

Suite 401 DNA Building  
 238 Archbishop Flores St.  
 Hagåtña, Guam 96910



# TRANSMITTAL

<b>To:</b>	<b>Ms. Elizabeth Napoli</b> <b>Executive Manager</b> Guam Housing and Urban Renewal Authority 117 Bien Vendia Avenue Sinajana, Guam 96910 Phone: (671) 477-9851 Fax: (671) 300-7565 Email: <a href="mailto:efnapoli@ghura.org">efnapoli@ghura.org</a>	<b>From:</b>	<b>Benjamin J.F. Cruz</b> <b>Public Auditor</b> Office of Public Accountability
		<b>Pages:</b>	9 (including cover page)
<b>CC:</b>	<b>Ms. Joyce C.H. Tang, Esq</b> <b>Attorney for Appellants Summer Vista II DE, LLC</b> <b>and Summer Vista III DE, LLC</b> Civile & Tang PLLC 330 Hernan Cortez Ave. Ste. 200 Hagåtña, Guam 96910 Phone: (671) 472-8868/69 Fax: (671) 477-2511 Email: <a href="mailto:jtang@civilletang.com">jtang@civilletang.com</a>	<b>Date:</b>	April 1, 2025
			(671) 475-0390 x. 204 (671) 472-7951

**Re:** OPA-PA-25-004 Notice of Receipt of Appeal

For Review     
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**Comments:**

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,  
 Jerrick Hernandez, Auditor  
[jhernandez@guamopa.com](mailto:jhernandez@guamopa.com)



## OFFICE OF PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910

Phone: (671) 475-0390 / FAX: (671) 472-7951

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April 1, 2025

Ms. Elizabeth Napoli  
Executive Director  
Guam Housing and Urban Renewal Authority  
117 Bien Vendia Avenue  
Sinajana, Guam 96910

**VIA EMAIL: [efnapoli@ghura.org](mailto:efnapoli@ghura.org)**

Re: Notice of Receipt of Appeal – OPA-PA-25-004

Dear Ms. Napoli,

Please be advised that Summer Vista II DE, LLC (hereinafter referred to as “Summer Vista II”) and Summer Vista III, DE, LLC (hereinafter referred to as “Summer Vista III”) filed an appeal with the Office of Public Accountability (OPA) on March 31, 2025, regarding the Guam Housing and Urban Renewal Authority’s (GHURA) denial of its protest decision (protest 2) related to the award of low income housing tax credits pursuant to its 2024 Low Income Housing Tax Credit QAP. OPA has assigned this appeal case number OPA-PA-25-004.

Immediate action is required of GHURA pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA’s office and on its website at [www.opaguam.org](http://www.opaguam.org). The first eleven pages of the notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeal. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Tuesday, April 8, 2025**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Tuesday, April 15, 2025**, ten work days following receipt of this notice.

When filing all required documents with our office, please provide one original and one copy to OPA (**electronic filings will be acceptable and highly encouraged, and can be emailed to [jhernandez@guamopa.com](mailto:jhernandez@guamopa.com)**), and serve a copy to Summer Vista II and Summer Vista III.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at [jhernandez@guamopa.com](mailto:jhernandez@guamopa.com) or 475-0390 ext. 204 should you have any questions regarding this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Benjamin J.F. Cruz', with a stylized flourish at the end.

Benjamin J.F. Cruz  
Public Auditor

Enclosure: First 6 pages of the Notice of Appeal – OPA-PA-25-004

Cc: Joyce C.H. Tang, Esq., Attorney for Summer Vista II and Summer Vista III

1 JOYCE C.H. TANG  
2 HAIG T. HUYNH  
3 **CIVILLE & TANG PLLC**  
4 330 Hernan Cortez Ave. Ste. 200  
5 Hagatna, Guam 96910  
6 Tel: (671) 472-8868/69  
7 Fax: (671) 477-2511

8 *Attorneys for Appellants*  
9 *Summer Vista II DE, LLC and*  
10 *Summer Vista III DE, LLC*

11 **PROCUREMENT APPEAL**  
12 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**

