

BEFORE THE STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

OAK RIDGE ESTATES, LLC, as  
Applicant for Oak Ridge Estates -  
Application No. 2009-171C; and  
AVERY GLEN, LLC, as Applicant for  
Avery Glen - Application No. 2009-  
139C.

*FHFC File No.: 2010-0090C*

Petitioners,  
  
vs.

Application Nos.      2009-097C  
                                 2009-144C  
                                 2009-146C

FLORIDA HOUSING FINANCE  
CORPORATION,  
  
Respondent.

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**PETITION REQUESTING INFORMAL ADMINISTRATIVE PROCEEDING  
AND THE GRANT OF THE RELIEF REQUESTED**

Pursuant to §§120.569 and 120.57(2), Florida Statutes ("FS"), Rule 67-48.005, Florida Administrative Code ("F.A.C.") and Rule 28-106.301, F.A.C., Petitioners OAK RIDGE ESTATES, LLC, as Applicant for Oak Ridge Estates - Application No. 2009-171C, and AVERY GLEN, LLC, as Applicant for Avery Glen - Application No. 2009-139C ("Petitioners") request an informal administrative proceeding to challenge the scoring by Respondent, FLORIDA HOUSING FINANCE CORPORATION ("FHFC") of several competing applications for funding in the 2009 Universal Cycle: The Lodges at Pinellas Park, Application No. 2009-097C; Dr. Kennedy Homes, Application No. 2009-144C; and Ehlinger Apartments, Application No. 2009-146C) (sometimes referred to individually as "Applicant" or collectively as "Applicants"). The scoring issue being challenged with respect to each of the Applicants is whether each Applicant's development constitutes a "Scattered Site" development as that term is defined in

Rule 67-48.002(106), F.A.C. FHFC incorrectly determined that each of the Applicant's development sites did not constitute a "Scattered Site." Those determinations resulted in FHFC improperly denying each of the Petitioners requested federal tax credit funding. In support of this Petition, Petitioners state as follows:

### **PARTIES**

1. The name and address of the agency affected by this action are:

Florida Housing Finance Corporation  
City Center Building, Suite 5000  
227 N. Bronough Street  
Tallahassee, Florida 32301-1329

2. The address and telephone number of the Petitioners are:

Avery Glen, LLC  
c/o Pinnacle Housing Group LLC  
9400 South Dadeland Blvd., Suite 100  
Miami, FL 33156  
Telephone: (305) 854-7100

Oak Ridge Estates, LLC  
c/o Pinnacle Housing Group, LLC  
9400 South Dadeland Blvd., Suite 100  
Miami, FL 33156  
Telephone: (305) 854-7100

3. The name, address, telephone number, fax number and e-mail address of the Petitioners' attorney, which shall be the Petitioners' address for service purposes during the course of this proceeding, is:

Gary J. Cohen, Esq.  
Shutts & Bowen, LLP  
201 S. Biscayne Blvd., Ste. 1500  
Miami, Florida 33131  
Telephone No. (305) 347-7308  
Fax: (305) 347-7808  
Email: gcohen@shutts.com

**STATEMENT OF WHEN AND HOW  
THE PETITIONERS RECEIVED NOTICE OF THE AGENCY DECISION**

4. On or about March 1, 2010, Petitioners received formal notice from FHFC of the final rankings and scores, along with notice of its rights under Chapter 120 to challenge them. This Petition is timely filed in response to that notice.

**STATEMENT OF MATERIAL FACTS**

5. There are no disputed issues of material fact. However, it is important to set out the factual background and legal framework for this challenge at the outset.

**The Low-Income Housing Tax Credit Program**

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code ("IRC"), by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder's federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

7. The tax credits allocated annually to each state are awarded by state "housing credit agencies" to single-purpose applicant entities created by real estate developers to construct and operate specific multi-family housing projects. The applicant entity then sells this ten-year stream of tax credits, typically to a "syndicator," with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at below-market-rate rents that are affordable to low-income and very-low-income tenants.

8. Pursuant to section 420.5099, Florida Statutes, FHFC is the designated “housing credit agency” for the State of Florida and administers Florida’s low-income housing tax credit program. Through this program, FHFC allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing.<sup>1</sup>

### **The 2009 Universal Application Cycle**

9. Because FHFC’s available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, FHFC has established a competitive application process pursuant to Chapter 67-48, F.A.C. As set forth in Rules 67-48.002-.005, F.A.C., FHFC’s application process for 2009 consisted of the following:

(a) the publication and adoption by rule of a “Universal Application Package,” which applicants use to apply for a variety of FHFC-administered funding programs, including federal tax credits;

(b) the completion and submission of applications by developers;

(c) FHFC’s preliminary scoring of applications;

(d) an initial round of administrative challenges in which an applicant may take issue with FHFC’s scoring of another application by filing a Notice of Possible Scoring Error (“NOPSE”);

(e) FHFC’s consideration of the NOPSE’s submitted, with notice to applicants of any resulting change in their scores;

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<sup>1</sup> FHFC is a public corporation created by law in section 420.504, Florida Statutes, to provide and promote the financing of affordable housing and related facilities in Florida. FHFC is an “agency” as defined in section 120.52(1), Florida Statutes, and is therefore subject to the provisions of Chapter 120, Florida Statutes.

(f) an opportunity for the applicant to submit additional materials to FHFC to “cure” any items for which the applicant received less than the maximum score;

(g) a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant’s cure materials by filing a Notice of Alleged Deficiency (“NOAD”);

(h) FHFC’s consideration of the NOAD’s submitted, with notice to applicants of any resulting change in their scores;

(i) an opportunity for an applicant to challenge, via informal or formal administrative proceedings, FHFC’s evaluation of any item in their own application for which the applicant received less than the maximum score;

(j) final scores, ranking, and allocation of tax credit funding to applicants, adopted through final orders; and

(k) an opportunity for applicants to challenge, via informal or formal administrative proceedings, FHFC’s final scoring and ranking of competing applications where such scoring and ranking resulted in a denial of FHFC funding to the challenger.<sup>2</sup>

#### **CONCISE STATEMENT OF THE ULTIMATE FACTS WARRANTING RELIEF**

10. On or about August 20, 2009, numerous applications were submitted to FHFC seeking tax credit and HOME funding. Petitioner Oak Ridge Estates, LLC (Application No. 2009-171C) applied for \$961,000.00 in annual tax credits to help finance its project, a 62-unit scattered site townhouse apartment complex in Tarpon Springs, Florida. Petitioner Avery Glen

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<sup>2</sup> This Petition initiates such a challenge. Notably, if successful in such a challenge, FHFC funding is not taken away from the competing applicant who was scored or ranked in error and given to the challenger. Instead, the competing applicant keeps its funding, and the challenger receives its requested funding “off-the-top” from the next available source of such funds allocated to FHFC. Rule 67-48.005(7), F.A.C.

(Application No. 2009-139C) applied for \$2,150,000.00 in annual tax credits to help finance its project, a 139-unit scattered site garden apartment complex located in Sunrise, Florida.

11. At its February 26, 2010 meeting, FHFC's Board adopted final scores and rankings. Each of Petitioner's projects met all of FHFC's threshold application requirements, received the maximum application scores of 70 points, the maximum proximity tie-breaker score of 7.5 points, and the maximum ability to proceed tie-breaker score of 6 points. All of Petitioners' applications competed for tax credits in the Large County Geographic Set-Aside.<sup>3</sup> As between competing applicants with "perfect" scores, the ultimate tie-breaker (subject to the Set-Aside Unit Limitation rules described below) is that the applicant with the lower lottery number (arbitrarily assigned to each applicant by FHFC) prevails.

12. Petitioner Oak Ridge Estates (Application No. 2009-171C) proposed a project located in Pinellas County, received lottery number 20, and would have received its requested tax credit funding but for FHFC's erroneous scoring of another development (with a lower lottery number) located in Pinellas County (Applicant The Lodges at Pinellas Park, Application No. 2009-097C, lottery number 12). By virtue of application of the "Set-Aside Unit Limitation" rules, Petitioner Oak Ridge Estates could not be funded due to the existence of the higher ranked applicant in Pinellas County.<sup>4</sup> But for FHFC's erroneous scoring, Petitioner Oak Ridge Estates would have been the highest ranked Pinellas County applicant and would have been funded.

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<sup>3</sup> Aside from applicants proposing projects targeted to specific tenant populations (e.g., the Homeless) or located in specific areas (e.g., the Florida Keys), applicants generally compete against each other for funding within Geographic Set-Asides (Large, Medium, and Small) based upon the population of the county in which their project is located.

<sup>4</sup> In an effort to distribute its available tax credits across the state, FHFC uses a Set-Aside Unit Limitation ("SAUL") that restricts the number of units it will fund in any given county. Thus, an application ranked higher than applications in other counties may nonetheless be skipped over for funding if the SAUL for its county has been met under FHFC's rules.

13. Petitioner Avery Glen (Application No. 2009-139C) would have received its requested tax funding if not for FHFC's erroneous scoring of the following applications: (a) The Lodges at Pinellas Park (Application No. 2009-097C); (b) Dr. Kennedy Homes (Application No. 2009-144C); and (c) Ehlinger Apartments (Application No. 2009-146C). Had FHFC correctly scored each of the three above-referenced applications, Petitioner Oak Ridge Estates would have been funded instead of Applicant The Lodges at Pinellas Park, Applicants Dr. Kennedy Homes and Ehlinger Apartments would not have been eligible for funding and, as a result of the foregoing, sufficient tax credits would have remained to fund Petitioner Avery Glen as the recipient of the "last dollar" of tax credits pursuant to Section B.8.c. (page 90) of the Ranking and Selection Criteria in the 2009 Universal Application Instructions.

14. If FHFC had not improperly scored the three applications identified in the first paragraph of this Petition, each of the Petitioners would have received its requested tax credit funding. Each Petitioner's substantial interests are therefore materially and adversely affected by FHFC's improper actions, and each of Petitioners has standing to challenge those actions in this proceeding.

15. FHFC should have found that the development site of each of the Applicants consisted of "Scattered Sites", as defined in Rule 67-48.002(106), F.A.C. Such finding would have resulted in each of the Applicants receiving less than the maximum "ability to proceed" tiebreaker points, since "cures" to the "ability to proceed" elements (forms verifying site plan approval, availability of infrastructure and proper zoning) would have been necessitated by a finding of "scattered sites" (to reflect the address of each "scattered site" on the forms for the "ability to proceed" elements, as required by the Application Instructions; see Question 31 of 2009 Universal Application Q & A) and such "cures" could not receive perfect "ability to

proceed” tie-breaker points. See pages 29-30 of the Universal Application Instructions. Receiving less than the maximum “ability to proceed” tiebreaker points would have resulted in each of the three Applications falling out of the funding range for tax credits, as their scoring would have been less than perfect. As a result, each of the Petitioners would have been within the funding range for tax credits.

### **Chronology of the Case**

16. Each Applicant answered “No” to the question in Part III.A.2.b. (“Will the Development consist of Scattered Sites?”) of its Universal Application.

17. Each application submitted by the Applicants was then subject to one or more NOPSE challenges, asserting that the development proposed by each Applicant in fact consisted of “Scattered Sites”. In the Scoring Summary Report issued on or about October 23, 2009 by FHFC for each Applicant, FHFC determined that the development site proposed by each Applicant met the definition of “Scattered Sites”. FHFC found that their respective development sites were divided by one or more easements and thus met the definition of “Scattered Sites.”

18. On or about November 3, 2009, each of the Applicants submitted “cure” documentation asserting that each of their developments did not consist of “Scattered Sites”. Each Applicant had no choice in making this argument in order to ultimately be eligible for tax credit funding, since had such Applicant admitted the development consisted of “Seattered Sites” and cured its application accordingly, such Applicant would have received less than the full amount of “ability to proceed” tiebreaker points and would have fallen out of the funding range. Each Applicant in its “cure” documentation asserted (generally) that (a) the easement(s) in question did not divide the development site, (b) the word “easement” contained in Rule 67-48.002(106) F.A.C. (defining “Scattered Sites”) should be construed to mean an “apparent



easement” or “visually evident easement”, rather than an access easement, and (c) various policy concerns required that a finding of “Scattered Sites” would be inappropriate.

19. On or about November 12, 2009, various competitors in the Universal Cycle filed NOAD’s against the cure documentation filed by each of the three Applicants. Such NOAD’s (a) contended (generally) that the easement(s) in question did in fact divide the challenged development sites and that there was no support within Rule 67-48.002(106), F.A.C. for the term “easement” to be read to require an “apparent” or “physically evident” easement, (b) provided surveyor affidavits and sketches indicating that the easement(s) in question did in fact divide the property, and (c) dismissed the policy arguments of each of the Applicants as generally irrelevant, insisting instead upon a “plain reading” of the “Scattered Site” definition.

20. On or about December 3, 2009, FHFC issued final scores and notices of rights. With respect to the final Scoring Summary Reports issued to each of the Applicants, FHFC made the identical finding that the development site of each Applicant had met the definition of “Scattered Sites”. With respect to each of the Applicants, FHFC’s final determination was identical: “...documentation and an affidavit(s) from a licensed surveyor(s) provided by a NOAD support the original determination that the site is divided by an easement (or by one or more easements) and thus meets the definition of Scattered Sites”.

21. On or about December 28, 2009, counsel for each Applicant filed a Petition for Review (“Petition” or “Petitions”) of their final Scoring Summary Report (as permitted under Rule 67-48.005).

22. On or about January 15, 2010, FHFC entered into substantially identical Consent Agreements with each Applicant, determining in relevant part that “Florida Housing determined

that the utility easement did not divide the development site within the meaning of the “Scattered Sites” definition of Rule 67-48.002(106).”

23. At the February 26, 2010 FHFC Board meeting, each of the aforementioned Consent Agreements was submitted to and approved by the FHFC Board, at which time the FHFC Board approved final rankings for the 2009 Universal Cycle. As a result of its adoption of the foregoing Consent Agreements, each of the Applicants fell within the funding range for tax credits, and each of the Petitioners (as a direct result of the Board’s actions in approving such Consent Agreements) fell outside the funding range.

24. Since FHFC conceded each of the aforementioned cases and no hearing was conducted, the rationale for FHFC’s conclusion that the development site proposed by each Applicant did not consist of “Scattered Sites” is unclear. The statement in each Consent Agreement (“Florida Housing determined that the utility easement did not divide the Development Site within the meaning of the “Scattered Sites” definition of Rule 67.48.002(106)”) provides no real guidance. It is important to note, however, that (a) the Petitions did not introduce any new evidence not considered during the scoring process, and (b) the Applicants did not contend in their Petitions (with the exception of Applicant The Lodges at Pinellas Park) that the easement(s) in question did not extend across the subject properties from one end to another so as to completely bisect each property. Therefore, one must surmise that FHFC determined that (a) a utility easement does not and cannot “divide” a development site within the meaning of the “Scattered Site” definition, and/or (b) the intent of Rule 67-48.002(106), F.A.C. was that only physically apparent or visually evident easements could “divide” a property so as to create a “Scattered Site”.

25. It is clear that FHFC did not reach its decision in the Consent Agreements by determining that the easements in question did not extend from one edge of the property to the other so as to bisect such development sites. The only conclusion which can be reached from FHFC's statement in the Consent Agreements is that a utility or other access agreement can never "divide" a site within the meaning of Rule 67-48.002(106). This decision was incorrect and not supported by law or FHFC's prior relevant scoring determinations.

#### **"Scattered Site" Definition**

26. Rule 67-48.002(106), F.C.A. provides as follows: "'Scattered Sites' for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the **divided parts** of the real property are part of a common or related scheme of development (emphasis added)."

27. The sole issue in this case is whether a utility easement can "divide" a development site so as to create a "Scattered Site" development. Based on a plain reading of the Rule in question, it is clear that each of the developments in question is a "Scattered Site" development per Rule 67-48.002(106), F.A.C. In each instance, conclusive evidence has been provided in the NOAD's that the easement(s) in question extend from one end of the property to another so as to divide such property. *See Exhibit "A"*. Since such easement(s) completely bisect the property so as to divide one portion of the property from the remainder of the property, by the Rule definition the development site of each Applicant consists of "Scattered Sites". Absent any further guidance from FHFC (either by way of published guidance or prior scoring

decisions), a common sense reading of the Rule requires a finding that each of the development sites consists of “Scattered Sites”.

### **Administrative Stare Decisis**

28. Prior FHFC precedent does exist that demonstrates that FHFC has consistently ruled, in the past, that utility easements do divide a development site so as to create “Scattered Sites.” The decisions creating administrative stare decisis on this issue are the FHFC scoring decisions in Mangonia Villas, Application No. 2008-079BS and Emerald Palms, Application No. 2008-112C.

29. The Mangonia Villas and Emerald Palms scoring decisions of FHFC, which were affirmed by the FHFC Board, constitute binding precedent here. Not only were these decisions final agency actions in those disputes, they have an effect on the issue to be decided here by virtue of administrative stare decisis. FHFC was required to, but in its consideration of the Applicant’s appeal failed to, consider the precedential effect of its own prior decisions before making subsequent decisions on the same issue. Plante v. Department of Business and Professional Regulation, 716 So.2d 790 (Fla. 4th DCA 1998) (prior agency decisions are administrative stare decisis).

30. Rather than deal with this precedent, the Applicants contended, in connection with the prior FHFC decisions, that FHFC had never previously ruled on this issue. That position was clearly factually incorrect. Not only had FHFC taken a position on this issue, but FHFC’s previous decisions had created administrative stare decisis on this issue. FHFC is and was required to follow the precedent its own prior decisions created going forward. None of the Applicants advanced any principled basis for FHFC to depart from the administrative stare decisis of its previously announced scoring position on this matter, and no such basis exists.

