

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**LAKESIDE VILLAGE HOUSING, LTD., LLLP**

**Petitioner,**

vs.

CASE NO.: 2005-055VW

**FLORIDA HOUSING FINANCE CORPORATION,**

**Respondent.**

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**PETITION FOR WAIVER OF RULE 67-48.004(14) AND RULE 67-48-004(1)(a) AND  
PART II.A.2.a.(1) AND PART II.B.1. OF THE UNIVERSAL APPLICATION  
INSTRUCTIONS FOR A CHANGE IN THE IDENTITY OF THE PETITIONER'S  
DEVELOPER AND THE PETITIONER'S OWNERSHIP STRUCTURE**

Lakeside Village Housing, Ltd., LLLP (the "Petitioner") hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver of the Corporation's prohibition on changes in the identity of an applicant's developer and an applicant's ownership structure. See Rule 67-48.004(14), F.A.C. (the "Developer Rule") and Rule 67-48.004(1)(a), F.A.C. (together with the Developer Rule, the "Rules"); Part II.A.2.a.(1), Universal Application Instructions – Housing Credit (HC) Program (the "Application Instructions"); and Part II.B.1., Application Instructions.

In support of its petition, the Petitioner states:

1. The address, telephone number, facsimile number and e-mail address of the Petitioner are:

Lakeside Village Housing, Ltd., LLLP  
211 North Ridgewood Avenue, Suite 200  
Daytona Beach, Florida 32114  
(386) 253-5653 ext. 306  
(386) 255-2136  
gamblep@dbhafll.org

2. The contact person, along with contact information and relationship, for the Petitioner's Application – Housing Credit (HC) Program (the "Application") is:

Mr. Joyours P. Gamble  
211 North Ridgewood Avenue, Suite 200  
Daytona Beach, Florida 32114  
(386) 253-5653 ext. 306  
(386) 255-2136  
gamblep@dbhafl.org  
President – Lakeside Village Partners, Inc. (one of Petitioner's co-general partners)

3. The address, telephone number and facsimile number of the Petitioner's attorney are:

Gary J. Cohen, Esq.  
Shutts & Bowen LLP  
1500 Miami Center  
201 S. Biscayne Blvd.  
Miami, FL 33131  
(305) 347-7308  
(305) 347-7808

4. The Petitioner timely submitted its Application in the 2005 cycle (Application #2005-031C) for the development named "Lakeside Village" (the "Development").

5. At the time of the Petitioner's submittal of its Application, the Petitioner's co-Developers (as the term is used in the Developer Rule and the Application Instructions) were TCG Daytona Beach, LLC (the "TCG Developer Entity") and Lakeside Village Development, LLC (the "Authority Developer Entity"), as identified in its Application, and both entities had the required experience to serve as the sole Developer of the Development. To verify the required experience of the Authority Developer Entity, the Petitioner has attached hereto an executed Developer Certification Form and the Developer's Prior Experience Chart for the Authority Developer Entity behind a tab labeled "Exhibit 11."

6. Further, at the time of the Petitioner's submittal of its Application, the Petitioner's co-General Partners were South Street, LLC (the "TCG GP Entity") and Lakeside Village Partners, Inc. (the "Authority GP Entity"), as identified in its Application.

7. The Authority Developer Entity and the Authority GP Entity are instrumentalities of The Housing Authority of the City of Daytona, Beach, Florida (the "Authority"). The TCG GP Entity is affiliated with the TCG Developer Entity.

8. Subsequent to the Petitioner filing its Application, the Authority exercised its right to terminate the TCG Developer Entity for convenience under that certain Master Development Agreement dated March 31, 2004, between the Authority and the TCG Developer

Entity (the "Agreement"), whereby the TCG Developer Entity was to provide certain development services in connection with the Development.

9. As part of the termination of the TCG Developer Entity's obligations under the Agreement, the TCG GP Entity will be required to assign all of its interest in the Petitioner to the Authority GP Entity. As a result of a mediated settlement agreement between TCG Developer Entity and its affiliates ("TCG") and the Authority, TCG has agreed to withdraw the TCG Developer Entity and the TCG GP Entity, and to execute all documents necessary in connection therewith.

