8 **protest responsive to 2 GAR § 12105(d) exist.**

9 (e) Any other documents which are relevant to the protest; including the contract, if
10 one has been awarded, pertinent amendments, and plans and drawings:

11 **Please click on the link below:**

12 <https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive link>

13 (f) The decision from which the Appeal is taken, if different from the decision
14 submitted by Appellant:

15 **Please click on the link below:**

16 <https://drive.google.com/drive/folders/1vm4gYiCeCcZ8az-umlKp5GvPkvpK0WhH?usp=drive link>

17 (g) A statement answering the allegation of the Appeal and setting forth findings,
18 actions, and recommendation in the matter together with any additional evidence
19 or information deemed necessary in determining the validity of the Appeal. The
20 statement shall be full responsive to the allegations of the Appeal: **Please see**
21 **filed Agency Statement.**

22 (h) If award made after receipt of the protest, the report will include the determination
23 required under 2 GAR § 9101(e): **Not applicable.**

24 (i) A statement in substantially the same format as Appendix B to this Chapter,
25 indicating whether the matter is the subject of a court proceeding: **Please see**
26 **filed Declaration Re Court Action.**

27 Submitted this 21st day of February, 2025.

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By: 

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7 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
8 **PROCUREMENT APPEAL**

9 In the Appeal of

DOCKET NO. OPA-PA-25-001

10 SUMMER VISTA II DE, LLC and
SUMMER VISTA III, DE, LLC,

AGENCY STATEMENT

11 Appellants.

12
13 The Guam Housing and Urban Renewal Authority (“GHURA”) hereby submits its Agency
14 Statement, in response to the appeal from Summer Vista II DE, LLC and Summer Vista III DE,
15 LLC (collectively referred to as “Summer Vista” or “Appellants”) of the 2024 Low Income
16 Housing Tax Credit Qualified Allocation Plan (“2024 LIHTC QAP”) program administered by
17 GHURA.

18
19 **I. RELEVANT BACKGROUND**

20 On December 10, 2024, at its Regular Board Meeting, the GHURA Board of
21 Commissioners (“BOC”) voted to allocate and subsequently allocated tax credits under the 2024
22 LIHTC QAP cycle to Flores Rosa, LLC (“Flores Rosa”) for the Flores Rosa project in the amount
23 of \$1,793,120.00.

24 On December 12, 2024, Core Tech Development, LLC (“Core Tech”)¹, through its counsel,
25 submitted a litigation hold letter to the BOC relating to the award of the 2024 LIHTC QAP tax
26

27 _____
28 ¹ Core Tech is the developer for Summer Vista.

1 credits to Flores Rosa and the ranking of Rosewood Park LLC (Rosewood Park Project) as the
2 second ranked project, and its intent to file a protest.
3

4 On December 18, 2024, GHURA issued notices to all five applicants including Summer
5 Vista informing the applicants that it had allocated the abovementioned amount to Flores Rosa.
6 The notices further stated that applicants had the right to appeal the allocation of the 2024 LIHTC
7 QAP tax credits to Flores Rosa pursuant to its Section VI regarding appeal. The appeal provision
8 found on page 31 of the 2024 LIHTC QAP, states, “All appeals shall be resolved in accordance
9 with GHURA’s Appeals Process Procedure, copies of which are maintained at GHURA’s office.”
10 The appeals procedure used by GHURA is entitled, “Procedure for Appeal to the Board of
11 Commissioners.” (“Procedure for Appeal”) This appeals procedure maintained at GHURA’s
12 office provides in Section I, Right to Appeal, Paragraph 3, Time Limit for Filing Appeal, “An
13 appeal shall be submitted within ten (10) calendar days after the Executive Director’s award for
14 the successful applicant/applicants.”
15

16 On January 6, 2025, Summer Vista filed its appeal/protest (First Appeal) with GHURA of
17 the tax credit allocated to Flores Rosa and the ranking of the Rosewood Park Project under the
18 2024 LIHTC QAP.
19

20 On January 23, 2025, GHURA’s Executive Director sent a denial letter due to untimely
21 filing of the appeal to Summer Vista, through its counsel, as the ten (10) calendar days to have
22 filed an appeal under GHURA’s appeal procedure was on or before December 28, 2024.
23

24 On February 3, Summer Vista, through its counsel, filed a notice of appeal/protest (Second
25 Appeal) of GHURA’s appeal process relating to the 2024 LIHTC QAP.

