

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: THE VILLAGES AT HALIFAX HOUSING, LTD., LLLP

FHFC Case No.: 2005-053VW

**ORDER GRANTING PETITION FOR WAIVER OF RULES
67-48.004(14), AND 67-48.004(1)(a), FLORIDA ADMINISTRATIVE CODE;
ORDER GRANTING WAIVER OF PARTS II.A.2.a.(1) and II.B.1 OF UNIVERSAL
APPLICATION INSTRUCTIONS**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on January 20, 2006, pursuant to a Petition for Waiver of Rule 67-48.004(14) and 67-48.004(1)(a), Fla. Admin. Code (“Petition”). Florida Housing Finance Corporation (“FHFC”) received the Petition on December 6, 2005, from The Villages at Halifax Housing, Ltd., LLLP. (“Petitioner”). On December 16, 2005, the Notice of the Petition was published in Volume 31, Number 50, of the Florida Administrative Weekly. FHFC has received no comments regarding the Petition. After review and consideration of the record, and being otherwise fully advised, the Board of Directors (“Board”) of FHFC hereby finds as follows:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2005 Universal Cycle, FHFC awarded an allocation of low-income housing credits to Petitioner and invited it into credit underwriting.
3. Rule 67-48.004(14), Florida Administrative Code, states 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. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(b) Identity of each Developer, including all co-Developers...

4. Rule 67-48.004(1)(a) defines the “Universal Application Package” and adopts the Universal Application Instructions. Part II.A.2.a(1) provides in part:

“If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.”

5. Rule 67-48.004(1)(a) defines the “Universal Application Package” and adopts the Universal Application Instructions. Part II.B.1 provides in part:

Developer or principal of Developer (Threshold)

The identity of the Developer(s) listed in this Application may not change until construction or Rehabilitation/Substantial Rehabilitation of the Development is complete.

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

7. Petitioner was tentatively awarded \$772,196 in annual tax credits to finance the development of The Villages at Halifax, a development which is to consist of 71 units.

8. At the time of the Petitioner's submittal of its Application, the Petitioner's co-Developers were TCG Daytona Beach, LLC, and Halifax Development, LLC. Further, at the time of the Petitioner's submittal of its Application, the Petitioner's co-General Partners were The Villages at Halifax Development, LLC and Villages at Halifax Partners, Inc. Halifax Development, LLC and Villages at Halifax Partners, Inc., are instrumentalities of The Housing Authority of the City of Daytona, Beach, Florida. TCG Daytona Beach, LLC, is affiliated with The Villages at Halifax Development, LLC.

9. Petitioner seeks a waiver of the rule that prohibits changes in the identity of an applicant's developer and an applicant's ownership structure. Petitioner seeks to replace its existing co-Developer, TCG Daytona Beach, LLC, with Picerne Affordable Development, LLC, and to replace its existing co-General Partner, The Villages at Halifax Development, LLC with Picerne Halifax Village, LLC.

10. The purpose of the underlying statute is to encourage development of affordable housing. Allowing Petitioner to replace TCG Daytona Beach, LLC, with Picerne Affordable Development, LLC, and The Villages at Halifax Development, LLC with Picerne Halifax Housing, LLC will allow the purpose of the underlying statute to be achieved. Petitioner demonstrated it has the requisite experience as Developer and Picerne Affordable Development, LLC, has the requisite experience to serve as co-Developer for the Development, and Picerne Halifax Housing, LLC has the requisite experience to serve as co-General Partner for the Development. The requested waiver to change the identification of the Petitioner's Developer will not adversely impact the Development or be prejudicial to the Development or to the market to be served by the Development.

11. The purpose of the underlying statute will also be served by allowing Petitioner to change its ownership structure. Petitioner demonstrated that the change in ownership structure will not adversely impact the Development and will further Florida Housing's mandate to provide affordable housing for the residents of the City of Daytona Beach, Florida.