31. Once FHFC interpreted its rule, if it desired to change its position, it should have done so by amending the Rule, rather than simply diverging from its established interpretation in a subsequent decision. As Applicants correctly noted in their Petitions, FHFC cannot simply “change its mind” about interpretation of its rules. See Cleveland Clinic v. Agency for Health Care Administration, 679 So. 2d 1237, 1241 (Fla. 1<sup>st</sup> DCA 1996), wherein the Court explained:

Without question, an agency must follow its own rules, ... but if the rule, as it plainly reads, should prove impractical in operation, the rule can be amended pursuant to established rule making procedures. However, “absent such amendment, experience cannot be permitted to dictate its terms.” That is, while an administrative agency “is not necessarily bound by its initial construction of the statute evidenced by the adoption of a rule,” the agency may implement its changed interpretation only by “validly adopting subsequent rule changes”. The statutory framework under which administrative agencies must operate in this state provides adequate mechanisms for the adoption or amendment of rules.

679 So. 2d at 1242 (emphasis supplied), quoting Boca Raton Artificial Kidney Center v. Department of Health and Rehabilitative Services, 493 So. 2d 1055, 1057 (Fla. 1<sup>st</sup> DCA 1986), and Department of Administration, Division of Retirement v. Albanese, 445 So. 2d 639, 642 (Fla. 1<sup>st</sup> DCA 1984); see also Brookwood-Walton Convalescent Center v. Agency for Health Care Administration, 845 So. 2d 223, 229 (Fla. 1<sup>st</sup> DCA 2003) (“The agency failed to explain why its policy had changed abruptly when applied to Appellants, despite the lack of any intervening change in the applicable provisions. AHCA’s unexplained, inconsistent policies are contrary to establish administrative principles and sound public policy.”).

32. Thus, to be consistent with its prior interpretations of its “Scattered Site” rule, FHFC must find here that the presence of utility easements which completely bisect a site cause a development to consist of “Scattered Sites”, because the FHFC scoring decisions in Mangonia Villas, Application No. 2008-079BS and Emerald Palms, Application No. 2008-112C have established binding precedent on that point.

33. In Mangonia Villas, a NOPSE was filed alleging that the development site was divided by an easement and roadway that had been dedicated to the public. The plat (provided as part of the NOPSE) clearly demonstrated that the road by itself did not divide the property, but rather ended approximately 50 feet from the edge of the property. However, from the end of the road to the edge of the property existed a drainage easement which resulted in a complete “division” of Lots 1 through 4 from the remaining lots (Lots 5 through 12) of the development site. The scoring summary issued by FHFC in response to the NOPSE stated that “... it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites ...” (emphasis added). *See Exhibit “B”*.

34. The drainage easement in Mangonia Villas was a utility easement, and was not physically apparent and did not otherwise physically divide the property. Attached are photos demonstrating the absence of any physical evidence of the easement between the road and the edge of the property. *See Exhibit “C”*. Notwithstanding the absence of any “physically apparent” evidence of such easement, FHFC determined such utility easement (in combination with the roadway) “divided” the property, as such term is used in the definition of “Scattered Site”. The applicant in question admitted that the development consisted of “Scattered Sites”, by virtue of submitting cure documentation revising its application to reflect that it was a “Scattered Site” development.

35. In Emerald Palms, Application No. 2008-112C, two NOPSE’s were filed against the application in question. One NOPSE alleged that the site was divided by a road, and the other NOPSE alleged that the site was divided by a Florida Power & Light utility easement; each NOPSE claimed that the property consisted of “Scattered Sites”. Neither of the NOPSE’s alleged that a combination of the two (road and easement) created the “Scattered Sites”. In the

scoring summary issued after review of the NOPSE's, FHFC determined that "... it appears that the Development site is divided by an easement and roadway and thus meets the definition of "Scattered Sites". See *Exhibit "D"*. Clearly, FHFC did not determine the development site to consist of "Scattered Sites" solely by virtue of the existence of the road; FHFC found that the site was divided "by an easement and roadway". In the Emerald Palms case, the applicant submitted "cure" documentation admitting that it was a "Scattered Site" development, but also indicating that the road in question had been vacated and was no longer a public road which divided the property (i.e., admitting it was a "Scattered Site" development by virtue of the FP&L easement only). See *Exhibit "E"*.

36. In response to such "cure documentation", a NOAD was filed against Emerald Palms alleging that the applicant had incorrectly characterized the development as "Scattered Site"; that is, that since the road no longer divided the site (due to its abandonment), the site was no longer a "Scattered Site", because the FPL easement (which FHFC had previously determined divided the property as set forth in the Scoring Summary) could not create a "Scattered Site". As was the case in Mangonia Villas, the easement in question in Emerald Palms was a utility easement, and was not physically apparent and did not otherwise physically divide the property. See *Exhibit "F"*. FHFC, in its final scoring summary, disregarded this NOAD and found that the applicant had correctly characterized its development as a "Scattered Site" development, notwithstanding the vacation and abandonment of the roads in question. See *Exhibit "G"*. Clearly, FHFC determined that the Emerald Palms site was a "Scattered Site" development notwithstanding the fact that the road had been abandoned; that is, the development was "Scattered Site" by virtue of the FPL easement only.

37. The definition of “Scattered Sites” and the disclosure requirements resulting therefrom (that the address of each “scattered site” be included on all forms requiring the location of the development) has not changed since the 2008 Universal Cycle, under which the Mangonia Villas and Emerald Palms scoring decisions were reached. It is important to note that FHFC considered revising the definition of “Scattered Sites” after the 2008 Universal Cycle (in which Mangonia Villas and Emerald Palms were decided) but decided not to do so. *See Exhibit “H”*. As noted above, in each instance the easements in question were not “physically apparent”; they were merely utility easements in the nature of access easements and FHFC determined (in each case) that such utility easements did in fact divide the property and create a “Scattered Site”.

38. Each of the above-described scoring decisions by FHFC constitute “final agency action”, by virtue of adoption by the FHFC Board of the final scoring summaries as final scores. As a result, each decision bears the same weight and precedential value as a final order adopting a recommended order from a hearing officer.

39. In light of the evidence provided by NOPSE’s and NOAD’s against the Applicants and FHFC’s final scoring decisions (prior to the submission of Petitions by the Applicants) that each of the development sites in question was a “Scattered Site”, one can only surmise that one or more arguments made in the Petitions was determinative in persuading FHFC to change course and concede that the developments in question were not “Scattered Sites”. The Petitions filed by the Applicants are substantially similar. Petitioners hereby refute each of the contentions contained in the relevant provisions of the Petitions as follows.

40. Applicants allege that treating a development site as “Scattered Sites” solely because of the presence of utility easements is unprecedented prior to the 2009 Universal Cycle



and contrary to FHFC's long-standing interpretation of Rule 67-48.002(106), and that a comprehensive review of the submissions and scoring decisions from the 2006, 2007 and 2008 Universal Cycles shows that no development site was deemed to be "Scattered Sites" based on the presence of one or more utility easements extending across the property (see Paragraphs 19 and 21 of the Petition filed by Applicant The Lodges at Pinellas Park, and Paragraph 7(b) of each of the Petitions filed by Applicants Dr. Kennedy Homes and Ehlinger Apartments). As demonstrated above by reference to the Mangonia Villas and Emerald Palms cases, this is patently false. In both Mangonia Villas and Emerald Palms, FHFC found that a utility easement created the necessary division of property to create a "Scattered Site" development.

41. In their Petitions, Applicants completely disregard FHFC's directly on point decision in Mangonia Villas, and mischaracterize FHFC's scoring decision in Emerald Palms. Petitioners' characterization of FHFC's determination in Emerald Palms that the site was a "scattered site" solely by virtue of such site's division by a road is clearly erroneous; as discussed above, the road in question was abandoned (a fact conveniently ignored by Applicants in their Petitions) so that the only way FHFC could have continued to find "Scattered Sites" was by virtue of the utility easement on the site.

42. Applicants' referenees to third party sources determining that the development site is not a "Scattered Site" (statements by surveyors and local government officials) are irrelevant.

43. Applicants' reference to the Black's Law Dictionary definition of "easement" to mean an "apparent easement" or a "visually evident easement, such as a paved trail or a sidewalk" is irrelevant. If it were FHFC's position that access or utility easements (as opposed to "apparent easements") do not divide a property so as to create a "Scattered Site", FHFC is free

to amend the foregoing Rule definition to say so. FHFC specifically considered amending the subject Rule prior to the 2009 Universal Cycle and declined to do so. *See Exhibit "H"*. Applicants' attempted interpretation is without merit in light of FHFC's published scoring decisions in Mangonia Villas and Emerald Palms, wherein FHFC determined that utility easements did in fact create "Scattered Sites".

44. Applicants' reference to procedures available under Florida law to have easements relocated is not germane to the instant issue. The test is whether an easement divides the property as of the application deadline; subsequent relocation of such an easement is irrelevant.

45. Applicants' purported knowledge of FHFC's "intent" or state of mind in originally adopting the "Scattered Site" concept contained in Rule 67-48.002(106) is unsupported by evidence of any sort, and should be disregarded. Applicants' argument that "dramatic and deleterious public policy consequences" will result (particularly to existing public housing projects) by FHFC "... changing its interpretation of the word 'easements' to stretch beyond apparent easements ..." is nonsense; all that is required of developments involving existing public housing projects which are submitting applications for FHFC financing is that such applicants correctly fill out the forms in question to reflect their "Scattered Site" status, if in fact such developments even meet the definition of "Scattered Sites". It is not difficult for an applicant to ascertain whether their development site is divided by an easement. All that is required is to order a title search and have any easements reviewed by a surveyor to determine whether they divide the site in question.

46. Applicant Dr. Kennedy Homes contends (in Section 7(g) of its Petition) that "Even if Rule 67-48.002(106) could be read to include utility access easements, the plain

language of the rule provides that a single easement must divide the property. For this reason alone, Dr. Kennedy does not consist of ‘Scattered Sites’” . This assertion is directly contrary to FHFC’s scoring decision in Mangonia Villas, wherein the combination of a road and an easement was found to create the necessary “division” to constitute a “Scattered Site” development. *See Exhibit “B”*.

47. Applicant The Lodges at Pinellas Park asserts (in Section 25 of its Petition) that the easement granted to Florida Power Corporation covers the entire “Premises” which is the Development site and, as such, does not and cannot “divide” the site. Such assertion conveniently misinterprets the easement (dated August 19, 1978) granted to Florida Power Corporation. In the paragraph starting “NOW, THEREFORE”, the “granting language” in that paragraph grants to the grantee the right to construct electrical facilities “... on, over, across, through and under said Premises within the easement area shown on said drawing ...” (emphasis added). The easement is only contained within the designated easement area on the drawing, and not across the entire Premises. Petitioner Avery Glen clearly demonstrated in its NOAD, by virtue of the surveyor affidavit from Mr. John Deliman dated November 10, 2009, that the easement creates a total division of the property in the upper left hand corner of the map attached to the easement. *See Exhibit “I”*. Applicant The Lodges at Pinellas Park has not refuted this assertion in either its cure documentation or its Petition.

48. In summary, the legal issue is simple and straight forward; can a utility easement divide a property so as to create a “Scattered Site” within the meaning of Rule 67-48.002(106), F.A.C.? FHFC has previously determined that a utility easement can divide a property so as to create a “Scattered Site.”

## STATEMENT OF THE SPECIFIC RULES AND STATUTES WARRANTING RELIEF

49. The scoring issue being challenged with respect to each of the Applicants is whether each Applicant's development constitutes a "Scattered Site" development as that term is defined in Rule 67-48.002(106), F.A.C. FHFC incorrectly determined that each of the Applicant's development sites did not constitute a "Scattered Site."

50. Those determinations resulted in FHFC improperly denying each of the Petitioners requested federal tax credit funding.

51. By rule, FHFC has sought to limit the types of scoring errors that an applicant may challenge via Chapter 120 proceedings. FHFC's rule in this regard, Rule 67-48.005(5)(b), states as follows:

For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-48.004(6).

52. The mistake by each Applicant in failing to categorize its development as consisting of "Scattered Sites" was curable. However, as part of such cure, each Applicant would have had to have cured and re-submitted each of the forms (site plan approval, infrastructure availability and zoning forms) which are awarded "ability to proceed" tiebreaker points, and such cure would have resulted in less than a perfect score in the "ability to proceed" tiebreaker. See pages 29-30 of the Universal Application Instructions. Thus, such cure would have resulted in each of the Applicants falling outside of the funding range. Therefore, it would

have been impossible for any of the Applicants to “cure” the defect of mischaracterizing their Development as other than “Scattered Site” and remain in the funding range.

### **RELIEF SOUGHT BY PETITIONERS**

53. The specific action which each Petitioner seeks is a determination that each of the Applicants should have been characterized as undertaking a “Scattered Site” development, and as a result of such mischaracterization (assuming that each of the Applicants cured its Application satisfactorily to reflect a “Scattered Site” development) each of the Applicants would have fallen outside of the funding range by virtue of receiving less than maximum “ability to proceed” tiebreaker points. Petitioners further request FHFC to determine that, but for the error by FHFC in determining that none of the Applicants had undertaken a “Scattered Site” development, each of Petitioners’ applications would have been allocated tax credits in the 2009 Universal Cycle. Finally, Petitioners request FHFC to provide the allocation requested by each Petitioner in its 2009 Universal Cycle application and to declare Petitioners eligible for funding under FHFC’s Request for Proposals 2010-04 (Section One, third paragraph therein).

WHEREFORE, Petitioners request the following:

- (a) FHFC award each Petitioner its requested tax credits from either currently available allocation or next available allocation;
- (b) FHFC conduct an informal hearing on the matters presented in this Petition;
- (c) FHFC’s designated hearing officer enter a recommended order directing FHFC to award each Petitioner its requested tax credits;
- (d) FHFC enter a final order awarding each Petitioner its requested tax credits and declaring each Petitioner eligible for funding under RFP 2010-04; and
- (e) each Petitioner be granted such other and further relief as may be deemed just and proper.

**CERTIFICATE OR SERVICE**

I HEREBY CERTIFY that the original and a true and correct copy of the foregoing document were served via Federal Express to the **CORPORATION CLERK**, Florida Housing Finance Corporation, 227 N. Bronough Street, City Center Building, Suite 5000, Tallahassee, Florida, 32301-1329, on this 19<sup>th</sup> day of March, 2010.



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Attorney

**OAK RIDGE ESTATES, LLC & AVERY GLENN, LLC v. FHFC**

**APPLICATION NOS.      2009-097C  
                                 2009-144C  
                                 2009-146C**

**EXHIBIT "A"**

COPY

NOAD  
TRACKING NO.

626

Page \_\_\_ of \_\_\_ Pages

2009 NOTICE OF ALLEGED DEFICIENCIES (NOAD) SUMMARY FORM

This NOAD Summary Form is being submitted with regard to Application No. 2009-097C and pertains to the revisions/additions made to the Application parts, sections, subsections and exhibits listed below (please list the parts, sections, subsections, and exhibits in the order they appear in the most recent Scoring Summary Report with regard to the Application revisions/additions being challenged):

Part (I, II, III, IV, or V)	Section (A, B, C, D, etc.)	Subsection (1, 2, 3, etc. or 1.A, 2.A, etc.)	Exhibit (1, 2, 3, etc.)	Submitted in Response to:					Created by:	
				Reason Score Not Met (Provide Item No. from Application Scoring Summary)	Reason Ability to Proceed Score Not Met (Provide Item No. from Application Scoring Summary)	Reason Failed Threshold (Provide Item No. from Application Scoring Summary)	Proximity Scoring (Provide Item No. from Application Scoring Summary)	Additional Comment (Provide Item No. from Application Scoring Summary)	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from Preliminary Scoring	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from NIPSE scoring and state NIPSE Tracking No., if known
IV	D			S	A	T	P	C	✓	
III	B	2c.		2 S	A	T	P	C		✓
				S	A	T	P	C		
				S	A	T	P	C		
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				S	A	T	P	C		

SUBMITTED BY APPLICATION NO. 2009-139C IN ACCORDANCE WITH RULE 67-48.004, F.A.C.



**Brief Statement of Explanation regarding NOAD for  
Application No. 2009 – 097C**

**Provide a separate brief statement for each NOAD**

In its response to the numerous Scoring Items determined to be deficient by FHFC as a result of the finding that the proposed development was comprised of "scattered sites", Applicant (in response to Scoring Item 2S) filed cure documentation, which as then repeated for all other Scoring Items pertaining to the "scattered site" issue.

Applicant submitted an affidavit from Daniel L. Van Horn, concluding that the subject property "is a whole property and is not divided or separated by the easement referenced in the NOPSE."

For the reasons set forth below, Applicant's cure documentation does not prove that the development site is not comprised of "scattered sites".

Applicant failed to provide any sketch attached to the Van Horn affidavit demonstrating how the subject easement does not divide the property.

Attached is an affidavit from John T. Deliman, who also submitted an affidavit in the original NOPSE. Note that Mr. Deliman's affidavit provided herewith specifically states that he has taken into account the affidavit from Mr. Van Horn and the assertions made therein, and continues to state in his professional opinion that the subject easement completely divides the property. Also note that Mr. Deliman attaches to his affidavit the drawing attached to the subject easement, and highlights that drawing to demonstrate how the easement completely divides the property.

Also attached is an affidavit from John Waby, who visited the site and reaches the same conclusion as Mr. Deliman.

The affidavit supplied in the cure documentation merely contains Mr. Van Horn's statement (not supported by any other information) that the easement does not divide the property.

For the reason set forth herein, Applicant has failed to demonstrate that the project is not comprised of "scattered sites". The information provided in the original NOPSE and in this NOAD conclusively establish that the Progress Energy easement completely divides the property, and that the proposed development is comprised of "scattered sites".

FHFC should determine that the proposed development is comprised of "scattered sites", and that the numerous cures submitted by Applicant in connection therewith should be denied.

