

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SEA GRAPE II, LTD.

FHFC Case No.: 2008-078VW
Application No.: 2007-126CS

**ORDER GRANTING PETITION FOR WAIVER
OF RULE 67-48.004(14)(e)
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 31, 2008, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(e)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 26, 2008, from **SEA GRAPE II, LTD.** ("Petitioner"). October 10, 2008, the Notice of the Petition was published in Volume 34, Number 41, 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry [Signature] /DATE. 11-2-08

2. During the 2007 Universal Cycle, Florida Housing awarded an allocation of Housing Credits (“HC”) and State Apartment Incentive Loan (“SAIL”) to Petitioner (under application #2007-126CS). Petitioner applied for HC and SAIL to finance, in part, a Development known as Sea Grape II, a 28-unit development in Marathon, Monroe County, Florida (the “Development”).

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

(2) Variances 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.

4. R 67-48.004(14)(e), Fla. Admin. Code states:

(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...Those items are as follows:

...(e) Site for the Development;

5. When Petitioner submitted its Universal Application, it anticipated its Development site to be suitable for every aspect of the Development. In light of circumstances that affected this Development, Petitioner has requested a waiver of the above rule to allow Petitioner to “swap” a portion of its Development site for a parcel of land lying adjacent

to the Development. The new Development site is described in Exhibit A. Granting this waiver will provide the Development with vehicular access in the only portion of the Development suitable for a driveway. Petitioner has demonstrated that failure to grant this waiver will likely land-lock the Development since the adjoining landowner is unwilling to provide an easement over the land.

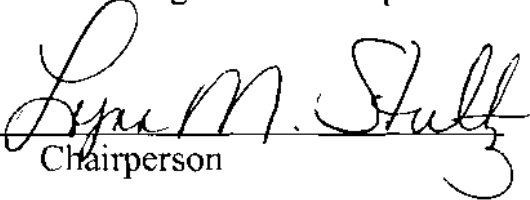
6. The Board finds that strict application of the above Rule under these circumstances will give rise to substantial hardship or otherwise violate the principles of fairness. Under the circumstances described in the Petition, granting these requests furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The waiver of R. 67-48.004(14)(e), Fla. Admin. Code furthers this purpose.

IT IS THEREFORE ORDERED:

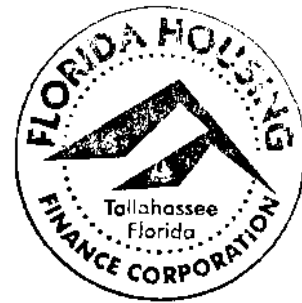
Petitioner's request for waiver of R. 67-48.004(14)(e), Fla. Admin. Code is hereby GRANTED to permit Petitioner to "swap" a portion of its Development site for a parcel of land lying adjacent to the Development. The new Development site is described in Exhibit A. Any other relief requested in the Petition is denied.

DONE and ORDERED this 31st day of October, 2008.

Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:
Wellington H. Meffert II, Esq.
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329



Debbie Blinderman
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Maureen McCarthy Daughton
Broad and Cassel
215 S. Monroe Street, Suite 400
Tallahassee, FL 32301

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

PARCEL 1

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:

Begin at the Intersection of the East line of said Section 11 and the Southeasterly Right-Of-Way line of U.S. Highway No. 1; thence South along the said East line of Section 11 for 285.00 feet; thence West for 231.55 feet; thence North 190.74 feet to the Southeasterly Right-Of-Way line of U.S. Highway No. 1; thence North 67° 51' 00" East, along the said Southeasterly Right-of way line of U.S. Highway No. 1 for 250.00 feet back to the Point of Beginning.

AND

A strip of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:

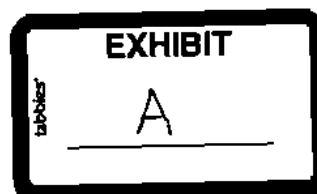
Commencing at the Intersection of the East line of said Section 11 and the Southeasterly Right-Of-Way line of U.S. Highway No. 1; thence South 67° 51' 00" West, along the Southeasterly Right-Of-Way line, for 250.00 feet to the Point of Beginning; thence South, parallel to said East line of Section 11 for 344.62 feet; thence West for 20.00 feet; thence North 336.48 feet to said Southeasterly Right-Of-Way line; thence North 67° 51' 00" East, along said Southeasterly Right-Of-Way line for 21.59 feet to the Point of Beginning.

PARCEL 2:

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:

Commence at the Intersection of the East line of said Section 11 and the Southeasterly Right-Of-Way line of U.S. Highway No. 1; thence South along the said East line of Section 11 for 859.00 feet to the Point of Beginning; thence continue South along the said East line of Section 11 for 70.23 feet; thence West for 231.55 feet; thence North for 94.84 feet; thence East for 140.00 feet; thence South for 24.61 feet; thence East for 91.55 feet back to the Point of Beginning.

Together with an easement to link Parcel 1 and Parcel 2, over, across and through the following described real property:



NOTICE OF RIGHT TO JUDICIAL REVIEW

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 MARTIN LUTHER KING, JR., BLVD., 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.