12. Moreover, not granting this waiver will create a substantial hardship for Petitioner. Petitioner terminated its Master Development Agreement with its former co-Developer and co-General Partner on July 6, 2005. Petitioner and its former co-Developer and former co-General Partner of the Development, had differences of management philosophies. Petitioner believed that these differences would result in unnecessary delay and expense, making the completion of the Development on time and within budget impossible.

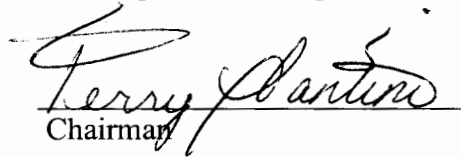
IT IS THEREFORE ORDERED:

The Petition for Waiver is hereby **GRANTED** and the provisions of Rule 67-48.004(14), and Rule 67-48.004(1)(a), Florida Administrative Code, are waived to the extent: (i) allowing the removal of the TCG Daytona Beach, LLC, as a co-Developer, and allowing Halifax Development, LLC and Picerne Affordable Development, LLC, to be identified for purposes of the Application and all other purposes as the Petitioner's co-Developers; and (ii) allowing the removal of The Villages at Halifax Development, LLC, as a co-General Partner, as identified in the Application, and allowing Villages at Halifax Partners, Inc., and Picerne Halifax Housing, LLC to be identified for purposes of the Application and all other purposes as the Petitioner's co-General Partners.

DONE and ORDERED this 20th day of January, 2006.

Florida Housing Finance Corporation

By:


Chairman

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

NOTICE OF RIGHTS

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, 300 MARTIL L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, 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
FLORIDA HOUSING FINANCE CORPORATION**

In Re: PINE HAVEN HOUSING, LTD., LLLP

FHFC Case No.: 2003-054VW

**ORDER GRANTING AMENDMENT TO PETITION FOR WAIVER OF RULE
67-48.002(91), 67-48.004(14), and 67-48.002(111), FLORIDA ADMINISTRATIVE CODE;
ORDER GRANTING WAIVER OF PART II.A.2.a.(1) OF UNVIERSAL APPLICATION
ISNTRUCTIONS AND SECTION 10 OF THE 2004 QUALIFICATION ALLOCATION
PLAN**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on January 20, 2006, pursuant to a "Petition for Waiver of Rule 67-48.004(14) and 67-48.002(111) and Part II.A.2.a.(1) of the Universal Application Instructions for a Change in the Identity of the Petitioner's Developer and the Petitioner's Ownership Structure; Petition for Waiver of Rule 67-48.002(91) and Section 10 of the 2004 Qualification Allocation Plan." ("Petition"). Florida Housing Finance Corporation ("FHFC") received the Petition on December 6, 2005, from Pine Haven Housing, Ltd., LLLP. ("Petitioner"). On December 16, 2005, the Notice of the Petition was published in Volume 31, Number 50, of the Florida Administrative Weekly. FHFC received no comments regarding this petition. After review and consideration of the record, and being otherwise fully advised, the Board of Directors ("Board") of FHFC hereby finds as follows:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 2004 Universal Cycle, FHFC awarded an allocation of low-income housing credits to Petitioner.

3. Rule 67-48.004(14), Florida Administrative Code, states 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. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(b) Identity of each Developer, including all co-Developers...

4. Rule 67-48.002(111) defines the “Universal Application Package” and adopts the Universal Application Instructions. Part II.A.2.a(1) provides in part:

“If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.”

5. Rule 67-48.002(91) defines the Qualified Allocation Plan (“QAP”) and adopts the QAP. Section 10 of the 2004 QAP provides in pertinent part:

“Notwithstanding any other provisions of this QAP, where a development has not been placed in service by the date required or it is apparent that a development will not be placed in service by the date required, such failure is due to circumstances beyond the Applicant’s control and the Applicant has returned its housing credit Allocation in the last calendar quarter of the year in which otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of credits returned...”

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

7. Petitioner was awarded \$1,000,000 in annual tax credits to finance the development of Pine Haven, which consists of 136 affordable housing units.