10. Accordingly, the Petitioner seeks to: (i) remove the TCG Developer Entity, as a co-Developer, and have the Authority Developer Entity and Picerne Affordable Development, LLC (the "New Developer Entity") be identified for purposes of the Application and all other purposes as the Petitioner's co-Developers; and (ii) remove the TCG GP Entity, as a co-General Partner, and have the Authority GP Entity and Picerne Lakeside Village, LLC (the "New GP Entity") be identified for purposes of the Application and all other purposes as the Petitioner's co-General Partners. The New Developer Entity has the required experience to serve as a co-Developer of the Development. To verify the required experience of the New Developer Entity, Petitioner has attached hereto an executed Developer Certification Form and the Developer's Prior Experience Chart for the New Developer Entity behind the tab labeled "Exhibit 11." As a result of the withdrawal of the TCG GP Entity and the admission of the New GP Entity, the New GP Entity will own a 0.0051% general partner interest and the Authority GP will own a 0.0049% general partner interest; in other words, the New GP Entity will succeed to the 0.0051% general partner interest formerly held by the TCG GP Entity.

11. Consequently, a waiver of the applicable Rules and Application Instructions is necessary to change the identification of the Petitioner's Developer and to change the Petitioner's ownership structure.

12. Section 420.501 through 420.516 of the Florida Statutes sets forth the Florida Housing Corporation Act (the "Act"), which designates the Corporation as the State of Florida administrator for the State Housing Tax Credit Program to establish procedures necessary for the proper allocation of tax credits and to ensure the maximum use of available credits in order to encourage development of low-income housing and associated mixed-use projects in urban areas (the "Procedures"). See §§420,501, 420.5093, Fla. Stat. (2004). These Procedures are established in Rule Chapter 67, Florida Administrative Code. Accordingly, as set forth below, the Rules and the Application Instructions subject to Petitioner's waiver request are implementing, among other sections of the Act, the statutory authorization for the Corporation's establishment of Procedures for the State Housing Tax Credit Program. *Id.*

13. The prohibition on changing the identity of an Applicant's (as the term is used in the Developer Rule and the Application Instructions) Developer is found in the Developer Rule, which provides that:

"(14) 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;...”

14. Further, the prohibition on changing the identity of an Applicant’s Developer is found in Part II.B.1. of the Application Instructions, which provides that:

“1. 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.”

15. Rule 67-48.004(1)(a) defines the “Universal Application Package” and adopts its contents (including the Universal Application Instructions discussed more fully below) and incorporates them by reference into the foregoing Rule. Page 4 of the 2005 Universal Application Instructions (Part II.A.2.a.(1)) provides as follows:

“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.”

16. The facts stated in Paragraphs 4 through 11 above demonstrate the circumstances that justify the waivers to change the identification of the Petitioner’s Developer and the Petitioner’s change of ownership.

17. The requested waiver to change the identification of the Petitioner’s Developer will not adversely impact the Development or the Corporation or be prejudicial to the Development or to the market to be served by the Development, because the Authority Developer Entity and the New Developer Entity have the required experience to serve as the co-Developers of the Development. However, the denial of the requested waiver will create a substantial hardship for the Petitioner, arising from a difference in the management philosophies of the TCG Developer Entity and the Authority Developer Entity, which the Petitioner believes

will result in unnecessary delay and expense and make it impossible to complete the Development on time and within budget.

18. The requested waiver to change the Petitioner's ownership structure will not adversely impact the Development or the Corporation. However, the denial of the requested waiver will create a substantial hardship for the Petitioner, arising from a difference in the management philosophies of the TCG GP Entity and the Authority GP Entity, which the Petitioner believes will result in unnecessary delay and expense and make it impossible to complete the Development on time and within budget.

19. Further, the requested Rule and Application Instruction waivers to change the identification of the Petitioner's Developer and the Petitioner's ownership structure will further the Authority's public purpose of providing low-income housing for the residents of the City of Daytona Beach, Florida and the Corporation's and the Act's purpose of ensuring the maximum use of available credits in order to encourage development of low-income housing and associated mixed-use projects in urban areas.

20. The waivers being sought are permanent in nature.

21. Should the Corporation require additional information, the Petitioner is available to answer any questions and to provide any additional information necessary for consideration of this petition.