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September 28, 2009

Michael E. Boutzoukas, Attorney at Law  
Becker & Poliakoff, P. A.  
Park Place  
311 Park Place Boulevard Suite 250  
Clearwater, FL 33759-3977

**RE: Release of Progress Energy Florida, Inc. Distribution Easement  
Official Records Book 3406, Pages 254 and 255, Pinellas County, Florida  
Parcel Number: 30/30/16/35064/000/0120...6721 Park Boulevard Pinellas Park, FL**

Dear Mr. Boutzoukas:

It is my understanding that your client is engaged in due diligence relative to the above referenced parcel, which was formerly known as "Park Boulevard Trailer Park." Progress Energy (formerly Florida Power Corporation) has a descriptive easement over this parcel of land which shows where the facilities are located on this referenced property. Should your customer wish to develop this parcel, it would be their responsibility to contact Progress Energy (800-700-8744) and request a Progress Energy Engineer contact them concerning facilities needed for this new development. It will be customer responsibility to pay for removal of all old facilities on site for the new development. Once the scope of the new project has been determined, the Progress Energy Engineer will advise the Land Agent for Distribution Right Of Way-Florida to prepare a new easement for this development. Once a new easement is prepared and signed by the Grantor and returned, Progress Energy will prepare and record the new easement. The process for release of the old descriptive easement can be started at this time.

If I can be of further assistance, please do not hesitate to contact my office at 727-562-5795.

Sincerely,

Diane Emanuel for Tuyet La  
Land Agent  
Distribution Right of Way - Florida

3166 Palmotto Street • Clearwater • Florida • 33763 • CW-13  
Telephone: (727) 562-3795 • Facsimile: (727) 562-3753  
Diane.emanuel@pge.com

70065425

ORIGINAL

LA 3406 REC 254

WARRANTY

THIS WARRANTY, made this 15th day of August, 1970, A. D. 1970 between RICHARD ALPHEE and BETTY ALPHEE, his wife, Parties of the First Part, GRANITE herein, and FLORIDA POWER CORPORATION, a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 102 Fifth Street South, in the City of Ft. Palm Beach, County of Polk and State of Florida, Party of the Second Part, GRANITE herein.

WITNESSETH:

A. WHEREAS, the GRANITEs are the owners in fee of a part of land in the County of Polk and State of Florida, described as GRANITE'S Drawing No. A-1319-0 (hereinafter referred to as "Drawing") dated June 22, 1970 attached hereto, incorporated herein and by this reference made a part hereof; and

B. WHEREAS, GRANITE is engaged in the business of manufacturing, transmitting and distributing electric energy to the public; and

C. WHEREAS, GRANITEs are constructing a trailer park to be known as PARK BOULEVARD TRAILER PARK said trailer park being located in part or wholly on that portion of land described on said Drawing (said land hereinafter referred to as "PREMISES"). In connection therewith GRANITEs have requested GRANITE to provide such facilities as are necessary to extend electric service to said PREMISES; and

D. WHEREAS, GRANITEs are constructing and installing a portion of the facilities (hereinafter referred to as "INSTALLATIONS") and GRANITE will construct, install, operate and maintain all additional facilities (hereinafter referred to as "FACILITIES") necessary to provide electric service to the PREMISES and the general public. The type, quantity and location of said INSTALLATIONS and FACILITIES are shown on attached drawings; and

E. WHEREAS, GRANITE is desirous of obtaining an easement covering the location, construction and maintenance of said FACILITIES and the utilization of said INSTALLATIONS, all in accordance with existing local codes and the National Electrical Safety Code.

NOW, THEREFORE, for and in consideration of the mutual benefits hereunder and all other covenants and conditions contained herein, GRANITEs do hereby grant and convey to GRANITE, for such period of time as it may require the use of the PREMISES or until the use thereof is abandoned by GRANITEs, the right, privilege and easement to (1) locate its FACILITIES on, over, across, through and under said PREMISES within the easement area shown on said Drawing; (2) construct, operate, maintain, repair and remove its FACILITIES; (3) occupy and utilize said INSTALLATIONS and (4) obtain ingress and egress to and upon the PREMISES for the purpose of exercising rights and privileges herein provided.

The Parties hereto agree as follows:

1. GRANITE shall have the right to operate, inspect, alter, improve, repair, remove and rebuild its FACILITIES together with the rights and privileges necessary and convenient for the full use and enjoyment thereof.

OCT 5 11 25 AM '70

NOTARY PUBLIC  
STATE OF FLORIDA  
MARTIN H. HARRIS, Notary Public

ORIGINAL

EX. 3406 REC 255

7. GRANTEE shall not utilize the area in which the FACILITIES are located in any way or manner which would cause a dangerous condition with respect to said FACILITIES or create any interference with the construction, reconstruction, removal, repair or safe operation and safe maintenance thereof without written notification to GRANTEE and submission of written plans of such utilization of the easement area and GRANTEE agrees to reimburse GRANTEE for any relocation of the FACILITIES necessitated by GRANTEE's planned utilization of said easement area, and GRANTEE covenants to indemnify and hold GRANTEE harmless from any and all damages and injuries, whether to persons or property, resulting from interference by GRANTEE or their agents, from any means whatsoever, with the FACILITIES.

8. Should GRANTEE remove or abandon the use of its FACILITIES, or fail for any reasonable period of time to exercise the rights herein granted, then in that event all rights and privileges hereunder shall cease and the easement, privileges and rights herein granted shall revert to the GRANTEE; further, in the event the tract of land owned by GRANTEE and referred to in Paragraph A, above, is no longer used as a mobile home park, then and in that event GRANTEE will notify GRANTEE in writing and, within 30 days from the receipt of such notification, GRANTEE will vacate, surrender and quit-claim the easement conveyed by this instrument to the GRANTEE or their assigns.

9. GRANTEE covenants that they have the right to convey this easement and that GRANTEE shall have quiet and peaceful possession, use and enjoyment of said easement.

All covenants, terms, provisions and conditions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, successors or assigns.

IN WITNESS WHEREOF, the GRANTEE have hereunto affixed their hands and seals, the day and year first above mentioned.

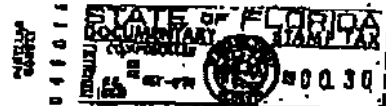
Signed, sealed and delivered  
in the presence of:

Quincy J. Helwig

Richard E. Davis (R.S.)  
Richard Davis

C. Grant Brown

Betty Davis (R.S.)  
Betty Davis



ORIGINAL  
No. 3408 REG 256

STATE OF Florida  
COUNTY OF Duval ss.

I HEREBY CERTIFY that on this 19<sup>th</sup> day of August  
A. D. 19 70, before me the undersigned authority, personally appeared  
RICHARD ELVIN AND BETTY ELVIN, his wife,  
\_\_\_\_\_ to me known to be the person(s)  
described in and who executed the foregoing instrument and he was acknowledged  
before me that he executed the same.

WITNESS my signature and official seal in said County and State,  
this day and year last aforesaid.

(NOTARIAL SEAL)

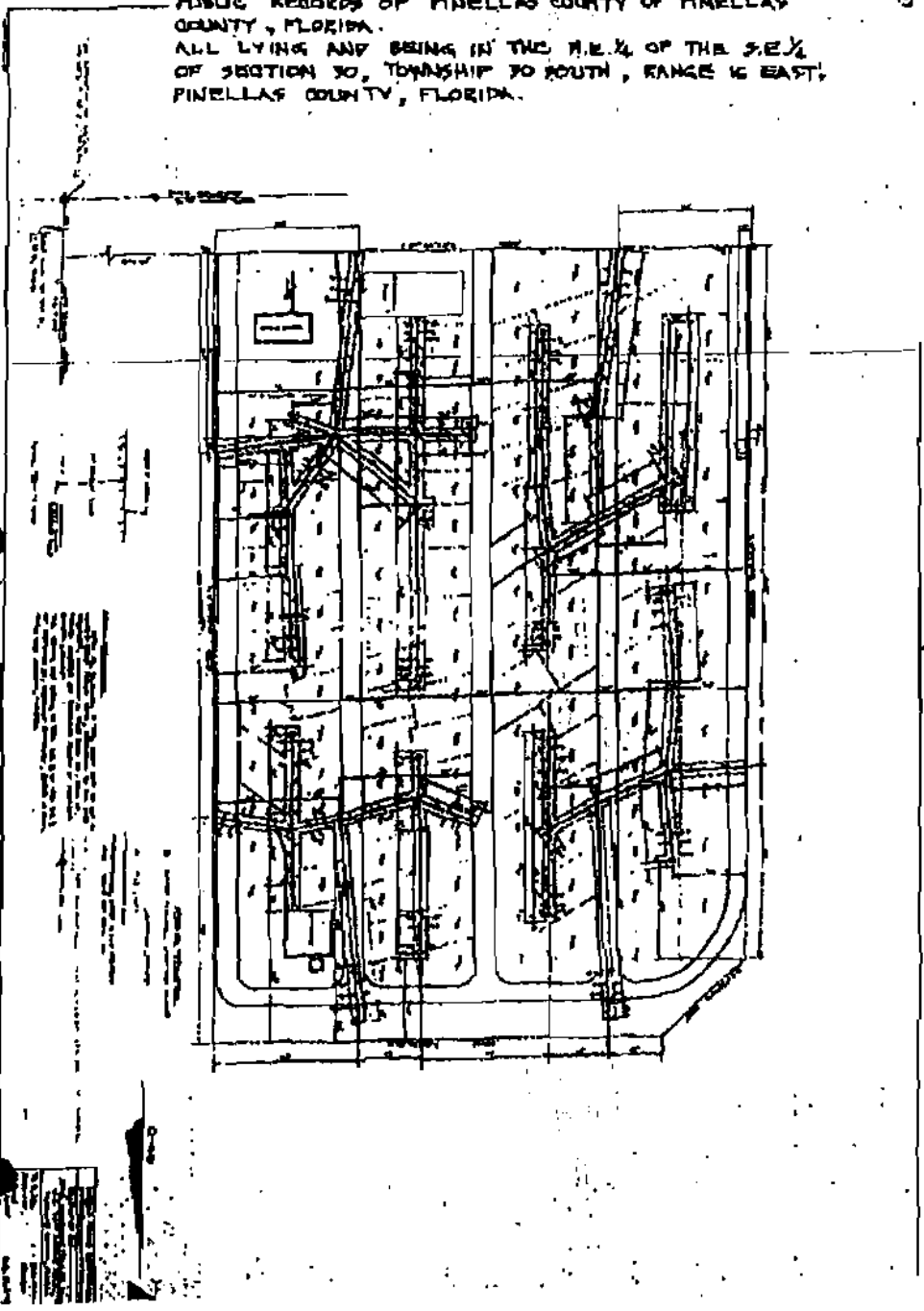
Clara J. Dennis  
Notary Public

My Commission Expires  
State Public, State of Florida at Large  
My Commission Expires on 12, 1972

11. 3408 REG 257

LEGAL DESCRIPTION.

LOTS 12, 13, 14, 15, & THE WEST SPT. OF LOT 16,  
HAINES ROAD FIELDS NO. 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 22, PAGE 97,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.  
ALL LYING AND BEING IN THE N.E. 1/4 OF THE S.E. 1/4  
OF SECTION 30, TOWNSHIP 30 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.



**AFFIDAVIT**

Before me, the undersigned authority, personally appeared John T. Deliman who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is John T. Deliman. I am licensed by the State of Florida as a Surveyor. My license number is 60882. I am submitting this Affidavit on behalf of Oak Ridge Estates, LLC ("Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the letter from Progress Energy dated September 28, 2009 and the Easement recorded in Official Records Book 3400, Pages 254 and 255, of the public records of Pinellas County, Florida, both of which are attached.

3. After reviewing the aforementioned Easement and other public records pertaining to the property located at 6721 Park Boulevard, Pinellas Park, Florida legally described as "Lots 12, 13, 14, 15, and the West 8 feet of Lot 16, Haines Road Farms No. 4, according to the map or plat thereof, as recorded in Plat Book 22, Page 97 of the Public Records of Pinellas County, Florida, LESS and EXCEPT in South 5 feet thereof", I conducted research necessary to conclude that the Easement completely divides the property described above, from one boundary edge of such property to another boundary edge of such property.

4. The addresses "6721 Park Boulevard" and "6741 Park Boulevard", are both addresses which have been assigned by the United States Postal Service to the property described herein, and both addresses are located on the site legally described above.

Under penalties of perjury, I declare that these statements are true and correct.

Signature: [Handwritten Signature]  
Name: John T. Deliman  
Address: 3411 Fox Ridge St  
Winter Haven FL  
33884

Dated: 9/30/09



AFFIDAVIT

Before me, the undersigned authority, personally appeared Daniel L. Van Horn who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is Daniel L. Van Horn, I am licensed by the State of Florida as a Professional Land Surveyor and my License number is 4267. I am submitting this Affidavit on behalf of RST LODGES AT PINELLAS PARK, L. P. (Applicant) and regarding THE LODGES AT PINELLAS PARK (The "Development"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.
2. I have reviewed the letter from Progress Energy dated September 28, 2009 and the Easement recorded in the Official Records Book 3406, Pages 254 - 257, of the public records of Pinellas County, Florida, both of which are attached.
3. After reviewing the aforementioned Easement and the Pinellas County Property Appraisers Folio Panel Number 30-30-16-35064-000-0120 pertaining to the property located on Park Boulevard, Pinellas County, Florida, legally described as "lots 12, 13, 14, 15 and West 8 feet of Lot 16, Haines Road No. 4, According to the map or Plat thereof, as recorded in Plat Book 22, Page 97, of the Public Records of Pinellas County, Florida. LESS AND EXCEPT the South 5 feet thereof. My Professional Opinions is as follows:
  - A. Legal description defines a whole and continuous parcel of land.
  - B. No address found on Pinellas County Property Appraisers Folio Panel.
  - C. Letter from Progress Energy states the proper procedure for release of Progress Energy Florida, Inc. Distribution Easement.
  - D. Easement OR 3406, Pages 254-257 defines a typical Progress Energy Easement agreement over a parcel of land for the distribution of Electrical Power.
  - E. Drawing on OR 3406, Page 257 shows the distribution easements for the power to the different trailer lots.

In Conclusion, it is my opinion that this parcel of land is whole and continuous with a Progress Energy Easement in effect at this time. This Easement sits on the property in four different electrical power systems. This property is a whole property and is not divided or separated by this current Easement.

Under penalties of perjury, I declare that these statements are true and correct.

*Daniel L. Van Horn*  
 Daniel L. Van Horn, PLS #4267  
 Van Horn & Associates, Inc. LB 6907  
 Address: 12610 Sydney Road  
 Dover, Florida 33527

Dated 10/8/09



*Christopher Nelson*  
10/8/09

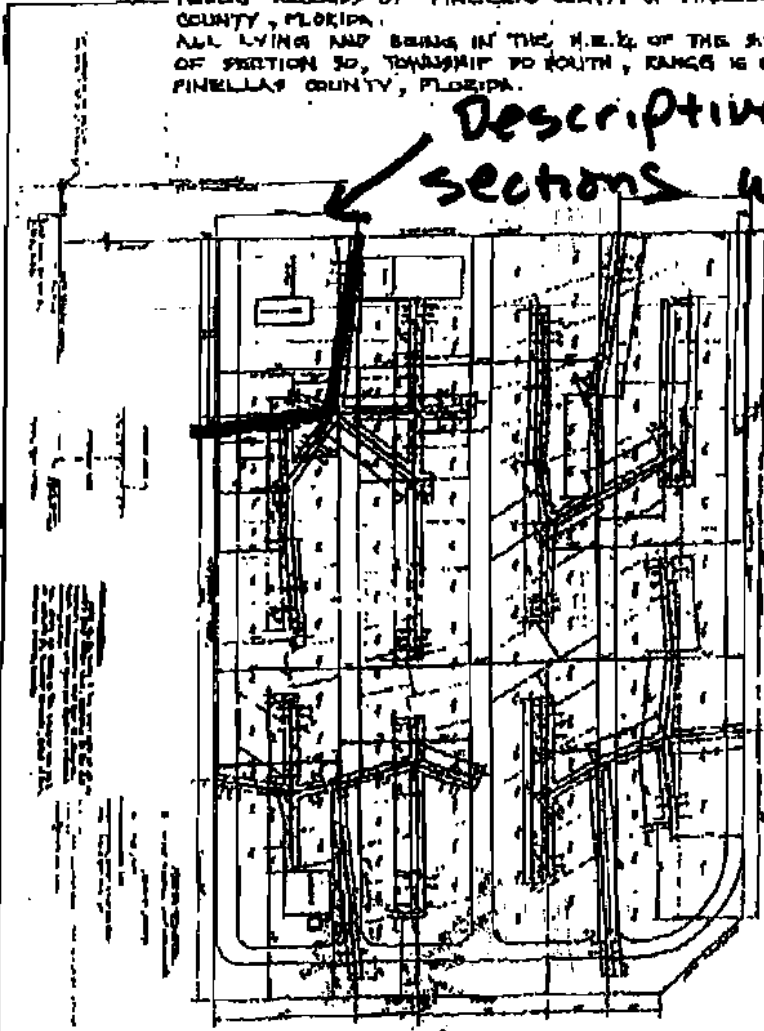


or 3400 sec 257

LEGAL DESCRIPTION.

LOTS 11, 17, 14, 15, & THE WEST APT. OF LOT 14,  
HANKS ROAD FARM NO 4, ACCORDING TO THE PLAN  
THEREOF, RECORDED IN PLAT BOOK 22, PAGE 77,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.  
ALL LYING AND BEING IN THE N.E. 1/4 OF THE S.W. 1/4  
OF SECTION 30, TOWNSHIP 30 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.

Descriptive Easement  
sections which create  
a "scattered  
site."



AFFIDAVIT

Before me, the undersigned authority, personally appeared JOHN WABY, who being duly sworn, states that he personally knows the following facts and that the same are true and accurate:

1. My name is John Waby, I am licensed by the State of Florida as a Professional Surveyor. My license number is 4270. I am with the AVID Group based in Palm Harbour, Florida. I am submitting this Affidavit on behalf of Oak Ridge Estates, LLC (the "Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the attached easement and sketch (benefiting Progress Energy) recorded in Pinellas County O.R. Book 3406, pages 254-257 for the development site of the proposed development known as "The Lodges at Pinellas Park" (the "Property") who applied in the Florida Housing Finance Corporation's Universal Cycle as Application #2009-097C.

3. I conducted a physical inspection of the Property and the improvements located within the easement on November 10, 2009. I reviewed the definition of "scattered site" as contained in Rule 67-48.002(106), PAC (the "Rule").