13  
14  
15  
16 In the Appeal of

17  
18 Summer Vista II DE, LLC and Summer Vista  
19 III DE, LLC

20 Appellants  
21

**DOCKET NO. OPA-PA-25** \_\_\_\_\_

**NOTICE OF VERIFIED PROCUREMENT  
APPEAL; PROCUREMENT APPEAL**

22  
23 Summer Vista DE II, LLC and Summer Vista DE III, LLC (collectively referred to as  
24 “Summer Vista”) hereby appeal a decision rendered by the Guam Housing and Urban Renewal  
25 Authority (“GHURA”), an agency of the Government of Guam, on March 14, 2025, denying  
26 Summer Vista’s February 3, 2025 Protest 2 letter. *See Exhibit A* (3/14/25 Protest 2 Decision). As  
27 discussed further below, Protest 2 is based on information Summer Vista received from GHURA in  
28 its January 23, 2025 Decision denying Protest 1. *See Exhibit B* (1/23/25 Protest 1 Decision). Protest

1 2 raises three (3) issues (1) GHURA’s application of the “Procedure for Appeal to the Board of  
2 Commissioners” (“GHURA Appeal Procedures”) to the 2024 LIHTC procurement which was not  
3 promulgated in accordance with the Administrative Adjudication Law at 5 GCA §9100 *et seq.*; (2)  
4 GHURA failed to follow GHURA Appeal Procedures when it denied Protest 1 without the Board of  
5 Commissioners’ review is based on GHURA’s; and (3) GHURA Appeal Procedures are not  
6 published. *See Exhibit C* (2/3/25 Summer Vista’s Protest 2).  
7

8 **I. APPELLANTS’ INFORMATION**

9 **Name:** Summer Vista II DE, LLC  
10 Summer Vista III DE, LLC.<sup>1</sup>  
11 **Mailing Address:** 388 South Marine Corps Drive, Suite 400  
12 Tamuning, Guam 96913  
13 **Business Address:** 388 South Marine Corps Drive, Suite 400  
14 Tamuning, Guam 96913  
15 **Telephone Number:** (671) 473-5000  
16 **Legal Counsel For This Appeal:** Joyce C.H. Tang, Esq.  
17 Civile & Tang, PLLC,  
18 330 Hernan Cortez Ave. Ste. 200,  
19 Hagåtña, Guam 96910  
20 Email: jtang@civilletang.com

21 **II. APPEAL INFORMATION**

22 **Procuring/Soliciting Agency:** Guam Housing and Urban Renewal Authority  
23 **Identification / Number:** 2024 Low Income Housing Tax Credit QAP  
24 **Decision Being Appealed:** The decision being appealed, included in the Supporting  
25 Documents attached hereto, was made on March 14,  
26 2025, by Elizabeth F. Napoli, Executive Director of  
27 GHURA and head of the relevant purchasing agency.  
28 *See Exhibit A* (3/14/25 Protest 2 Decision).

<sup>1</sup> Summer Vista II DE, LLC and Summer Vista III DE, LLC are collectively hereinafter referred to as “Summer Vista” or “Appellants” and individually as “Summer Vista II” and “Summer Vista III.”

1 Appeal is made from a Decision on Protest of Method,  
2 Solicitation or Award.

3 **Date of Contract:** February 3, 2025 (GHURA entered into the 2025  
4 LIHTC Allocation Agreement. See **Exhibit D** (2025  
LIHTC Allocation Agreement).

5 **Names of Competing Bidders:** (1) Flores Rosa Garden L.L.C. (“Flores Rosa”) the  
6 bidder to which GHURA purported to award the 2024  
7 LIHTC allocation of \$1,793,120.  
8 (2) Rosewood Park L.L.C., the bidder which was  
9 purported to be ranked #2 in a tie with Summer Vista II.  
10 (3) Dos Amantes Development, LLC

### 11 **III. STATEMENT OF GROUNDS FOR APPEAL**

#### 12 **A. GROUNDS FOR APPEAL**

13 Summer Vista brings this appeal of GHURA’s Decision to deny Summer Vista’s February 3,  
14 2025 protest (“Protest #2”). The grounds for appeal are as follows:

