

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Pine Haven Housing, Ltd., LLLP Case No. 2007-042VW

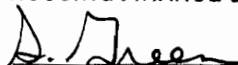
**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(e),
F.A.C.**

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 Variance/Waiver from Florida Administrative Code Rule 67-48.004(14)(g)¹" (the "Petition"), filed by Pine Haven Housing, Ltd., LLLP ("Petitioner") on August 21, 2007. Notice of the Petition was published in Volume 33, Number 35, 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.

¹ Petitioner requested relief from Rule 67-48.004(14)(e), F.A.C., in the body of its Petition. This appears to be a typographical error.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 10-29-07

2. During the 2004 Universal Application Cycle, Florida Housing awarded Petitioner an allocation of low income housing tax credits to finance the construction of Pine Haven (the “Development”) in Volusia County, Florida.

3. Rule 67-48.004(14)(e), Florida Administrative Code (2004), 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 ... Any attempted changes to these items will not be accepted. Those items are as follows...

(e) Site for the Development;

4. 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.

5. Petitioner requests a waiver to the above provision, as the legal description of the Development is no longer identical to one submitted with Petitioner’s application for funding in the 2004 Universal Cycle.

6. As grounds for its request for a waiver, Petitioner states that the legal description of the Development provided with its application for funding described the entire site, which had both rental units and homeownership units intermixed

within the site. Subsequent to the submission of the legal description, Petitioner revised its development plan by segregating its rental units from its homeownership units. This change prompted the City of Daytona Beach to request Petitioner to provide a revised legal description for the development site. The revised legal description for the site containing rental units is now a subset of the original legal description and is no longer identical to the one submitted with Petitioner's application.

7. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner provided a new Surveyor Certification form and sketches with the exact same latitude and longitude coordinate for the Tie-Breaker Measurement Point as on the original form, demonstrating that the Point had not changed. Accordingly, Petitioner received no unfair advantage over the other applicants. Without the waiver, Petitioner cannot complete construction of the Development and Petitioner will not be able to meet its placed in service deadline. 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), F.A.C., is hereby **GRANTED**, to allow Petitioner to change the legal description of its Development for the purpose of segregating the rental units from the homeownership units

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

Florida Housing Finance Corporation

By: Lynne M. Stultz
Chair



Copies furnished to:

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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.