4. Based on my review of the foregoing and my physical inspection of the Property, in my professional opinion, this easement creates a "scattered site" as defined in the Rule. As highlighted on the attached sketch contained in the recorded easement, the easement completely divides the Property from one boundary edge of such Property to another boundary edge of the Property. It is apparent from my inspection that improvements exist within the easement.

Under penalties of perjury, I declare that these statements are true and correct.

John Waby 11/12/09  
Dated

STATE OF FLORIDA )  
COUNTY OF PINELLAS ) ss.

Sworn to and subscribed before me this 12<sup>th</sup> day of November, 2009, by John Waby, who is personally known to me or has produced \_\_\_\_\_ as identification.

Witness my hand and official seal this 12<sup>th</sup> day of November, 2009.

Erin J. Suter  
Notary Public, State of Florida  
My Commission Expires: 3/11/12



70095125

ORIGINAL

o.e. 3406 MSJ 254

22

C A S E M E N T

THIS INSTRUMENT, Made this 14th day of August - 1970, A. D. 1970 between RICHARD ELVIN AND BETTY ELVIN, his wife, Parties of the First Part, GRANTEE herein, and FLORIDA POWER CORPORATION, a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 101 Fifth Street South, in the City of St. Petersburg, County of Pinellas and State of Florida, Party of the Second Part, GRANTEE herein.

W I T N E S S E D

A. WHEREAS, the GRANTEE are the owners in fee of a tract of land in the County of PINELLAS and State of Florida, described on GRANTEE'S Drawing No. A-1319-D (hereinafter referred to as "drawing") dated June 21, 1970 attached hereto, incorporated herein and by this reference made a part hereof; and

B. WHEREAS, GRANTEE is engaged in the business of manufacturing, transmitting and distributing electric energy to the public; and

C. WHEREAS, GRANTEE are constructing a trailer park to be known as PARK BOULEVARD TRAILER PARK said trailer park being located in part or wholly on that portion of land described on said drawing (said land hereinafter referred to as "PREMISES"). In connection therewith GRANTEE have requested GRANTEE to provide such facilities as are necessary to extend electric service to said PREMISES; and

D. WHEREAS, GRANTEE are constructing and installing a portion of the facilities (hereinafter referred to as "INSTALLATIONS") and GRANTEE will construct, install, operate and maintain all additional facilities (hereinafter referred to as "FACILITIES") necessary to provide electric service to the PREMISES and the general public. The type, ownership and location of said INSTALLATIONS and FACILITIES are shown on attached drawing; and

E. WHEREAS, GRANTEE is desirous of obtaining an easement covering the location, construction and maintenance of said FACILITIES and the utilization of said INSTALLATIONS, all in accordance with existing local codes and the National Electrical Safety Code.

NOW, THEREFORE, for and in consideration of the mutual benefits hereunder and all mutual covenants and conditions contained herein, GRANTEE do hereby grant and convey to GRANTEE, for each period of time as it may require the use of the PREMISES or until the use thereof is abandoned by GRANTEE, the right, privilege and easement to (1) locate its FACILITIES on, over, across, through and under said PREMISES within the easement area shown on said drawing; (2) construct, operate, maintain, repair and remove its FACILITIES; (3) convey and utilize said INSTALLATIONS and (4) obtain ingress and egress to and upon the PREMISES for the purpose of exercising rights and privileges herein granted.

The Parties hereto agree as follows:

1. GRANTEE shall have the right to operate, inspect, alter, improve, repair, remove and rebuild its FACILITIES together with the rights and privileges necessary and convenient for the full use and enjoyment thereof.

OCT 6 11 23 AM '70

REC'D  
PINELLAS COUNTY CLERK  
MARGIE MULLENBACH CLERK

ORIGINAL

P.P. 3406 PAGE 255

2. GRANTORS shall not utilize the areas in which the FACILITIES are located in any way or manner which would create a dangerous condition with respect to said FACILITIES or create any interference with the construction, reconstruction, removal, repair or safe operation and safe maintenance thereof without written notification to GRANTEE and submission of written plans of such utilization of the easement area and GRANTORS agree to reimburse GRANTEE for any relocation of the FACILITIES necessitated by GRANTORS' planned utilization of said easement area, and GRANTORS covenant to indemnify and hold GRANTEE harmless from any and all damages and injuries, whether to persons or property, resulting from interference by GRANTORS or their agents, from any cause whatsoever, with the FACILITIES.

3. Should GRANTEE remove or abandon the use of its FACILITIES, or fail for any reasonable period of time to exercise the rights herein granted, then in that event all rights and privileges hereunder shall cease and the easement, privileges and rights herein granted shall revert to the GRANTORS; further, in the event the tract of land owned by GRANTORS and referred to in Paragraph A, above, is no longer used as a mobile home park, then and in that event GRANTORS will so notify GRANTEE in writing and within 90 days from the receipt of such notification, GRANTEE will vacate, surrender and quit-claim the easement conveyed by this instrument to the GRANTORS or their assigns.

4. GRANTORS covenant that they have the right to convey this easement and that GRANTEE shall have quiet and peaceful possession, use and enjoyment of said easement.

All covenants, terms, provisions and conditions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, successors or assigns.

IN WITNESS WHEREOF, the GRANTORS have hereunto affixed their hands and seals, the day and year first above mentioned.

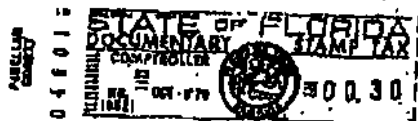
Signed, sealed and delivered  
in the presence of:

Quincy J. Halary

Richard E. Klein (U.S.)  
Richard Klein

C. Grant Lewis

Betty Klein (U.S.)  
Betty Klein



STATE OF Florida }  
COUNTY OF Duval } ss.

I HEREBY CERTIFY that on this 19<sup>th</sup> day of August  
A. D. 19 70, before me the undersigned authority, personally appeared  
RICHARD ELFVIN AND BETTY ELFVIN, his wife,

\_\_\_\_\_ to me known to be the person(s)  
described in and who executed the foregoing instrument and he vs acknowledged  
before me that he executed the same.

WITNESS my signature and official seal in said County and State,  
the day and year last aforesaid.

(NOTARIAL SEAL)

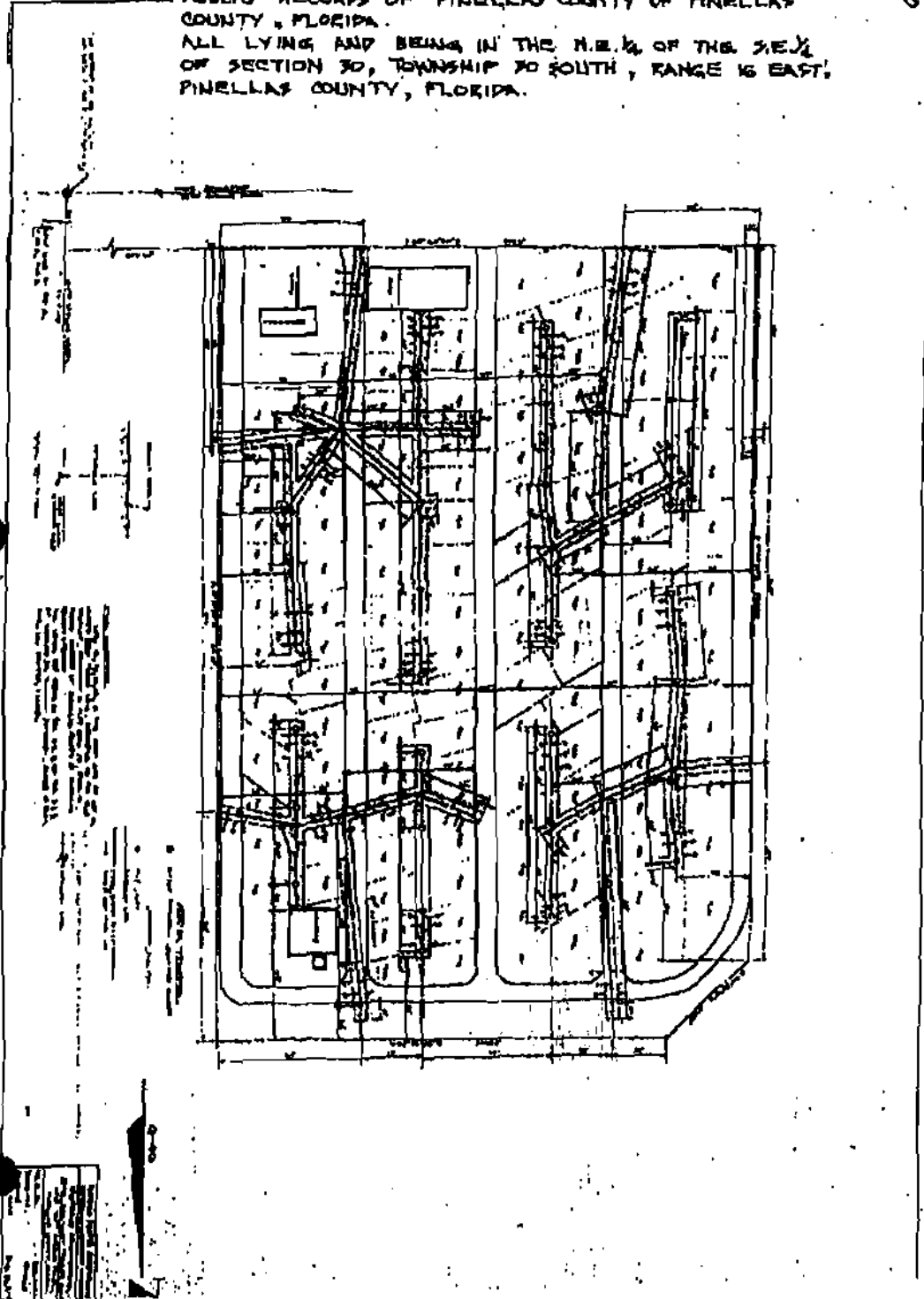
Clara J. Dennis  
Notary Public

My Commission Expires:  
Notary Public, State of Florida at Large  
My Commission Expires Dec. 19, 1973

LEGAL DESCRIPTION.

LOTS 12, 13, 14, 15, & THE WEST 8 FT. OF LOT 16,  
HAINES ROAD FARMS NO. 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 22, PAGE 77,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.

ALL LYING AND BEING IN THE N.E. 1/4 OF THE S.E. 1/4  
OF SECTION 30, TOWNSHIP 30 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.





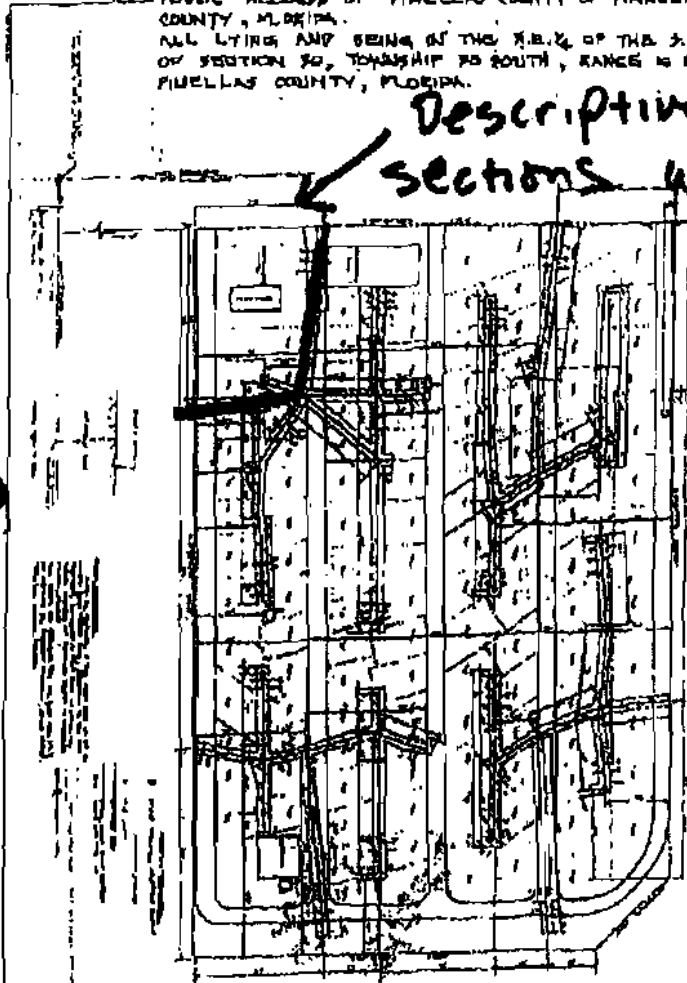
LR 3408 REC 267

LEGAL DESCRIPTION.

LOTS 12, 17, 18, 19, & THE WEST 8FT. OF LOT 16,  
HAWES ROAD FARMS NO. 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 82, PAGE 97,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.

ALL LINES AND BEING IN THE N.E. 1/4 OF THE S.E. 1/4  
OF SECTION 30, TOWNSHIP 20 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.

Descriptive Easement  
sections which create  
a "scattered  
site."



(104) "SAIL Development" means a residential development comprised of one (1) or more residential buildings, each containing five (5) or more dwelling units and functionally related facilities, proposed to be constructed or substantially rehabilitated with SAIL funds for Eligible Persons.

(105) "SAIL Minimum Set-Aside Requirement" means the least number of set-aside units in a SAIL Development which must be held for Very Low-Income persons or households pursuant to the category (i.e., Family, Elderly, Homeless, or Farmworker and Commercial Fishing Worker) under which the Application has been made, as further described in Rule 67-48.009, P.A.C.

(106) "Scattered Sites" for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.

(107) "Section 8 Eligible" means a Family with an income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2009 Universal Application link labeled Related References and Links.

(108) "Single Room Occupancy" or "SRO" means housing, consisting of single room dwelling units, that is the primary residence of its occupant or occupants. An SRO

NOAD TRACKING

539

Page \_\_\_ of \_\_\_ Pages

2009 NOTICE OF ALLEGED DEFICIENCIES (NOAD) SUMMARY FORM

This NOAD Summary Form is being submitted with regard to Application No. 2009-144C and pertains to the revisions/additions made to the Application parts, sections, subsections and exhibits listed below (please list the parts, sections, subsections, and exhibits in the order they appear in the most recent Scoring Summary Report with regard to the Application revisions/additions being challenged):

Part (I, II, III, IV, or V)	Section (A, B, C, D, etc.)	Subsection (1, 2, 3, etc. or 1.a., 1.b., etc.)	Exhibit (1, 2, 3, etc.)	Submitted in Response to:					Created by:	
				Reason Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Ability to Proceed Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Failed Threshold (Provide Item No. from Application Scoring Summary)	Proximity Scoring (Provide Item No. from Application Scoring Summary)	Additional Comment (Provide Item No. from Application Scoring Summary)	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from Preliminary Scoring	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from NOPSE scoring and state NOPSE Tracking No., if known
III	B	2.c.		2	S	A	T	P	C	✓
III	F	1.6.2	36	5	S	A	T	P	C	✓
IV	A			10	S	A	T	P	C	✓
IV	B		47-50	11	S	A	T	P	C	✓
IV	A.	2.6.			S	A	1 T	P	C	✓
III	C	1	26		S	A	2 T	P	C	✓
III	C	3.a.	28		S	A	3 T	P	C	✓
III	C.	3.6	29		S	A	4 T	P	C	✓
III	C.	3.c.	30		S	A	5 T	P	C	✓
III	C.	3.d.	31		S	A	6 T	P	C	✓
III	C	4	32		S	A	7 T	P	C	✓
III	A	2.6			S	A	8 T	P	C	✓
III	C	5	33		S	A	9 T	P	C	✓
III	C	1	26		S	1 A	T	P	C	✓
III	C	3.a.	28		S	2 A	T	P	C	✓
III	C	3.6	29		S	3 A	T	P	C	✓
III	C	3.c.	30		S	4 A	T	P	C	✓
III	C	3.d.	31		S	5 A	T	P	C	✓
III	C	4	32		S	6 A	T	P	C	✓

SUBMITTED BY APPLICATION NO. 2009-139C IN ACCORDANCE WITH RULE 67-48.004, F.A.C.

NOAD  
TRACKING

539

Page \_\_\_\_ of \_\_\_\_ Pages

2009 NOTICE OF ALLEGED DEFICIENCIES (NOAD) SUMMARY FORM

This NOAD Summary Form is being submitted with regard to Application No. 2009-144C and pertains to the revisions/additions made to the Application parts, sections, subsections and exhibits listed below (please list the parts, sections, subsections, and exhibits in the order they appear in the most recent Scoring Summary Report with regard to the Application revisions/additions being challenged):

Part (I, II, III, IV, or V)	Section (A, B, C, D, etc.)	Subsection (1, 2, 3, etc. or 1.a., 2.a., etc.)	Exhibit (1, 2, 3, etc.)	Submitted in Response to:					Created by:			
				Reason Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Ability to Proceed Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Failed Threshold (Provide Item No. from Application Scoring Summary)	Proximity Scoring (Provide Item No. from Application Scoring Summary)	Additional Comment (Provide Item No. from Application Scoring Summary)	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from Preliminary Scoring	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from NOPSE scoring and state NOPSE Tracking No., if known		
III	B	2.c.		2	S	A	T	P	C		✓	
III	E	1.6.2	36	5	S	A	T	P	C		✓	
IV	A			10	S	A	T	P	C		✓	
IV	B		47-50	11	S	A	T	P	C		✓	
IV	A.	2.6.			S	A	1	T	P	C	✓	
III	C	1	26		S	A	2	T	P	C	✓	
III	C	3.a.	28		S	A	3	T	P	C	✓	
III	C.	3.6	29		S	A	4	T	P	C	✓	
III	C.	3.c	30		S	A	5	T	P	C	✓	
III	C.	3.d.	31		S	A	6	T	P	C	✓	
III	C	4	32		S	A	7	T	P	C	✓	
III	A	2.6			S	A	8	T	P	C	✓	
III	C	5	33		S	A	9	T	P	C	✓	
III	C	1	26		S	1	A	1	T	P	C	✓
III	C	3.a.	28		S	2	A	T	P	C	✓	
III	C	3.6	29		S	3	A	T	P	C	✓	
III	C	3.c	30		S	4	A	T	P	C	✓	
III	C	3.d	31		S	5	A	T	P	C	✓	
III	C	4	32		S	6	A	T	P	C	✓	

SUBMITTED BY APPLICATION NO. 2009-139C IN ACCORDANCE WITH RULE 67-48.004, F.A.C.