##### 15 **1. Improper Application of GHURA Appeal Procedure**

16 GHURA improperly applied GHURA Appeal Procedure -- appeals rules that were neither  
17 properly promulgated nor adopted by the GHURA Board of Commissioners (“GHURA Board”) to  
18 deny Protest #2. The document relied upon by GHURA entitled “*Procedure for Appeal to the Board*  
19 *of Commissioners*” (“GHURA Appeal Procedure”) is not the same document referenced at page 31 of  
20 the LIHTC QAP or the 1/23/25 Decision -- “*GHURA’s Appeals and Process Procedure.*” See  
21 **Exhibit E**, at 31 (2024 QAP); see also **Exhibit B**. GHURA has no record of any set of rules and  
22 regulations titled “GHURA’s Appeals and Process Procedure.” See Notice of Verified Procurement  
23 Appeal; Procurement Appeal at 4-5, *Summer Vista II DE, LLC & Summer Vista III DE, LLC v. Guam*  
24 *Hous. & Urban Renewal Auth.*, No. OPA-PA-25-001 (Guam Office of Pub. Accountability Feb. 3,  
25 2025). It is undisputed that the GHURA Appeal Procedure was not approved by the GHURA Board  
26 and was not promulgated in accordance with the Administrative Adjudication Law (“AAL”) at 5  
27 GCA §9100 *et seq.* See *id.* Therefore, these rules have no legal effect and cannot form the basis for  
28 denying Protest #1. See 5 GCA § 9303 (captioned “Adoption, Repeal, Recission, or Amendment of

1 Rules and Regulations”); *see also id.*

2 **2. GHURA Did Not Follow the GHURA Appeal Procedure**

3 While Summer Vista disputes the validity of the GHURA Appeal Procedure, Summer Vista  
4 asserts that GHURA failed to comply with the requirements under the GHURA Appeal Procedure.  
5 The GHURA Appeal Procedure requires all decisions regarding any protest or appeal to be decided  
6 by the GHURA Board. The GHURA Board did not hold any meeting between its December 10, 2024  
7 meeting – when it voted to award the 2024 LIHTC to Flores Rosa – and its next meeting on February  
8 6, 2025. Thus, the GHURA Board did not meet to review, discuss and vote on the various issues  
9 relating to Protest #1. Ms. Napoli signed the 1/23/25 Decision denying Protest #1 as the executive  
10 director, without the GHURA Board’s review and approval. Nowhere in the purported GHURA  
11 Appeal Procedure does it authorize GHURA’s Executive Director or any other person to subsume the  
12 GHURA Board’s role in reviewing and deciding protest or appeals.

13 **3. There Is No Evidence of GHURA Appeal Procedures Being Published**

14 Not only has the GHURA Appeal Procedures never been promulgated or adopted by the  
15 Board, it has not been published in accordance with the requirements of the AAL. The procedures do  
16 not appear in the Guam Compiler of Laws’ official compilation of administrative rules and  
17 regulations, nor have they been made available in pamphlet form. *See* 5 GCA § 9305 (“any agency  
18 may cause to be printed in pamphlet form those rules which were adopted by or affect such  
19 agency...”).

20 **4. Violation of Section 5425(g) Stay**

21 On February 3, 2025, GHURA unlawfully executed the 2025 LIHTC Allocation Agreement  
22 with Flores Rosa, in violation of the automatic stay imposed under 5 GCA § 5425(g). The stay was  
23 triggered by the timely filing of Protest #1 on January 6, 2025, and remained in effect at the time of  
24 the award, rendering the action void under Guam procurement law.