8. At the time of the Petitioner's submittal of its Application, the Petitioner's co-Developers were TCG Daytona Beach, LLC, and Development at Pine Haven, LLC. Further, at the time of the Petitioner's submittal of its Application, the Petitioner's co-General Partners were Pine Haven Development, LLC and Pine Haven Partners, Inc. The Development at Pine Haven, LLC and Pine Haven Partners, Inc., are instrumentalities of The Housing Authority of the City of Daytona, Beach, Florida. TCG Daytona Beach, LLC, is affiliated with Pine Haven Development, LLC.

9. Petitioner seeks a waiver of the rule that prohibits changes in the identity of an applicant's developer and an applicant's ownership structure. Petitioner seeks to replace TCG Daytona Beach, LLC, with Picerne Affordable Development, LLC, and to remove its existing co-General Partner, Pine Haven Development, LLC, and replace it with Picerne Pine Haven, LLC as co-general partner.

10. Petitioner also seeks a waiver of the rule that prohibits it from returning its 2004 housing credit allocation earlier than the last quarter of the calendar year from which it would otherwise be placed in service and seeks to obtain a housing credit allocation from a later year.

11. The purpose of the underlying statute is to encourage development of affordable housing. Allowing Petitioner to replace TCG Daytona Beach, LLC, with Picerne Affordable Development, LLC, and allowing Petitioner to replace Pine Haven Development, LLC with Picerne Pine Haven, LLC, will allow the purpose of the underlying statute to be achieved. Petitioner demonstrated it has the requisite experience as Developer and Picerne Affordable

Development, LLC, has the requisite experience to serve as co-Developer for the Development. Petitioner further demonstrated it has the requisite experience as General Partner and Picerne Pine Haven, LLC has the requisite experience to serve as co-General Partner for the Development. The requested waiver to change the identification of the Petitioner's Developer and General Partner will not adversely impact the Development or be prejudicial to the Development or to the market to be served by the Development.

12. Further, Petitioner demonstrated that allowing it to return its credits prior to the fall of 2006, allows it to avail itself of relief it is otherwise entitled to, in a more timely fashion.

13. Moreover, not granting this waiver will create a substantial hardship for Petitioner. Petitioner terminated its Master Development Agreement with its former co-Developer and co-General Partner on July 6, 2005. Petitioner and its former co-Developer and co-General Partner of the Development, had differences of management philosophies. Petitioner believed that these differences would result in unnecessary delay and expense, making the completion of the Development on time and within budget impossible. Additionally, Petitioner demonstrated that denial of this relief would result in a substantial hardship as Petitioner's tax credit investor will not proceed forward with an equity closing and permit commencement of construction until as such time as such relief is granted.

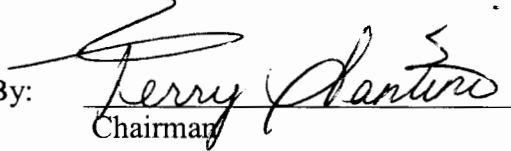
IT IS THEREFORE ORDERED:

The Petition for Waiver is hereby **GRANTED** and the provisions of Rule 67-48.002(91), 67-48.004(14), and Rule 67-48.002(111), Florida Administrative Code, are waived to the extent: (i) allowing the removal of the TCG Daytona Beach, LLC, as a co-Developer, and allowing

Development at Pine Haven, LLC and Picerne Affordable Development, LLC, to be identified for purposes of the Application and all other purposes as the Petitioner's co-Developers; and (ii) allowing the removal of Pine Haven Development, LLC, as a co-General Partner, and allowing Pine Haven Partners, Inc. and Picerne Pine Haven, LLC, to be identified for purposes of the Application and all other purposes as the Petitioner's co-General Partners; and are waived to the extent Petitioner may return its allocation of housing credits currently, instead in the fall of 2006, and shall be allowed to receive a subsequent allocation in accordance with the QAP.

DONE and ORDERED this 20th day of January, 2006.

Florida Housing Finance Corporation

By: 
Chairman

Copies furnished to:

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