## Brief Statement of Explanation regarding NOAD for Application No. 2009 – 144C

### Provide a separate brief statement for each NOAD

In its response to Scoring Items 2S and numerous other Scoring Items pertaining to the same issue (whether or not the development meets the definition of "scattered sites"), Applicant has submitted cure documentation asserting that its development does not meet the definition of "scattered sites". For the reasons set forth below, FHFC should find that the proposed development does consist of "scattered sites" and should be scored accordingly.

Applicant attempts (in its cure documentation) to complicate this issue with policy consideration and statements by various parties which do not actually address the issue at hand. The issue is very simple and straight forward. Rule 67-48.002(106) simply defines a development as "scattered site" if any part of such development is divided by a street or easement. In the NOPSE previously filed and again in this NOAD, there is provided a Surveyor's Affidavit from Mr. Michael M. Mossey. Mr. Mossey has provided a sketch demonstrating that the two easements under consideration combine to completely divide the property. Mr. Mossey's sketch is simple to understand; clearly the two easements as combined completely divide one portion of the property from the remainder of the property. That is all that is required by the rule definition of "scattered site".

Applicant's arguments in its cure documentation are numerous but not on point, and are discussed/refuted as set forth below:

1. Applicant provides an affidavit from Mr. Rossi which states, in part, that the easements in question do not cause "...the subject property to be subdivided, separated or divided into separate lots...". (emphasis added) The test is not whether the easements do or do not divide the properties into separate lots; the test is whether the easements divide the property; that is, whether the easements run from one edge of the property to another so that at no point can you reach one portion of the property from another portion of the property without crossing such

easements. Mr. Rossi's affidavit does not state this conclusion; Mr. Mossey's affidavit (in Section 5) does.

2. Evidence is provided that the City of Ft. Lauderdale considers the development as a "single development". This evidence is irrelevant. Apparently (see the e-mail from Mr. Fajardo contained in the cure documentation as Exhibit 3) the City of Ft. Lauderdale only considers a development not to be a "single development" if the site has more than one parcel or lot with different owners. That has no bearing on the issue at hand.
3. Applicant contends that the word "easement" in Rule 67-48.002(106) must mean "apparent easement", by reference to a definition from Black's Law Dictionary. Applicant continues on to state that the term "easement" should be interpreted to refer to apparent easements that visibly and actually divide the development site, and that since the easements at issue do not "visibly or actually" divide the site, the definition of "scattered sites" does not apply.

Had FHFC desired for the term "easement" to mean what Applicant is asserting, it could have done so by amending its rule. A search of dictionary.com reveals that "easement" is defined as "a right held by one property owner to make use of the land of another for a limited purpose, as right of passage". This is the most common definition of "easement". Clearly the easements at issue meet this definition. The term "easement" should be given its most common meaning, and the term "easement" should be construed to mean exactly what it is; that is, a right of access to use or go across property. Applicant is attempting to ascribe a meaning to the word for "easement" that is not supported by the existing Rule.

4. Applicant has submitted a letter from the Housing Authority from the City of Ft. Lauderdale indicating that the Dr. Kennedy Homes site is owned, operated and managed as a single site. The Housing Authority continues on and state that an alternate interpretation would burden many future applicants with the "additional work of a Scattered Site application". Neither of these arguments bear any significant weight. Whether or not the Housing Authority regards the development site as a single site is irrelevant; whether such site meets the definition of "Scattered Sites" under the FHFC rule is all that matters. Further, the "additional work of a scattered site application" is merely to correctly answer the application, fill out Exhibit 20, and provide multiple addresses for the scattered sites through the application. This is hardly an insurmountable amount of work.
5. Applicant contends that all existing public housing sites have easements throughout, and as such, such easements will have to be vacated or rule waivers granted for nearly every development. This is nonsense; applicants with "scattered site" developments need only to correctly complete their application to FHFC in the first place. Applicant provides information from FPL indicating how such easements may be relocated or released. That is beside the point; the only

question is whether the easements existed and divided the property as of the date of the application.

In short, nowhere in its cure documentation does Applicant directly assert that the easements discussed herein do not divide the property. Applicant attempts to "wordsmith" its response and inject inappropriate and inapplicable policy considerations in order to overcome its error in completing its original application. The affidavit from Mr. Mossey attached hereto clearly and definitively establishes that the easements in question divide the property; FHFC need go no further in order to confirm its position in NOPSE scoring that this development consists of "scattered sites".

AFFIDAVIT

Before me, the undersigned authority, personally appeared Michael M. Mossey, who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is Michael M. Mossey. I am licensed by the State of Florida as a Professional Surveyor and Mapper. My license number is PSM 5660. I am submitting this Affidavit on behalf of Pinnaele at Flagler Pointe, LLC ("Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the letter from Florida Power and Light dated September 25, 2009, the Easement recorded in Official Records Book 9256, Pages 411 and 412, of the public records of Broward County, Florida, and the Easement recorded in Official Records Book 43984, Pages 1896 through 1899, all of which are attached (the "Easements").

3. Attached is an Affidavit executed and delivered by me on September 30, 2009 (the "Original Affidavit").

4. I have received the Affidavit dated October 29, 2009 from Charles E. Rosai, P.L.S., attached hereto (the "Rossi Affidavit").

5. Nothing in the Rossi Affidavit changes in any way the conclusion reached in the Original Affidavit that the Easements completely divide the property described in the Original Affidavit, from one boundary edge of such property to another boundary edge of such property.

Under penalties of perjury, I declare that these statements are true and correct.

Signature: *Michael M. Mossey* Dated: 11/9/09  
Name: Michael M. Mossey  
Address: 301 East Atlantic Blvd.  
Pompano Beach, Florida 33060

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF Broward )

Sworn to and subscribed before me on this 9 day of November, 2009, by Michael M. Mossey, who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS MY HAND AND OFFICIAL SEAL

This 9 day of November, 2009.



*Jennifer Hart*  
Notary Public, State of Florida at Large  
JENNIFER HART  
Printed Name of Notary Public  
My Commission Expires:





Florida Power & Light Co., P.O. Box 14000, Juno Beach, Florida 33408-0420

September 25, 2009

Mr. Timothy P. Wheat, Regional V.P.  
Pinnacle Housing Group  
9400 S. Dadeland Boulevard, Suite 100  
Miami, Florida 33156

Re: Kennedy Homes, 1004 West Broward Blvd., FL Lauderdale, FL.

Dear Mr. Wheat:

Please be advised that FPL is the beneficiary of the easement granted October 29, 1980 and recorded in Official Records Book 8266, page 411 of Broward County, FL. This easement is in full force and effect, providing for the installation, operation and maintenance of underground and overhead electric utility facilities within a 10 foot easement area.

Sincerely,

A handwritten signature in black ink, appearing to read "J. T. Corson".

J. T. Corson  
Corporate Real Estate Area Manager

c.c.

Lynn Shatas  
Ben Wesley

40

80-343270

EASEMENT

Form 2722 (Revised Rev. 8/58)

Date 10-29 19 80

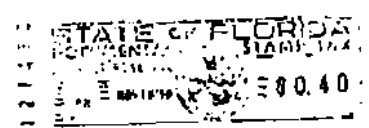
ER No. 3100-1-710

File No. [handwritten]

Sec. 9 Prop. 503 Reg. 428

The undersigned, owner (s) of the premises described below, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its licensees, agents, successors, and assigns, an easement forever for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conductors and apparatus equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the size of and remove such facilities or any of them, on the property described as follows:

A portion of "Dr. Kennedy Homes Housing Project," as recorded in Plat Book 15, page 70 of the Public Records of Broward County, Florida, being more particularly shown and described on Florida Power & Light Company drawing marked Exhibit "A" and dated 10-8-80, attached hereto and made a part hereof. Said land situate in the City of Fort Lauderdale, Broward County, Florida.



PLEASE RETURN TO: J. CROWLEY, 1000 N. W. 24th ST., FORT LAUDERDALE, FLA. 33304

REC 9256 PRE 411

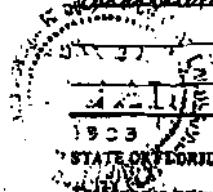
together with the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the right of way and to operate the same for communication purposes with the right to inspect and repair to said premises at all times, to clear the land and keep it cleared of all trees, undergrowth or other obstructions within the easement area; no trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution, and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinbefore granted on the land herebefore described, over, along and under the roads, streets or highways adjoining or through said property.

IN WITNESS WHEREOF, the undersigned hereunto set their hands and seals this 29th day of October, 1980.

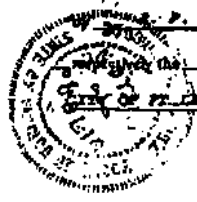
Signed, stated and delivered in the presence of: [Signatures and seals]

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLORIDA

[Signatures and seals of Housing Authority representatives]



STATE OF FLORIDA AND COUNTY OF Broward. The foregoing instrument was acknowledged before me this 29th day of October, 1980.



Notary Public, State of Florida, My Commission Expires Feb 27 1984. Bonded Third General Law, Commissioner.

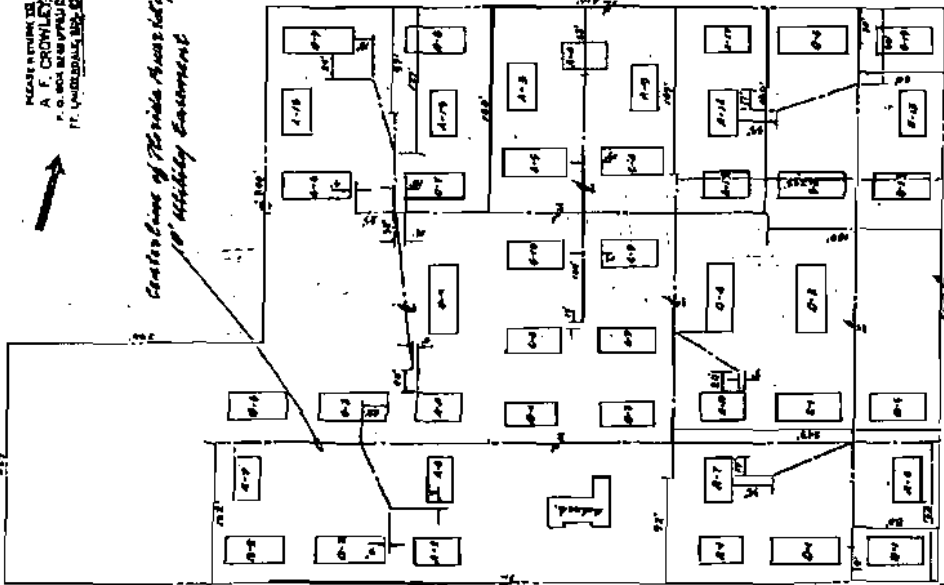
STATE OF FLORIDA AND COUNTY OF [blank]. The foregoing instrument was acknowledged before me this [blank] day of [blank], 19 [blank] by [blank] and [blank].

NOTARY PUBLIC, STATE OF FLORIDA, MY COMMISSION EXPIRES [blank]

7.00

PLEASE RETURN TO  
A. F. CROWLEY  
P. O. BOX 1008  
ST. LOUIS, MISSOURI 63103

Center Line of Florida Avenue Right of Way  
10' Highway Easement



S.W. 11th Avenue

M.H. Gomer of Dr. Kennedy Homes  
Sponsoring Project  
Ad. 19, Pg. 70

REPRODUCED BY THE OFFICIAL SCHEMATIC UNIT  
OF THE MISSOURI ARCHITECTURAL SOCIETY  
CREATED BY W. WATTS  
DRP. 10/10/68

Exhibit A  
Scale: n.e. Date 10-8-68  
D. Moore

PREPARED BY AND RETURN TO:

*Sharon P. Miller*  
City Attorney's Office  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33302

Folio No. 10209-28-00100

ACCESS AND UTILITY EASEMENT

THIS INDENTURE, made this 26<sup>th</sup> day of April, 2007,  
by and between:

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLORIDA, a public body corporate pursuant to authority granted in Section 421.08 Florida Statutes, hereinafter "GRANTOR", whose Post Office address is 437 S.W. 4<sup>th</sup> Avenue, Fort Lauderdale, Florida 33315

and

CITY OF FORT LAUDERDALE, a Florida municipal corporation existing under the laws of the State of Florida, whose Post Office address is 100 North Andrews Avenue, Fort Lauderdale, Florida 33302; Federal Tax I.D. No. 02-1234-00001-04-47, hereinafter "GRANTEE", or "CITY".

WITNESSETH:

- A. Grantor is the fee title owner of that certain parcel of land located in Broward County, Florida, more particularly described in Exhibit "A" attached hereto (the "Property"), including the portion more particularly described on Exhibit "B" attached hereto (the "Easement Area").
- B. Grantor hereby covenants with said Grantee that Grantor is lawfully seized of fee simple title to the Easement Area and that Grantor hereby fully warrants and defends the title to this Easement Area

hereby conveyed against the lawful claims of all persons whomsoever.

NOW, THEREFORE, for Ten and No/100 Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and City hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as if repeated at length.

2. Grant of Easement. Grantor hereby grants to the City, its successors and assigns an easement for utilities and the right to provide service to maintain, repair and replace and have access to City facilities or infrastructure on the Property for said utilities, over, along, through, in above and under that certain parcel of land situated, lying and being in Fort Lauderdale, Broward County, Florida described as follows:

See Exhibit "B", attached hereto and incorporated herein

TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, GRANTOR has hereunto set their hand and seal the day and year first above written.

WITNESSES:

GRANTOR:

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE

[Signature]

MICHAEL TUDOS  
(Witness print/type name)

[Signature]

GLORIA LOWE  
(Witness print/type name)

(CORPORATE SEAL)



By: [Signature]  
Chairperson

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of April, 2007 by Tom Enquist, the chairperson for the HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did not (did) take an oath.

(SEAL)



*Heather E. Hodder*

Notary Public, State of Florida  
Signature of Notary taking  
Acknowledgement)

HEATHER E. HODDER

Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

April 14<sup>th</sup>, 2010  
Commission Number

APPROVED AS TO FORM:

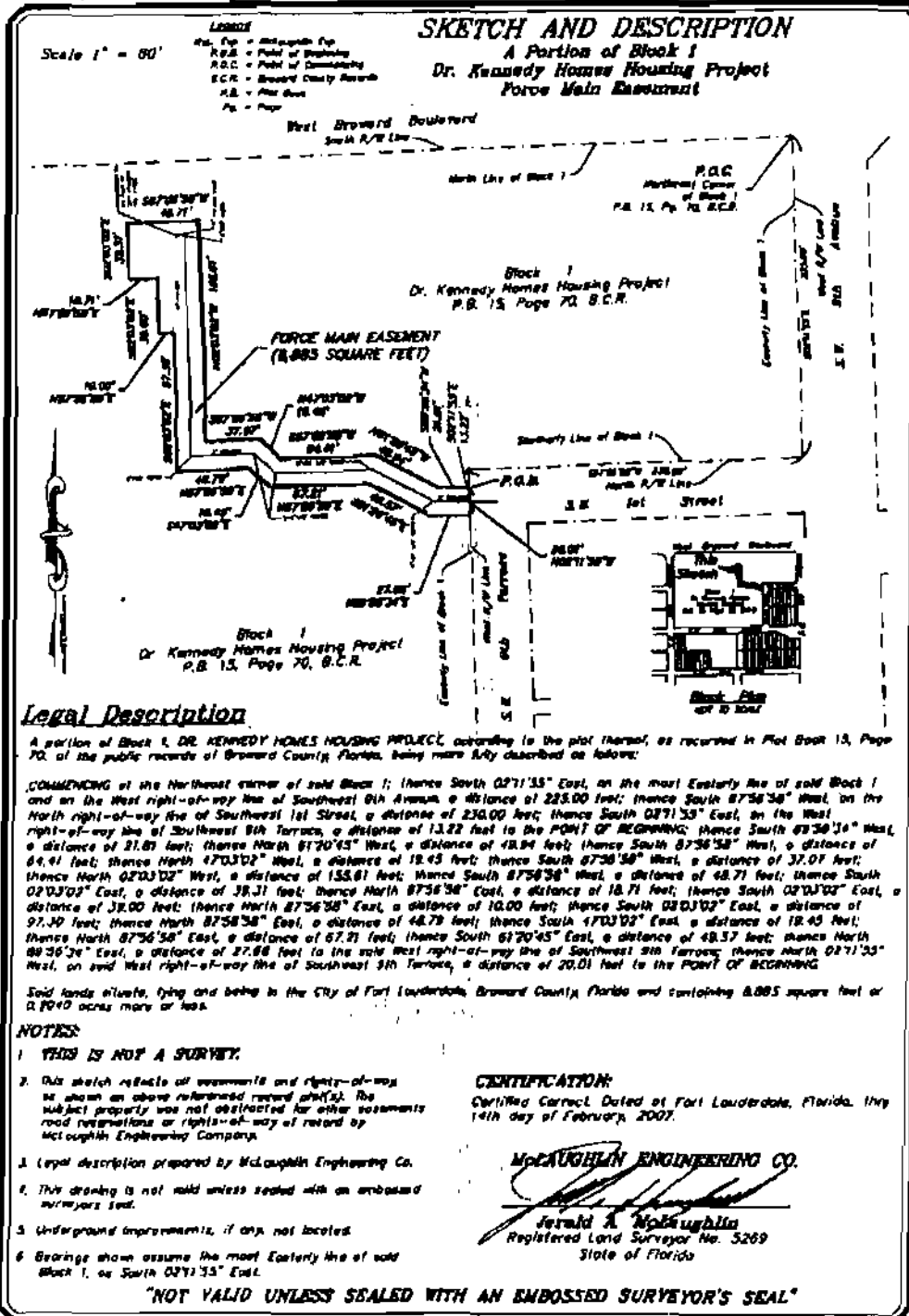
*Sharon P. Miller*  
\_\_\_\_\_  
City Attorney



**McLAUGHLIN ENGINEERING COMPANY**  
 400 NORTHEAST 3rd AVENUE  
 FORT LAUDERDALE, FLORIDA, 33301  
 ENGINEERS - SURVEYORS  
 (LBJ 866)

PHONE: (954) 783-7811

FAX: (954) 783-7815



FIELD BOOK NO. School Bond Project  
 JOB ORDER NO. U-3227

DRAWN BY: DRP  
 CHECKED BY: \_\_\_\_\_

AFFIDAVIT

Before me, the undersigned authority, personally appeared Michael M. Mossey, who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is Michael M. Mossey. I am licensed by the State of Florida as a Surveyor. My license number is PSM 5660. I am submitting this Affidavit on behalf of Pinnacle at Flagler Pointe, LLC ("Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the letter from Florida Power and Light dated September 25, 2009, the Easement recorded in Official Records Book 9256, Pages 411 and 412, of the public records of Broward County, Florida, and the Easement recorded in Official Records Book 43984, Pages 1896 through 1899, all of which are attached.