25 **B. SUMMER VISTA’S PROTEST 2 IS TIMELY**

26 This protest is timely filed challenging the purported GHURA’s Appeal Rules and Guam’s  
27 Procurement Laws because the LIHTC award at issue occurred on February 3, 2025—the date  
28 GHURA executed the 2025 LIHTC Allocation Agreement. Although GHURA provided no formal

1 notice and actively withheld the 2025 LIHTC Allocation Agreement from Summer Vista until  
2 February 7, 2025, Protest #2 was filed on February 3, 2025, *the same day the 2025 Carryover*  
3 *Allocation Agreement was executed*. Summer Vista received a copy of the 2025 LIHTC Allocation  
4 Agreement on February 7, 2025 in response to a Sunshine Act Request dated January 24, 2025. *See*  
5 **Exhibit E** (1/24/25 SAR).

6 GHURA’s execution of the 2025 Carryover Allocation Agreement on February 3, 2025,  
7 constituted the award of tax credits. *See* 26 C.F.R. § 1.42-6(c)(1). Because Protest #2 was filed the  
8 same day, Summer Vista’s Protest 2 is timely under the purported GHURA Appeal Procedure (ten-  
9 day appeal rule) and the Guam Procurement Law requiring protest “within fourteen (14) days after  
10 such aggrieved person knows or should know of the facts giving rise thereto.” *See* 5 GCA § 5425(a).

#### 11 **IV. STATEMENT OF THE RULINGS REQUESTED**

12 Summer Vista respectfully requests the Office of Public Accountability make the findings and  
13 order the requested relief as follows:

- 14 **A.** Rescind the award and declare the 2025 Carryover Allocation Agreement void;
- 15 **B.** Cease all further action related to the 2024 QAP;
- 16 **C.** Refrain from allocating any LIHTC tax credits until a valid QAP is adopted and published for  
17 calendar year 2025; and
- 18 **D.** For such other relief that the OPA deems appropriate.

#### 19 **V. SUPPORTING EXHIBITS, EVIDENCE, AND/OR DOCUMENTS**

20 Attached hereto are the following supporting documents and evidence to substantiate the  
21 foregoing claims and grounds for appeal:

- 22 1. **Exhibit A**, 3/14/25 Protest 2 Decision
- 23 2. **Exhibit B**, 1/23/25 Protest 1 Decision
- 24 3. **Exhibit C**, 2/3/25 Summer Vista’s Protest 2
- 25 4. **Exhibit D**, 2025 LIHTC Allocation Agreement
- 26 5. **Exhibit E**, 1/24/25 SAR

27 Although Summer Vista has identified the attached documents and information in support of  
28 this Appeal, Summer Vista does not waive its right to rely upon additional documents, information  
and testimony. To avoid any doubt, Summer Vista’s investigation continues, and it expressly



1 reserves the right to cite other evidence and to present additional testimony during this Appeal or  
2 other proceeding related to the Protest.

3 **VI. DECLARATION RE COURT ACTION**

4 The undersigned party does hereby confirm that to the best of her knowledge that no case or  
5 action concerning the subject of this Appeal has been commenced in court. Counsel for Summer Vista  
6 agrees to notify the Office of Public Accountability within 24 hours if court action commences  
7 regarding this Appeal or the underlying procurement action.

8 **CIVILLE & TANG, PLLC**

9 */s/ Joyce C.H. Tang*

10 Dated: March 31, 2025

By: \_\_\_\_\_

**JOYCE C.H. TANG**

*Attorneys for Appellant*

*Summer Vista DE II, LLC and Summer Vista DE  
11 III, LLC*



Jerrick Hernandez <jhernandez@guamopa.com>

## OPA-PA-25-004 Notice of Receipt of Appeal

**Jerrick Hernandez** <jhernandez@guamopa.com>

Tue, Apr 1, 2025 at 10:15 AM

To: Elizabeth Napoli <efnapoli@ghura.org>

Cc: Elisio Florig <emflorig@ghura.org>, Joyce Tang <jtang@civilletang.com>, Haig Huynh <hhuynh@civilletang.com>, Marc Rasmussen <mrasmussen@civilletang.com>

Hafa Adai,

Please see the attached Notice of Receipt of Appeal for OPA-PA-25-004. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

--  
Best Regards,



Jerrick J.J.G. Hernandez, MA, CGFM, CFE, CICA, CGAP  
*Accountability Auditor*

**Office of Public Accountability**  
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