26 On February 5, 2025, Summer Vista, through its counsel, filed its Notice of Verified
27 Procurement Appeal; Procurement Appeal with the Office of Public Accountability (“OAP”).
28

1 documents including LIHTC QAP program documents were seized and never returned by the FBI
2 and/or the OAG to GHURA. Thus, GHURA was no longer in possession of the documents taken
3 by law enforcement in or about June 2016, and could not provide disclosable documents to the
4 Appellants as requested in their January 7, 2025 Sunshine Act Request Question #4 regarding the
5 adoption, approval, and promulgation of the Appeals and Process Procedures for the LIHTC QAP
6 program described above known as the Procedure for Appeal to the Board of Commissioners
7 which is kept at GHURA’s office and was submitted to the Appellants as a disclosable document
8 in reference to Question #2 of the Appellants’ January 7, 2025 Sunshine Act Request. *Id.*

9
10
11 **2) Appellants’ Allegation re: GHURA’s LIHTC program is not exempt from the Guam**
12 **Procurement Law**—The Guam Procurement Law apply to GHURA and its procurement unless
13 a specific federal statute or regulation provides otherwise.

14 **GHURA’s Response**—Appellants cite to a Legal Memorandum issued by the Office of the
15 Attorney General (“OAG”) dated December 17, 2012, Ref: AG-12-0850, for the premise that all
16 of GHURA’s federal programs are subject to the Guam Procurement Law unless a specific federal
17 statute or regulation provides otherwise. *See* Appellant’s Procurement Appeal, **Exhibit B** (Protest,
18 Ex. 24-OAG 12-0850, 12/17/2012 Opinion) (“OAG 12/17/12”).

19
20 However, the subject Legal Memorandum from the OAG simply enumerates the 10
21 programs administered by GHURA that are federally funded. *Id.* The Legal Memorandum does
22 not specifically, or by inference, confirm that the LIHTC QAP program “[is] not exempt from the
23 Guam Procurement Law,” as alleged by Appellants. *Id.* The Legal Memorandum states, in its
24 entirety, “9. The Low Income Housing Tax Credit Program was created by the 1986 Tax Reform
25 Act to assist with the development of low-income rental housing by providing qualified owners
26 with Credit to offset their tax obligations.” *Id.*

1
2 GHURA did not administer the 2024 LIHTC QAP or, upon information and belief, any
3 previous LIHTC QAP as a procurement matter subject to the Guam Procurement Law as the
4 allocation of tax credits under the program are not considered buying, purchasing, renting, leasing,
5 or otherwise acquiring any supplies, services, or construction by GHURA. As such, the Guam
6 Procurement Law does not apply to the LIHTC QAP program.

7
8 **III. TIMELINESS OF PROTEST**

9 Summer Vista waited to file its First and Second Appeals until after allocation of tax credit
10 to Flores Rosa under the 2024 LIHTC QAP cycle. The First and Second appeals are untimely as
11 discussed earlier, and therefore, cannot be considered. Summer Vista's late filing deprives the
12 OPA of jurisdiction to determine its belated complaints and allegations, and GHURA intends to
13 file a Motion to Dismiss addressing this issue in full.

14 **IV. CONCLUSION**

15 In conclusion and for the aforementioned reasons, GHURA respectfully requests that this
16 appeal be denied in its entirety and dismissed with prejudice.

17
18 Submitted this 24th day of February, 2025.

19 **GUAM HOUSING AND URBAN
20 RENEWAL AUTHORITY**

21
22 By:


23 **ELISEO M. FLORIG, JR.**
24 In-House Counsel

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5 *Attorney for Guam Housing and*
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7 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
8 **PROCUREMENT APPEAL**

9 In the Appeal of
10 SUMMER VISTA II DE, LLC and
SUMMER VISTA III, DE, LLC,
11 Appellants.

DOCKET NO. OPA-PA-25-001

DECLARATION RE COURT ACTION

12
13 **COMES NOW**, undersigned counsel, on behalf of the Guam Housing and Urban Renewal
14 Authority (“GHURA”).

15 Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses
16 interest in a decision by the Public Auditor, the Office of the Public Auditor will not take any
17 action on any appeal where action concerning the protest or appeal has commenced in any court.

18 The undersigned party does hereby confirm that to the best of his or her knowledge, no
19 case or action concerning the subject of this Appeal has been commenced in court. All parties are
20 required to and the undersigned party agrees to notify the Office of the Public Auditor within 24
21 hours if court action commences regarding this Appeal or the underlying procurement action.

22 Submitted this 19th day of February, 2025.

23
24 **GUAM HOUSING AND URBAN**
RENEWAL AUTHORITY

25
26 By:



27 **ELISEO M. FLORIG, JR.**
28 In-House Counsel

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7 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
8 **PROCUREMENT APPEAL**

9 In the Appeal of
10 SUMMER VISTA II DE, LLC and
SUMMER VISTA III, DE, LLC,
11 Appellants.

DOCKET NO. OPA-PA-25-001

REQUEST FOR HEARING

12
13 **COMES NOW**, undersigned counsel, on behalf of the GUAM HOUSING AND URBAN
14 RENEWAL AUTHORITY (“GHURA”).

15 Pursuant to 2 GAR § 12108(a), GHURA does hereby request a hearing on the above-
16 captioned appeal.

17 Submitted this 19th day of February, 2025.

18
19 **GUAM HOUSING AND URBAN**
RENEWAL AUTHORITY

20
21 By: 

22 **ELISEO M. FLORIG, JR.**
In-House Counsel
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