3. After reviewing the aforementioned Easements and other public records pertaining the property located at 1004 West Broward Boulevard, Fort Lauderdale, Florida 33311 legally described on Exhibit A hereto, I conducted the research necessary to conclude that the Easements completely divide the property described above, from one boundary edge of such property to another boundary edge of such property. Attached is a sketch prepared by our firm demonstrating the division of the property by the Easements.

4. The addresses 102 S.W. 11<sup>th</sup> Avenue and 1020 West Broward Boulevard are both addresses which (in addition to the address indicated in (3) above) have been assigned by the United States Postal Service to the property described herein, and both additional addresses are also located on the site legally described above.

Under penalties of perjury, I declare that these statements are true and correct.

Signature: [Handwritten Signature] Dated: 9/30/09  
Name: Michael M. Mossey  
Address 301 East Atlantic Boulevard  
Pompano Beach Florida 33060

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF Broward )

Sworn to and subscribed before me on this 30 day of September, 2009, by Michael Mossey, who is personally known to me or who has produced as identification.

WITNESS MY HAND AND OFFICIAL SEAL

This 30 day of September 2009.



[Handwritten Signature]  
Notary Public, State of Florida, at Large  
Jennifer Hart  
Printed Name of Notary Public  
My Commission Expires:





Florida Power & Light Co., P.O. Box 14000, Juno Beach, Florida 33408-0420

September 25, 2009

Mr. Timothy P. Wheat, Regional V.P.  
Pinnacle Housing Group  
8400 S. Dadeland Boulevard, Suite 100  
Miami, Florida 33156

Re: Kennedy Homes, 1004 West Broward Blvd., Ft. Lauderdale, FL.

Dear Mr. Wheat:

Please be advised that FPL is the beneficiary of the easement granted October 29, 1980 and recorded in Official Records Book 9256, page 411 of Broward County, FL. This easement is in full force and effect, providing for the installation, operation and maintenance of underground and overhead electric utility facilities within a 10 foot easement area.

Sincerely,

A handwritten signature in black ink, appearing to read "J. T. Corson", written over a circular stamp or mark.

J. T. Corson  
Corporate Real Estate Area Manager

c.c.

Lynn Shatas  
Ben Wesley

20-343270 EASEMENT Form 5748 (Revised Nov. 1964) Date 10-29-60  
 ER No. 3100-2-710 Plate No. Sec. 9 Twp. 30S Rge. 42E

The undersigned, owner (s) of the premises described below, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its successors, agents, executors, and assigns, as necessary power for the construction, operation and maintenance of overhead and underground electric utility facilities (including poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to construct, improve, add to, enlarge, change the size of and remove such facilities at any of them, on the property described as follows:

A portion of "Dr. Kennedy Homes Housing Project," as recorded in Plat Book 13, page 70 of the Public Records of Broward County, Florida, being more particularly shown and described on Florida Power & Light Company drawing marked Exhibit "A" and dated 10-6-60, attached hereto and made a part hereof. Said land situated in the City of Fort Lauderdale, Broward County, Florida.

STATE OF FLORIDA  
 COUNTY OF BROWARD  
 \$00.40

PLEASE RETURN TO  
 CROWLEY  
 110 W. GARDEN BLVD.  
 FT. LAUDERDALE, FLA. 33304

together with the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the right of way and to operate the same for communication purposes with the right to dig and to lay pipes of all sizes, to cross the land and lay it down of it, to erect, maintain or other obstructions within the easement area; to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution, and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereunder granted on the land hereinafter described, over, along and under the tracks, streets or highways adjoining or through said property.

IN WITNESS WHEREOF, the undersigned has signed and sealed this agreement on October 21, 1960.

Signed, sealed and delivered to the presence of:  
 [Signature] SEAL  
 [Signature] SEAL

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLORIDA

[Signature] WITNESS  
 [Signature] WITNESS  
 (SEAL)  
 (SEAL)

NOTARY PUBLIC  
 STATE OF FLORIDA  
 1958

STATE OF FLORIDA AND COUNTY OF BROWARD  
 The foregoing instrument was acknowledged before me this 22th day of December, 1960.

NOTARY PUBLIC  
 STATE OF FLORIDA  
 1958

[Signature] and [Signature]  
 Chairman and Secretary of THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLA. a PUBLIC corporation, on behalf of the corporation.

[Signature]  
 NOTARY PUBLIC, STATE OF FLORIDA  
 MY COMMISSION EXPIRES OCTOBER 10, 1964  
 (10020) (64) ORIGINAL NO. 10020/148

STATE OF FLORIDA AND COUNTY OF BROWARD  
 The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_, 19\_\_  
 by \_\_\_\_\_

NOTARY PUBLIC, STATE OF FLORIDA  
 MY COMMISSION EXPIRES \_\_\_\_\_

NOV 20 1960

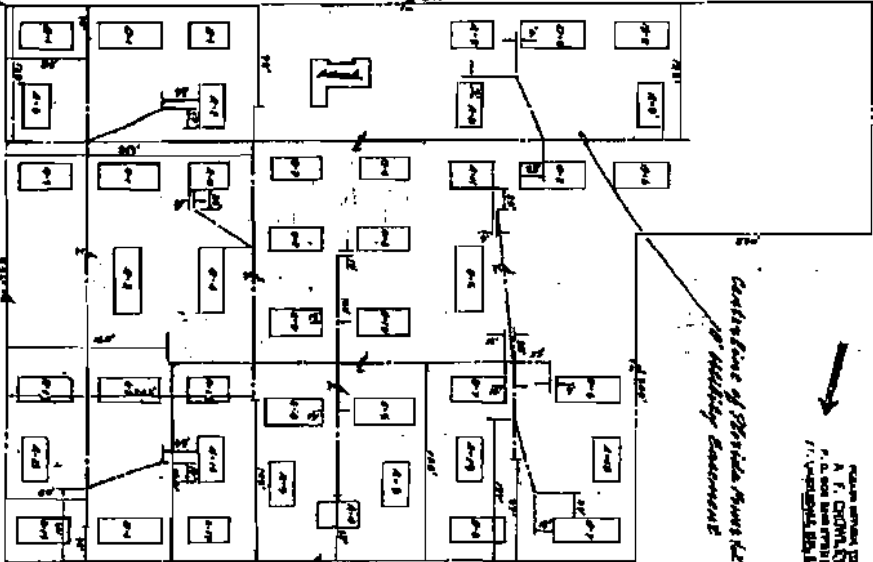
NOV 25 1960

7.58

N. Howard Blvd

W. corner of Dr. Kennedy House  
"Quaker" Project  
N.H. 17, pg. 28

SW 11th Avenue



Construction of Service Room layout for  
'70 Meeting Room

Scale 1/4" = 1'-0"  
A. J. CONRAD  
ARCHITECT  
114-116 W. 11th Ave. N.H.

S.W. 2nd Street

Exhibit A  
Sketch: Mrs. DAN WOOD  
R. Moore

REPRODUCED BY THE OFFICE OF THE  
ATTORNEY GENERAL  
OF THE STATE OF NEW HAMPSHIRE  
ON JANUARY 17, 1978  
FROM RECORDS

RI 9256 no 412

PREPARED BY AND RETURN TO:

*Sharon P. Miller*  
City Attorney's Office  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33302

Folio No. 10209-28-00100

ACCESS AND UTILITY EASEMENT

THIS INDENTURE, made this 26<sup>th</sup> day of April, 2007,  
by and between:

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLORIDA, a public body corporate pursuant to authority granted in Section 421.08 Florida Statutes, hereinafter "GRANTOR", whose Post Office address is 437 S.W. 4<sup>th</sup> Avenue, Fort Lauderdale, Florida 33315

and

CITY OF FORT LAUDERDALE, a Florida municipal corporation existing under the laws of the State of Florida, whose Post Office address is 100 North Andrews Avenue, Fort Lauderdale, Florida 33302; Federal Tax I.D. No. 02-1234-00001-04-47, hereinafter "GRANTEE", or "CITY".

WITNESSETH:

- A. Grantor is the fee title owner of that certain parcel of land located in Broward County, Florida, more particularly described in Exhibit "A" attached hereto (the "Property"), including the portion more particularly described on Exhibit "B" attached hereto (the "Easement Area").
- B. Grantor hereby covenants with said Grantee that Grantor is lawfully seized of fee simple title to the Easement Area and that Grantor hereby fully warrants and defends the title to this Easement Area

hereby conveyed against the lawful claims of all persons whomsoever.

NOW, THEREFORE, for Ten and No/100 Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and City hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as if repeated at length.

2. Grant of Easement. Grantor hereby grants to the City, its successors and assigns an easement for utilities and the right to provide service to maintain, repair and replace and have access to City facilities or infrastructure on the Property for said utilities, over, along, through, in above and under that certain parcel of land situated, lying and being in Fort Lauderdale, Broward County, Florida described as follows:

See Exhibit "B", attached hereto and incorporated herein

TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, GRANTOR has hereunto set their hand and seal the day and year first above written.

WITNESSES:

GRANTOR:

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE

Michael Tizos

MICHAEL TIZOS  
(Witness print/type name)

Alfred P. Lowe

ALFRED LOWE  
(Witness print/type name)

(CORPORATE SEAL)



By: [Signature]  
Chairperson

STATE OF FLORIDA  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of April, 2007 by Tam Enouist, the chairperson for the HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did not (did) take an oath.

(SEAL)



*Heather E. Boden*

Notary Public, State of Florida  
Signature of Notary taking  
Acknowledgement)

HEATHER E. BODEN

Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

April 4<sup>th</sup> 2011  
Commission Number

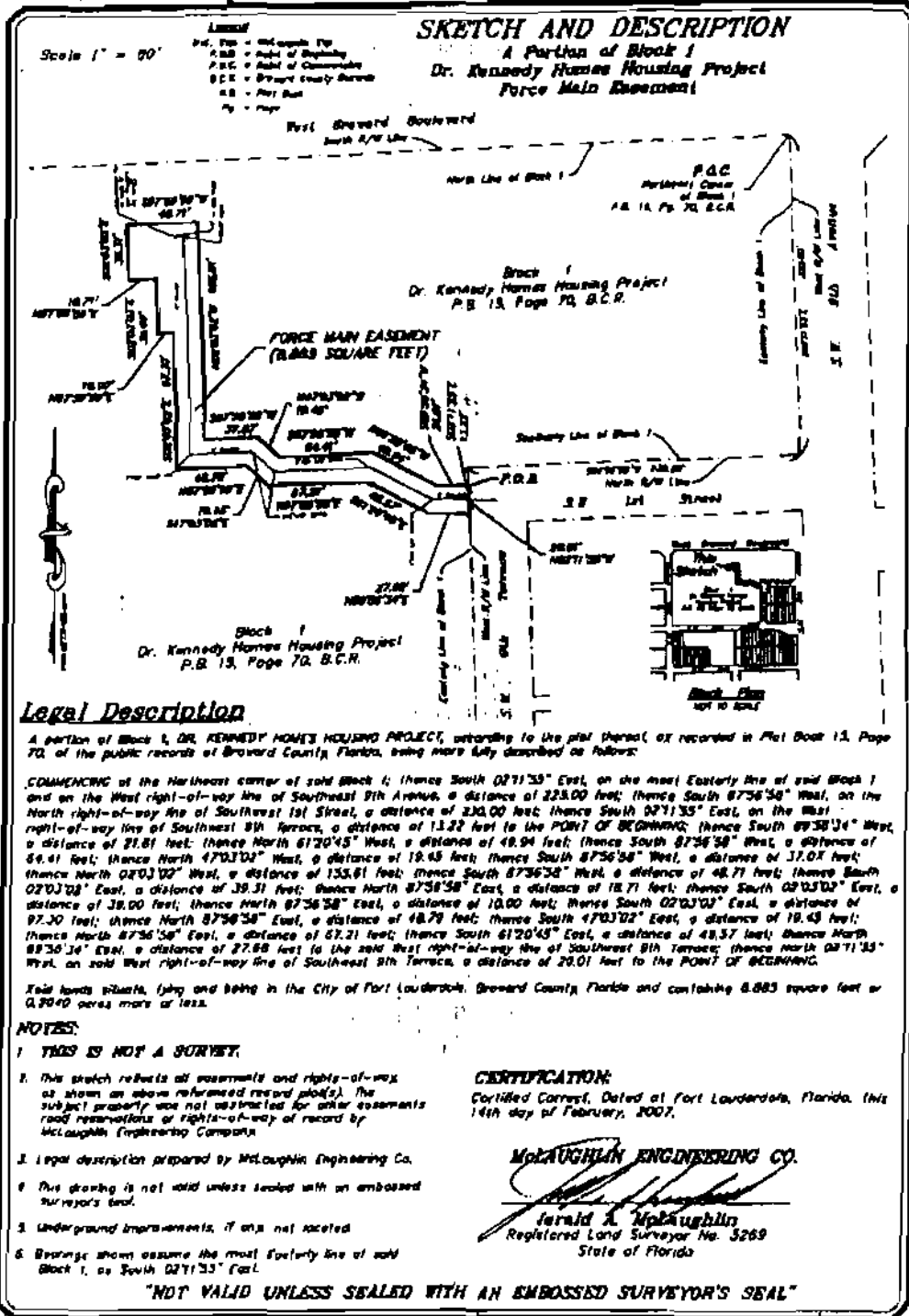
APPROVED AS TO FORM:

*Sharon P. Miller*  
\_\_\_\_\_  
City Attorney

**MCLAUGHLIN ENGINEERING COMPANY**  
 400 NORTHEAST 3rd AVENUE  
 FORT LAUDERDALE, FLORIDA, 33301  
 ENGINEERS - SURVEYORS  
 (LHJ 206)

PHONE: (954) 183-7811

FAX: (954) 763-7815



**Legal Description**

A portion of Block 1, DR. KENNEDY HOMES HOUSING PROJECT, according to the plat thereof as recorded in Plat Book 13, Page 70 of the public records of Broward County, Florida, being more fully described as follows:

COMMENCING at the Northeast corner of said Block 1; thence South 02°11'33" East, on the most Easterly line of said Block 1 and on the West right-of-way line of Southeast 9th Avenue, a distance of 225.00 feet; thence South 87°36'58" West, on the North right-of-way line of Southeast 1st Street, a distance of 230.00 feet; thence South 02°11'33" East, on the West right-of-way line of Southeast 9th Avenue, a distance of 13.22 feet to the POINT OF BEGINNING; thence South 89°38'14" West, a distance of 27.81 feet; thence North 61°20'45" West, a distance of 48.04 feet; thence South 87°36'58" West, a distance of 64.41 feet; thence North 47°03'02" West, a distance of 19.45 feet; thence South 87°36'58" West, a distance of 37.02 feet; thence North 02°03'02" West, a distance of 135.81 feet; thence South 87°36'58" West, a distance of 48.77 feet; thence North 02°03'02" East, a distance of 39.31 feet; thence North 87°36'58" East, a distance of 18.71 feet; thence South 02°03'02" East, a distance of 38.00 feet; thence North 87°36'58" East, a distance of 10.00 feet; thence South 02°03'02" East, a distance of 17.30 feet; thence North 87°36'58" East, a distance of 48.77 feet; thence South 47°03'02" East, a distance of 18.43 feet; thence North 87°36'58" East, a distance of 67.21 feet; thence South 61°20'45" East, a distance of 48.37 feet; thence North 88°36'14" East, a distance of 27.88 feet to the said West right-of-way line of Southeast 9th Avenue; thence North 02°11'33" West, on the said West right-of-way line of Southeast 9th Avenue, a distance of 29.01 feet to the POINT OF BEGINNING.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 8.883 square feet or 0.2049 acres more or less.

**NOTES:**

- 1 THIS IS NOT A SURVEY.
- 2 This sketch reflects all easements and rights-of-way as shown on above referenced record plat(s). The subject property was not obstructed for other easements, road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 3 Legal description prepared by McLaughlin Engineering Co.
- 4 This drawing is not valid unless sealed with an embossed surveyor's seal.
- 5 Underground improvements, if any, not located.
- 6 Bearings shown assume the most easterly line of said Block 1, on South 02°11'33" East.

**CERTIFICATION:**

Certified Correct, Dated at Fort Lauderdale, Florida, this 14th day of February, 2007.

