

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Sea Grape II, Ltd.

Case No. 2007-058VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(e),
FLORIDA ADMINISTRATIVE CODE (2007) TO CHANGE THE SITE OF
THE SEA GRAPE II DEVELOPMENT**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on October 26, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(e) to Change the Site of the Sea Grape II Development" (the "Petition"), filed by Sea Grape II, Ltd. ("Petitioner") on September 25, 2007. Notice of the Petition was published in Volume 33, Number 40, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2007 Universal Cycle, Sea Grape II, Ltd. ("Petitioner") applied for and was awarded State Apartment Incentive Loan ("SAIL") and Housing

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

A. Deen /DATE. 10-29-07

Credits (“HC”) funding to finance the construction of Sea Grape II (the “Development”) located in Monroe County, Florida.

3. Rule 67-48.004(14)(e), F.A.C. (2007), provides in pertinent part:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline...

Those items are as follows:

- (e) Site for the Development;

4. The Development at issue herein is phase-two of a two-phase project¹.

Petitioner contends that in its original Application, it submitted a legal description which encompassed both phases of the two-phase project.

Petitioner has requested a waiver of the above rule to allow Petitioner to separate and carve out this Development’s legal description from the entire two-phase project.

5. Petitioner has demonstrated that neither the location of the Development nor its Tie-Breaker Measurement Point (“TBMP”) will be changed. Thus, Petitioner will obtain no advantage over other applicants.

6. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other

¹ Applicant Sea Grape Apartments, Ltd. received funding in application number 2006-077CS in the 2006 Universal Cycle to develop phase one. An Order Granting Waiver of Rule 67-48.004(14)(e), F.A.C. (2006) for Sea Grape Apartments, Ltd. was executed by the Board on September 21, 2007.

means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

7. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting to separate and more clearly identify the legal boundaries of its Development, without changing the location of the Development or affecting the scoring of its original application would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The “Petition for Waiver of Rule 67-48.004(14)(e) to Change the Site of the Sea Grape II Development” is hereby **GRANTED** to permit Petitioner to change the legal description of its Development for the purpose of separating the legal descriptions and thus more clearly identifying the two phases of the project. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 26th day of October, 2007.

Florida Housing Finance Corporation



By: *Ryan M. Jull*
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
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NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.