**WHEREFORE**, the Petitioner respectfully requests that the Corporation:


- A. Consider this Petition in conjunction with the Petitioner's Application;
- B. Grant this Petition and all the relief requested herein;
- C. Waive the prohibition on changing the identity of the Petitioner's Developer and the Petitioner's ownership structure by: (i) allowing the removal of the TCG Developer Entity, as a co-Developer, and allowing the Authority Developer Entity and the New Developer Entity 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 TCG GP Entity, as a co-General Partner, as identified in the Application, and the admission of New GP Entity as a co-General Partner and allowing the Authority GP Entity and New GP Entity to be identified for purposes of the Application and all other purposes as the Petitioner's co-General Partners; and

D. Grant such further relief as may be deemed appropriate.

Respectfully submitted,


**LAKESIDE VILLAGE HOUSING, LTD.,  
LLLP**, a Florida limited liability limited partnership

By: **Lakeside Village Partners, Inc.**, a Florida  
for profit corporation, its General Partner

By:   
Joyours P. Gamble, President

**CERTIFICATE OF SERVICE**

The Petition is being served by facsimile and overnight delivery for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, 600 Calhoun Street, The Holland Building, Tallahassee, Florida 32399-1300, on December 1, 2005.

  
\_\_\_\_\_  
Joyours P. Gamble

# EXHIBIT 11



DEVELOPER OR PRINCIPAL OF DEVELOPER  
CERTIFICATION

Name of Development: Lakeside Village  
Name of Developer: Lakeside Village Development, LLC  
Name of principal of Developer, if applicable: \_\_\_\_\_  
Address of Developer: 211 N. Ridgewood Avenue, Suite 200  
Daytona Beach, Florida 32114  
Telephone No. of Developer: (386)253-5653, ext. 306  
Fax No. of Developer: (386)255-2136  
E-Mail Address (if available): gamblep@dbhaffl.org

Relationship to Applicant

As the Developer or principal of the Developer of the referenced Development, I certify that I have the requisite skills, experience and credit worthiness to successfully produce the units proposed by this Application. I further certify that the design, plans, and specifications for the proposed Development will comply with all federal, state and local requirements and the requirements of the Federal Fair Housing Act as implemented by 24 CFR 100, Section 501 of the Rehabilitation Act of 1973, and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR 35, incorporating the most recent amendments and other legislation, regulations, rules, and other related requirements which apply or could apply to the proposed Development. I have developed and completed, i.e., the certificate of occupancy has been issued for at least one building, at least two affordable rental housing developments, at least one of which consists of a total number of units no less than 50 percent of the total number of units in the Development proposed by this Application, as evidenced by the accompanying prior experience chart. I understand I am the Developer or principal of the Developer of record for this Development and that, if funded by the Corporation, I will remain in this capacity until the Development has been completed. I certify that neither the Developer, Applicant, any Principal or Financial Beneficiary has any existing Developments participating in Corporation programs that remain in non-compliance with the Code, applicable rule chapter, or applicable loan documents and for which any applicable cure period granted for correcting such non-compliance has ended. I further certify that the information provided within this Application is true and correct.

Joyours Gamble 7-1-05 Joyours Gamble  
Signature of Developer or principal Date (mm/dd/yyyy) Print or Type Name of Signatory  
of Developer

Richard [unclear] 7-1-05 Richard [unclear]  
Witness to Developer's or Date (mm/dd/yyyy) Print or Type Name of Signatory  
principal of Developer's Signature

APPLICANT'S CERTIFICATION

I certify that the Developer identified above will serve as the Developer of the proposed Development

Joyours Gamble 7-1-05 Joyours Gamble  
Applicant's Signature Date (mm/dd/yyyy) Print or Type Name of Signatory

Richard [unclear] 7-1-05 Richard [unclear]  
Witness to Applicant's Signature Date (mm/dd/yyyy) Print or Type Name of Signatory

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.

Daytona Beach Housing Authority

<b>Name of Development</b>	<b>Location (City &amp; State)</b>	<b>Affordable Housing Program</b>	<b>Total Number Of Units</b>
Windsor Apartments	Daytona Beach, FL	Public Housing	150
Maley Apartments	Daytona Beach, FL	Public Housing	150
Bethune Village	Daytona Beach, FL	Public Housing	305
Caroline Village	Daytona Beach, FL	Public Housing	100
Palmetto Park	Daytona Beach, FL	Public Housing	130
MLK Apartments	Daytona Beach, FL	Public Housing	100