**MCLAUGHLIN ENGINEERING CO.**

*[Signature]*  
**Jerald A. McLaughlin**  
 Registered Land Surveyor No. 5269  
 State of Florida

**"NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL"**

FIELD BOOK NO. Saltfoot Bend Project  
 JOB ORDER NO. U-3227

DRAWN BY: DRP  
 CHECKED BY: \_\_\_\_\_

EXHIBIT "A"

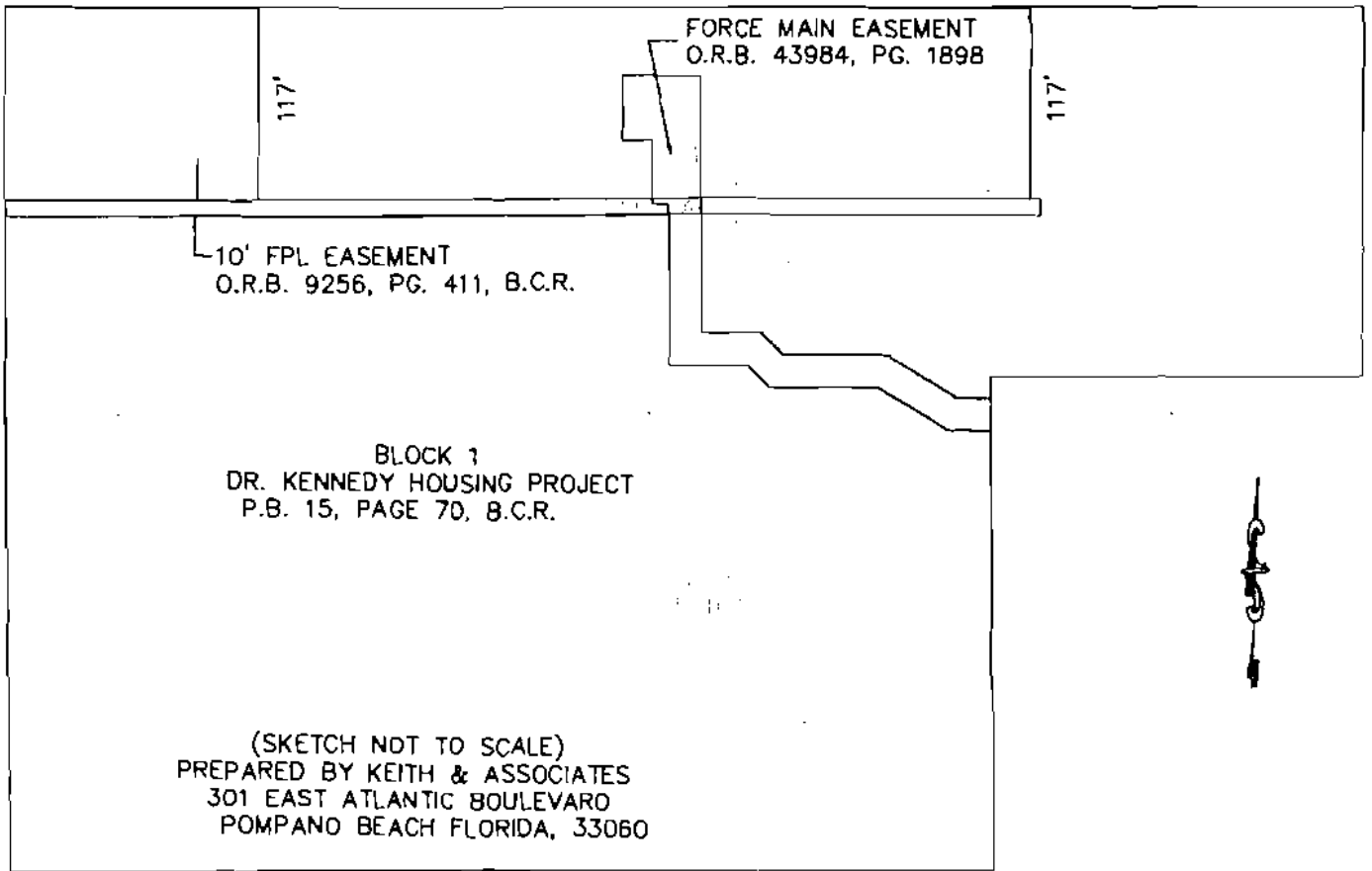
LEGAL DESCRIPTION

BLOCK 1, DR. KENNEDY HOMES HOUSING PROJECT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 15, PAGE 70, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LESS AND EXCEPTING THEREFROM, THOSE CERTAIN LANDS AS DESCRIBED AS PARCEL NO 163 FOR RIGHT-OF-WAY, IN OFFICIAL RECORDS BOOK 9853, PAGE 148, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID BLOCK 1; THENCE ALONG THE WEST LINE OF SAID BLOCK 1, NORTH 2°02'55" WEST, 500.20 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, (A RADIAL LINE THROUGH SAID POINT BEARS NORTH 52°36'42" WEST), THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 24.50 FEET, A CENTRAL ANGLE OF 5°31'18", AN ARC DISTANCE OF 2.38 FEET; THENCE TANGENT TO SAID CURVE, NORTH 42°51'37" EAST, 28.04 FEET TO A POINT ON THE NORTH LINE OF SAID BLOCK 1 (THE LAST TWO (2) COURSES DESCRIBED BEING COINCIDENT WITH THE BOUNDARY OF SAID PARCEL 163); THENCE ALONG SAID LINE, NORTH 87°57'04" EAST, 725.99 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, (A RADIAL LINE THROUGH SAID POINT BEARS NORTH 16°01'10" EAST); THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 93.00 FEET, A CENTRAL ANGLE OF 2°01'22", AN ARC DISTANCE OF 3.28 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 107.00 FEET, A CENTRAL ANGLE OF 19°05'28", AN ARC DISTANCE OF 36.65 FEET; THENCE TANGENT TO SAID CURVE, NORTH 87°57'04" EAST, 50.00 FEET TO A POINT ON THE ARC OF A TANGENT CURVE; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 4.50 FEET, A CENTRAL ANGLE OF 89°57'08", AN ARC DISTANCE OF 7.06 FEET TO A POINT ON THE EAST LINE OF SAID BLOCK 1 (THE LAST FOUR (4) COURSES DESCRIBED BEING COINCIDENT WITH THE BOUNDARY OF SAID PARCEL 163); THENCE ALONG THE EAST LINE OF SAID BLOCK 1 AND TANGENT TO SAID CURVE, SOUTH 2°05'48" EAST, 213.38 FEET TO THE MOST NORTHERLY SOUTHEAST CORNER OF SAID BLOCK 1; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 1, SOUTH 87°57'04" WEST, 230.09 FEET A CORNER OF SAID BLOCK 1; THENCE ALONG THE EAST LINE OF SAID BLOCK 1, SOUTH 2°02'24" EAST, 274.98 FEET TO A POINT ON THE ARC OF A TANGENT CURVE; THENCE SOUTHWESTERLY ALONG THE EAST LINE OF SAID BLOCK 1 AND ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 23.00 FEET A CENTRAL ANGLE OF 89°59'18", AN ARC DISTANCE OF 38.28 FEET; THENCE ALONG THE SOUTH LINE OF BLOCK 1 AND TANGENT TO SAID CURVE, SOUTH 87°56'54" WEST, 585.08 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING, SITUATE AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND CONTAINING 370,840 SQUARE FEET, 8.5158 ACRE, MORE OR LESS.





FORCE MAIN EASEMENT  
O.R.B. 43984, PG. 1898

117'

117'

10' FPL EASEMENT  
O.R.B. 9256, PG. 411, B.C.R.

BLOCK 1  
DR. KENNEDY HOUSING PROJECT  
P.B. 15, PAGE 70, B.C.R.

(SKETCH NOT TO SCALE)  
PREPARED BY KEITH & ASSOCIATES  
301 EAST ATLANTIC BOULEVARD  
POMPANO BEACH FLORIDA, 33060



SURVEYOR'S AFFIDAVIT

STATE OF FLORIDA

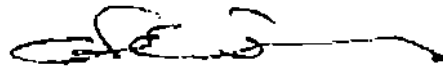
} ss

COUNTY OF DADE

BEFORE ME, the undersigned authority, personally appeared Charles E. Rossi, P.L.S. (the "Affiant") who, first being duly sworn on oath, deposes and says:

1. That the Affiant is a duly registered Professional Surveyor and Mapper under the Laws of the State of Florida, bearing registration number LS 4798;
2. That the Affiant is currently a Professional Surveyor and Mapper at Son-Tech Engineering, Inc., a firm duly licensed to provide Surveying and Mapping Services in the State of Florida, bearing Certificate of Authorization number LB 7019, whose office is located at 1600 West Oakland Park Boulevard, Fort Lauderdale, Florida;
3. That the Affiant has reviewed the record Plat entitled "Dr. Kennedy Housing Project", recorded in Plat Book 15, page 70 of the Public Records of Broward County, Florida, and has caused to be prepared a Boundary Survey for the subject property which lies wholly within Block 1 as delineated thereon, and that the survey depicts the location of that certain Florida Power & Light Company Easement recorded in Official Records Book 9256, page 411, and that certain Access and Utility Easement recorded in Official Records Book 43984, page 1898, both of the Public Records of Broward County, Florida, together with the location and description of improvements to the site, lying within and adjacent to the areas subject to the above mentioned easements;
4. That based on my personal inspection of the premises in conjunction with the preparation of the survey and other matters and my review of the aforementioned easement documents, I find no matter in the documents or issue created by such easements on the ground that causes the subject property to be subdivided, separated or divided into separate lots, that the aforementioned easements in their present state are covenants that run with the land and are subject to the underlying fee parcel, that the premises consists of one (1) unique undivided parcel, and that the Broward County Property Appraiser's Office has assigned the above described premises in its entirety, one (1) Tax Parcel Folio Number being 5042-09-28-0010.
5. That, based on my personal inspection and inquiry, the office mailing address of the subject premises is 1004 West Broward Boulevard, Fort Lauderdale, Florida 33312, and that each dwelling unit on the site has a unique mailing address assigned by the United States Postal Service causing multiple mailing addresses on the site; however, this fact in and of itself does not create any separation, subdivision or division of the aforementioned premises.
6. That the Affiant further states that he is familiar with the nature of an oath, and with the penalties as provided by the laws of the State of Florida for falsely swearing to statements made in an instrument of this nature.

FURTHER AFFIANT SAYETH NAUGHT.

By: 

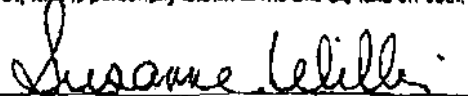
Charles E. Rossi, P.L.S.  
Professional Surveyor and Mapper  
Florida Registration No. 4798

STATE OF FLORIDA

} ss

COUNTY OF DADE

The foregoing instrument was sworn and subscribed to before me this 29th day of October, 2009, by Charles E. Rossi, P.L.S., who is personally known to me and did take an oath.

By:   
Susanne Willis  
Notary Public for the State of Florida



NOAD  
TRACKING J.

540

Page \_\_\_ of \_\_\_ Pages

2009 NOTICE OF ALLEGED DEFICIENCIES (NOAD) SUMMARY FORM

This NOAD Summary Form is being submitted with regard to Application No. 2009- 144C186 and pertains to the revisions/additions made to the Application parts, sections, subsections and exhibits listed below (please list the parts, sections, subsections, and exhibits in the order they appear in the most recent Scoring Summary Report with regard to the Application revisions/additions being challenged):

Part (I, II, III, IV, or V)	Section (A, B, C, D, or)	Subsection (1, 2, 3, etc. or 1.a., 2.a., etc.)	Exhibit (1, 2, 3, etc.)	Submitted in Response to:					Created by:		
				Reason Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Ability to Process Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Failed Threshold (Provide Item No. from Application Scoring Summary)	Proximity Scoring (Provide Item No. from Application Scoring Summary)	Additional Comment (Provide Item No. from Application Scoring Summary)	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from Preliminary Scoring	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from NOPSE scoring and state NOPSE Tracking No., if known	
III	B	2.c.		2	S	A	T	P	C		✓
III	F	16.2	36	5	S	A	T	P	C		✓
IV	A			10	S	A	T	P	C		✓
IV	B		47-50	11	S	A	T	P	C		✓
III	A	2.b.			S	A	1 T	P	C		✓
III	C	1	26		S	A	2 T	P	C		✓
III	C	3.a.	28		S	A	3 T	P	C		✓
III	C	3.b.	29		S	A	4 T	P	C		✓
III	C	3.c.	30		S	A	5 T	P	C		✓
III	C	3.d.	31		S	A	6 T	P	C		✓
III	C	4	32		S	A	7 T	P	C		✓
III	A	2.b.			S	A	8 T	P	C		✓
III	C	5	33		S	A	9 T	P	C		✓
III	C	1	26		S	1 A	T	P	C		✓
III	C	3.a.	28		S	2 A	T	P	C		✓
III	C	3.b.	29		S	3 A	T	P	C		✓
III	C	3.c.	30		S	4 A	T	P	C		✓
III	C	3.d.	31		S	5 A	T	P	C		✓
III	C	4	32		S	6 A	T	P	C		✓

SUBMITTED BY APPLICATION NO. 2009- 139C IN ACCORDANCE WITH RULE 67-48.004, F.A.C.

## Brief Statement of Explanation regarding NOAD for Application No. 2009 – 146C

### **Provide a separate brief statement for each NOAD**

In its response to Scoring Items 2S and numerous other Scoring Items pertaining to the same issue (whether or not the development meets the definition of “scattered sites”), Applicant has submitted cure documentation asserting that its development does not meet the definition of “scattered sites”. For the reasons set forth below, FHFC should find that the proposed development does consist of “scattered sites” and should be scored accordingly.

Applicant attempts (in its cure documentation) to complicate this issue with policy consideration and statements by various parties which do not actually address the issue at hand. The issue is very simple and straight forward. Rule 67-48.002(106) simply defines a development as “scattered site” if any part of such development is divided by a street or easement. In this NOAD, there is provided a Surveyor’s Affidavit from Mr. Rene Aiguesvives. Mr. Aiguesvives has provided a sketch demonstrating that the easement under consideration completely divides the property. Mr. Aiguesvives’ sketch is simple to understand; clearly the FPL easement completely divides the property. That is all that is required by the rule definition of “scattered site”.

Applicant’s arguments in its cure documentation are numerous but not on point, and are discussed/refuted as set forth below:

1. Applicant provides an affidavit from Mr. Fajardo which states, in part, that the proposed development site “...is not divided or bisected by any road, barrier, waterway or other visible impediment to development.” The affidavit continues on to state that “This easement does not “divide” the Ehlinger Apartments development site. The easement is not visible, it does not impede any activity on this property, and it can be applied to be relocated, if necessary, during the course of the development of this property”.

Immediately apparent is that Mr. Fajardo was not willing to unequivocally state that the easement does not divide the property. Instead, he stated that the development was not divided by a visible impediment to development, and also stated that the easement does not "divide" the site; note the quotation marks around the word "divide". Apparently Mr. Fajardo was unwilling to make an unequivocal statement that the easement does not divide the property.

2. Evidence is provided that the Town of Davie considers the development as a "single, unified panel, not as separate lots". This evidence is irrelevant, and has no bearing on the issue at hand.
3. Applicant contends that the word "easement" in Rule 67-48.002(106) must mean "apparent easement", by reference to a definition from Black's Law Dictionary. Applicant continues on to state that the term "easement" should be interpreted to refer to apparent easements that visibly and actually divide the development site, and that since the easements at issue do not "visibly or actually" divide the site, the definition of "scattered sites" does not apply.

Had FHFC desired for the term "easement" to mean what Applicant is asserting, it could have done so by amending its rule. A search of dictionary.com reveals that "easement" is defined as "a right held by one property owner to make use of the land of another for a limited purpose, as right of passage". This is the most common definition of "easement". Clearly the easements at issue meet this definition. The term "easement" should be given its most common meaning, and the term "easement" should be construed to mean exactly what it is; that is, a right of access to use or go across property. Applicant is attempting to ascribe a meaning to the word for "easement" that is not supported by the existing Rule.

4. Applicant has submitted a letter from the Broward County Housing Authority indicating that the Ehlinger site is owned, operated and managed as a single site. The Housing Authority continues on and state that "...it is counter to our mission to require that easements be vacated, by taking units out of service - prior to applying for financing, or that the land area within utility easements be excluded from calculations of density and site planning. Please recognize that the unintended consequences of FHFC's acceptance of this NOPSE would include applicants facing the premature abandonment of affordable housing units and/or the reduction in the number of new affordable units on a redevelopment site." This statement does not accurately portray the reality of what must be done in order to perfect a scattered site application. Easements need not be vacated and units need not be taken out of service. Simply put, all an applicant has to do is correctly complete the forms for Exhibit 20 and throughout the remainder of its application to reflect its "scattered site" status. Nothing else need be done.
5. Applicant contends that all existing public housing sites have easements throughout, and as such, such easements will have to be vacated or rule waivers granted for nearly every development. Applicants with "scattered site" developments need only to correctly complete their application to FHFC in the

first place. Applicant provides information from FPL indicating how such easements may be relocated or released. That is beside the point; the only question is whether the easements existed and divided the property as of the date of the application.

In short, nowhere in its cure documentation does Applicant directly assert that the easements discussed herein do not divide the property. Applicant attempts to "wordsmith" its response and inject inapplicable policy considerations in order to overcome its error in completing its original application. The affidavit from Mr. Aiguesvives attached hereto clearly and definitively establishes that the easement in question divides the property; FHFC need go no further in order to confirm its position in NOPSE scoring that this development consists of "scattered sites".

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared RENE AIGUESVIVES, who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is RENE AIGUESVIVES. I am licensed by the State of Florida as a Professional Surveyor and Mapper. My license number is 4327. I am submitting this Affidavit on behalf of Avery Glen, LLC ("Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the Easement recorded in Official Records Book 5859, Pages 371 and 372, of the public records of Broward County, Florida, all of which are attached as Exhibit A.

3. I have reviewed the Affidavit dated October 29, 2009 from Francisco F. Fajardo attached hereto as Exhibit B (the "Fajardo Affidavit").

4. After reviewing the aforementioned Easement, the Fajardo Affidavit and other public records pertaining the property located at 7481 N.W. 33<sup>rd</sup> Street, Davie, Florida, legally described on Exhibit C hereto, I conducted the research necessary to conclude that the Easement above mentioned completely divides the property described above, from one boundary edge of such property to another boundary edge of such property. Attached is a sketch prepared by our firm demonstrating the division of the property by the Easement.

Under penalties of perjury, I declare that these statements are true and correct.