November 29, 2005

**VIA FACSIMILE AND REGULAR U.S. MAIL**

Mr. Steve P. Auger, Executive Director  
Florida Housing Finance Corporation  
227 N. Bronough Street, Suite 5000  
Tallahassee, FL 32301

Re: Pine Haven Housing, Ltd., LLLP  
The Villages at Halifax Housing, Ltd., LLLP  
Lakeside Village Housing, Ltd., LLLP

Dear Mr. Auger:

This letter is to notify you that we have assigned our general partnership interests in the above-named partnerships to the co-general partner affiliates of The Housing Authority of the City of Daytona Beach, Florida. Attached are copies of the applicable assignments. In light of these assignments, we are withdrawing our opposition to the petition submitted in the name of Pine Haven Housing, Ltd., LLLP for a waiver of Rule 67-48.004(14), Rule 67-48.002 (111) and Part II.A.2.a.(1).

Sincerely,



Peter Behringer  
Executive Vice President

Enclosures

cc: Joyours Gamble (via facsimile)  
Bernice Saxon (via facsimile)

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**DEVELOPER OR PRINCIPAL OF DEVELOPER  
CERTIFICATION**

Name of Development: Lakeside Village

Name of Developer: Picerne Affordable Development, LLC

Name of principal of Developer, if applicable: \_\_\_\_\_

Address of Developer: 247 N. Westmonte Drive, Altamonte Springs, Florida 32714


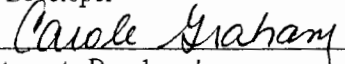
Telephone No. of Developer: (407) 772-0200

Fax No. of Developer: (407) 772-0220

E-Mail Address (if available): kkehoe@picernefl.com

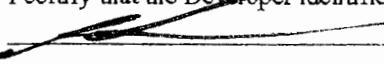
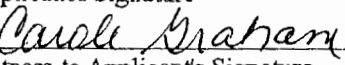
Relationship to Applicant: None

As the Developer or principal of the Developer of the referenced Development, I certify that I have the requisite skills, experience and credit worthiness to successfully produce the units proposed by this Application. I further certify that the design, plans, and specifications for the proposed Development will comply with all federal, state and local requirements and the requirements of the Federal Fair Housing Act as implemented by 24 CFR 100, Section 504 of the Rehabilitation Act of 1973, and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR 35, incorporating the most recent amendments and other legislation, regulations, rules, and other related requirements which apply or could apply to the proposed Development. I have developed and completed; i.e., the certificate of occupancy has been issued for at least one building, at least two affordable rental housing developments, at least one of which consists of a total number of units no less than 50 percent of the total number of units in the Development proposed by this Application, as evidenced by the accompanying prior experience chart. I understand I am the Developer or principal of the Developer of record for this Development and that, if funded by the Corporation, I will remain in this capacity until the Development has been completed. I certify that neither the Developer, Applicant, any Principal or Financial Beneficiary has any existing Developments participating in Corporation programs that remain in non-compliance with the Code, applicable rule chapter, or applicable loan documents and for which any applicable cure period granted for correcting such non-compliance has ended. I further certify that the information provided within this Application is true and correct.

	<u>08/05/2005</u>	<u>Robert M. Picerne</u>
Signature of Developer or principal of Developer	Date (mm/dd/yyyy)	Print or Type Name of Signatory
	<u>08/05/2005</u>	<u>Carole Graham</u>
Witness to Developer's or principal of Developer's Signature	Date (mm/dd/yyyy)	Print or Type Name of Signatory

**APPLICANT'S CERTIFICATION**

I certify that the Developer identified above will serve as the Developer of the proposed Development.

	<u>08/05/2005</u>	<u>Robert M. Picerne</u>
Applicant's Signature	Date (mm/dd/yyyy)	Print or Type Name of Signatory
	<u>08/05/2005</u>	<u>Carole Graham</u>
Witness to Applicant's Signature	Date (mm/dd/yyyy)	Print or Type Name of Signatory

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.

## PRIOR EXPERIENCE CHART

Developer: Picerne Affordable Development, LLC

Name of Development	Location (City & State)	Affordable Housing Program	Total Number of Units
Tower Point Apartments	Lake Wales, Florida	LIHTC	192
Woodland Point Apartments	Palatka, Florida	LIHTC	120
Holly Ridge Senior Apartments	Palatka, Florida	LIHTC	120
Lake Weston Point	Orlando, unincorporated Orange County, Florida	LIHTC	240