Signature: [Handwritten Signature]  
Name: RENE AIGUESVIVES  
Address: 5701 SW 107<sup>th</sup> AVE (206)  
MIAMI, FL. 33173

Dated: 11/11/09

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF Miami-Dade )

Sworn to and subscribed before me on this 11 day of November 2009, by RENE AIGUESVIVES, who is personally known to me or who has produced as identification.

WITNESS MY HAND AND OFFICIAL SEAL.

This 11 day of November, 2009.

[Handwritten Signature]  
Notary Public, State of Florida at Large  
Connie Alvarez  
Printed Name of Notary Public

My Commission Expires:

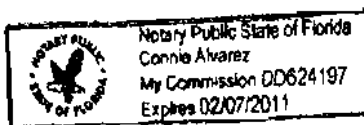


EXHIBIT A

STATE OF FLORIDA  
 DOCUMENTARY SURTAX  
 00.30  
 EASEMENT  
 DOCUMENTARY SURTAX  
 00.55  
 74-156782

RWO/STUDY/OLX 787  
 BR No. 7 Loc'n. 720  
 Pole No.

This instrument prepared by:  
 T. L. SAMPLE  
 c/o Florida Power & Light Co.  
 P. O. Box 2147  
 Hollywood, Florida 33022

Section 3  
 Township 51 S  
 Range 41 E  
 7/12 1974

FLORIDA POWER & LIGHT COMPANY  
 Miami, Florida

Gentlemen:

The undersigned, owner (s) of the premises described below, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its licensees, agents, successors, and assigns, an easement for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the use of and remove such facilities or any of them, on the property described as follows:

A 10 foot wide easement in a portion of Tract 10, Section 3, Township 51 South, Range 41 East, A. J. Bendle Subdivision in accordance with the plat thereof as recorded in Flat Book 1 at Page 27 of the Public Records of Dade County, Florida; said lands situate, lying and being in Broward County, Florida; which said easement is particularly shown and described on Florida Power & Light Company drawing dated June 3, 1974, marked Exhibit "A", attached hereto and made a part hereof.

and, to the fullest extent the undersigned has the power to grant, if at all, over, along and under the roads, streets or highways adjoining or through said property.

The following rights are also granted to allow any other person, firm or corporation to attach wires to any facilities hereunder and by cable and conduit within the right of way and to operate the same for communications purposes; to ingress and egress to said premises at all times; to clear the land and keep it cleared of all trees, undergrowth or other obstructions within the easement area; to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution.

PLEASE RETURN TO  
 A. F. CROWLEY  
 P. O. BOX 8248 (FPLC)  
 FT. LAUDERDALE, FLA. 33310

IN WITNESS WHEREOF, the undersigned has signed and sealed this agreement on 24 June, 1974.

Notary Public and delivered  
 in the presence of:  
  
  
 (Corporate Seal)

By:   
 A. F. CROWLEY  
 PRESIDENT  
 SECRETARY

74 JUN 22 PM 2:00

REC-5859 PAGE 371

STATE OF FLORIDA AND COUNTY OF Duval  
 I HEREBY CERTIFY that before me, personally appeared Robert H. ...  
 respectively, President and Secretary of ...  
 a Corporation organized under the Laws of the State of Ohio, to me known to be the  
 persons described in and who executed the foregoing instrument, and severally acknowledged the execution  
 thereof to be their free act and deed as such officers for the uses and purposes therein mentioned; and  
 that they affixed thereto the official seal of said corporation and that said instrument is the act and deed  
 of said corporation.

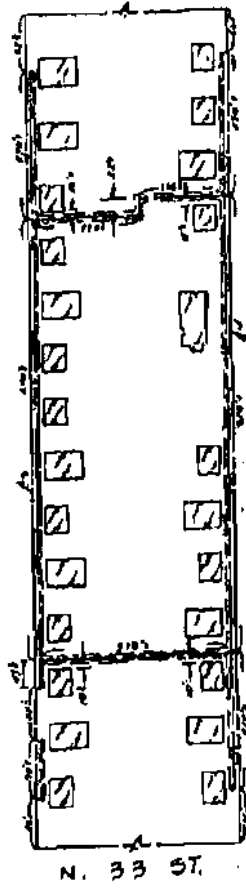
WITNESS my hand and official seal in said County and State this 8 day of July 1974.  
 My commission expires ...  
 Notary Public, State of Florida at Large







Legal  
 Tract 10 of A. J. Bendley  
 Subdivision of Section 7,  
 Township 51 S, Range 41 E,  
 recorded in Plat Book 1,  
 Page 27, Dade County, Fla.



Legend  
 Florida Power & Light Co.  
 Utility Easement

DEF. 5859 PAGE 372

PLEASE RETURN TO  
 A. F. CROWLEY  
 P. O. BOX 9748  
 FT. LAUDERDALE, FLA. 33310

Exhibit 'A'  
 Florida Power & Light Company  
 Utility Easement on the property of  
 Broward County Housing Corporation  
 7481 N.W. 53rd St.  
 Broward County, Florida  
 FLORIDA POWER & LIGHT COMPANY  
 DATE June 3rd, 1974  
 SCALE 1/4" = 200ft.

RECORDED IN THE OFFICIAL RECORDS BOOK  
 OF BROWARD COUNTY, FLORIDA  
 E. M. STROBEL  
 COUNTY COMPTROLLER

APPROVED:

FORM 1245 REV. 12-62  
 DRAWN BY [Signature]  
 CHECKED BY [Signature]  
 CORRECT


NO.	DATE	REVISION	BY	CHK	COORD	APP

EXHIBIT B

**AFFIDAVIT**

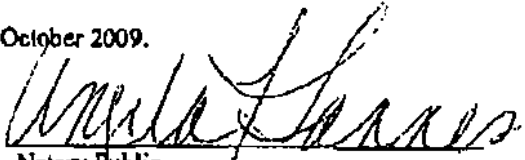
Before me, the undersigned authority, personally appeared Francisco F. Fajardo, who being duly sworn, states that he personally knows the following facts and the same are true and correct:

1. My name is Francisco F. Fajardo. I am licensed by the State of Florida as a Surveyor. My license number is 4767. I am submitting this Affidavit on behalf of Ehlinger Apartments, Ltd. (the "Applicant"). I am not related to the Applicant or to any principals or financial beneficiaries of the Applicant.
2. On or about January 30, 2009, we prepared an ALTA survey of the proposed development site which included review of the Broward County Plat which locates the site and review of the recorded instruments contained in the Title Commitment.
3. My review determined that this property consists of 25 (two) story apartment buildings, 1 (one) story office building and 1 (two) story office building located on Tract 10 of A.J. BENDLE SUBDIVISION OF SECTION 3, Township 51 South, Range 41 East, recorded in Plat Book 1, Page 27 of the Public Records of Miami-Dade County, Florida; said lands situate in the Town of Davie, Broward County, Florida and is a single tract of land. I prepared the attached sketch of the property, attached as Exhibit A. The proposed development site is contiguous and is not divided or bisected by any road, barrier, waterway or other visible impediment to development. I also took the attached photographs of the site. (See Exhibit B.)
4. Florida Power & Light Company is the beneficiary of an easement granted on October 8, 1980, and recorded in the Official Records Book 9201, Page 462 of Broward County, FL. This easement provides for the installation, operation and maintenance of underground and overhead electric utility facilities within a 10 foot easement area. This FPL easement is identified on the attached sketch. (See Exhibit A).
5. This easement does not "divide" the Ehlinger Apartments development site. The easement is not visible, it does not impede any activity on this property, and it can be applied to be relocated, if necessary, during the course of development of this property. Utility easements such as this one are present on virtually every development site in this state; they exist to provide access to public utilities for the benefit of the residents. Sites such as the proposed Ehlinger Apartments development, which have been previously platted or developed, by necessity include utility easements. Surveyors do not view these utility access easements as dividing the property or creating separate sites or parcels.
6. Nothing in the public records concerning this property suggests that the development site is divided in any fashion or that it consists of "scattered sites." The Broward County Property Appraiser's website identifies the property by one address and has one folio number for the property.

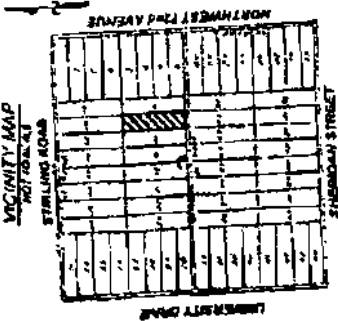
  
\_\_\_\_\_  
Francisco F. Fajardo  
Registered Land Surveyor and Mapper No. 4767  
State of Florida

Sworn and Subscribed before me this 29th day of October 2009.  
My Commission Expires:

This Instrument prepared by  
Francisco F. Fajardo  
Laines and Garcia, Inc.  
359 Alcazar Avenue  
Coral Gables, Florida 33134

  
\_\_\_\_\_  
Notary Public  
State of Florida at Large





Existing Easements and Other Interests

Block	Lot	Owner	Area (sq. ft.)	Notes
1	1	...	...	...
1	2	...	...	...
1	3	...	...	...
1	4	...	...	...
1	5	...	...	...
1	6	...	...	...
1	7	...	...	...
1	8	...	...	...
1	9	...	...	...
1	10	...	...	...
1	11	...	...	...
1	12	...	...	...
1	13	...	...	...
1	14	...	...	...
1	15	...	...	...
1	16	...	...	...
1	17	...	...	...
1	18	...	...	...
1	19	...	...	...
1	20	...	...	...
1	21	...	...	...
1	22	...	...	...
1	23	...	...	...
1	24	...	...	...
1	25	...	...	...
1	26	...	...	...
1	27	...	...	...
1	28	...	...	...
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1	87	...	...	...
1	88	...	...	...
1	89	...	...	...
1	90	...	...	...
1	91	...	...	...
1	92	...	...	...
1	93	...	...	...
1	94	...	...	...
1	95	...	...	...
1	96	...	...	...
1	97	...	...	...
1	98	...	...	...
1	99	...	...	...
1	100	...	...	...

**General Notes**

1. This survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

2. The survey was conducted on or about the 15th day of May, 1963, at the following place or places: ...

3. The survey was conducted by ...

4. The survey was conducted in the presence of ...

5. The survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

6. The survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

7. The survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

8. The survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

9. The survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

10. The survey was conducted in accordance with the provisions of the Surveying Act, R.S. 48:151, et seq., and the rules and regulations of the Board of Surveyors and Mappers of the State of Louisiana.

**Legal Description**

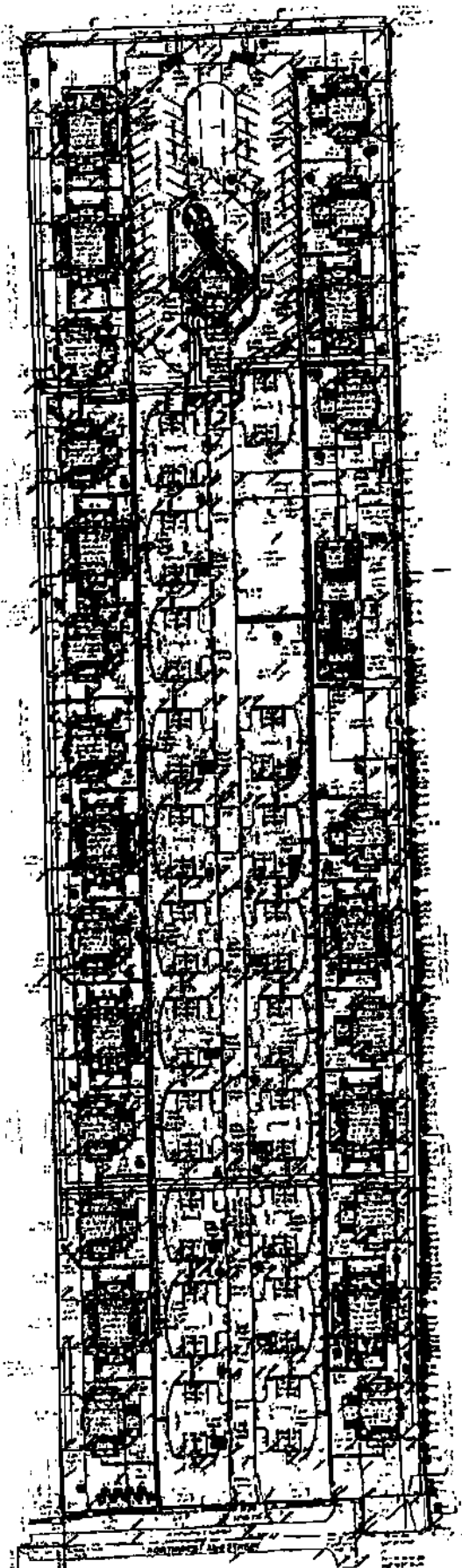
... [Detailed legal description of the land parcels, including bearings, distances, and area calculations.]

**Field Notes**

Station	Bearing	Distance	Remarks
1	N 00° 00' 00" E	100.00	...
2	N 00° 00' 00" E	100.00	...
3	N 00° 00' 00" E	100.00	...
4	N 00° 00' 00" E	100.00	...
5	N 00° 00' 00" E	100.00	...
6	N 00° 00' 00" E	100.00	...
7	N 00° 00' 00" E	100.00	...
8	N 00° 00' 00" E	100.00	...
9	N 00° 00' 00" E	100.00	...
10	N 00° 00' 00" E	100.00	...
11	N 00° 00' 00" E	100.00	...
12	N 00° 00' 00" E	100.00	...
13	N 00° 00' 00" E	100.00	...
14	N 00° 00' 00" E	100.00	...
15	N 00° 00' 00" E	100.00	...
16	N 00° 00' 00" E	100.00	...
17	N 00° 00' 00" E	100.00	...
18	N 00° 00' 00" E	100.00	...
19	N 00° 00' 00" E	100.00	...
20	N 00° 00' 00" E	100.00	...
21	N 00° 00' 00" E	100.00	...
22	N 00° 00' 00" E	100.00	...
23	N 00° 00' 00" E	100.00	...
24	N 00° 00' 00" E	100.00	...
25	N 00° 00' 00" E	100.00	...
26	N 00° 00' 00" E	100.00	...
27	N 00° 00' 00" E	100.00	...
28	N 00° 00' 00" E	100.00	...
29	N 00° 00' 00" E	100.00	...
30	N 00° 00' 00" E	100.00	...
31	N 00° 00' 00" E	100.00	...
32	N 00° 00' 00" E	100.00	...
33	N 00° 00' 00" E	100.00	...
34	N 00° 00' 00" E	100.00	...
35	N 00° 00' 00" E	100.00	...
36	N 00° 00' 00" E	100.00	...
37	N 00° 00' 00" E	100.00	...
38	N 00° 00' 00" E	100.00	...
39	N 00° 00' 00" E	100.00	...
40	N 00° 00' 00" E	100.00	...
41	N 00° 00' 00" E	100.00	...
42	N 00° 00' 00" E	100.00	...
43	N 00° 00' 00" E	100.00	...
44	N 00° 00' 00" E	100.00	...
45	N 00° 00' 00" E	100.00	...
46	N 00° 00' 00" E	100.00	...
47	N 00° 00' 00" E	100.00	...
48	N 00° 00' 00" E	100.00	...
49	N 00° 00' 00" E	100.00	...
50	N 00° 00' 00" E	100.00	...
51	N 00° 00' 00" E	100.00	...
52	N 00° 00' 00" E	100.00	...
53	N 00° 00' 00" E	100.00	...
54	N 00° 00' 00" E	100.00	...
55	N 00° 00' 00" E	100.00	...
56	N 00° 00' 00" E	100.00	...
57	N 00° 00' 00" E	100.00	...
58	N 00° 00' 00" E	100.00	...
59	N 00° 00' 00" E	100.00	...
60	N 00° 00' 00" E	100.00	...
61	N 00° 00' 00" E	100.00	...
62	N 00° 00' 00" E	100.00	...
63	N 00° 00' 00" E	100.00	...
64	N 00° 00' 00" E	100.00	...
65	N 00° 00' 00" E	100.00	...
66	N 00° 00' 00" E	100.00	...
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73	N 00° 00' 00" E	100.00	...
74	N 00° 00' 00" E	100.00	...
75	N 00° 00' 00" E	100.00	...
76	N 00° 00' 00" E	100.00	...
77	N 00° 00' 00" E	100.00	...
78	N 00° 00' 00" E	100.00	...
79	N 00° 00' 00" E	100.00	...
80	N 00° 00' 00" E	100.00	...
81	N 00° 00' 00" E	100.00	...
82	N 00° 00' 00" E	100.00	...
83	N 00° 00' 00" E	100.00	...
84	N 00° 00' 00" E	100.00	...
85	N 00° 00' 00" E	100.00	...
86	N 00° 00' 00" E	100.00	...
87	N 00° 00' 00" E	100.00	...
88	N 00° 00' 00" E	100.00	...
89	N 00° 00' 00" E	100.00	...
90	N 00° 00' 00" E	100.00	...
91	N 00° 00' 00" E	100.00	...
92	N 00° 00' 00" E	100.00	...
93	N 00° 00' 00" E	100.00	...
94	N 00° 00' 00" E	100.00	...
95	N 00° 00' 00" E	100.00	...
96	N 00° 00' 00" E	100.00	...
97	N 00° 00' 00" E	100.00	...
98	N 00° 00' 00" E	100.00	...
99	N 00° 00' 00" E	100.00	...
100	N 00° 00' 00" E	100.00	...

**ALTAZUMI Land Title Survey**

... [Detailed description of the land parcels, including bearings, distances, and area calculations.]



**EXHIBIT A**

SURVEY NUMBER: 74247

PROFESSIONAL ENGINEER AND SURVEYOR  
**LAWRENCE & GARCIA, INC.**  
L.S. 48:151  
1115 Poydras Street, Suite 1000  
New Orleans, Louisiana 70112  
Phone: (504) 581-1112

**BOUNDARY SURVEY**  
**EXHIBIT A**

... [Additional text and details related to the survey and exhibit.]

**EXHIBIT B - SHEET 1**



**EXHIBIT B - SHEET 2**

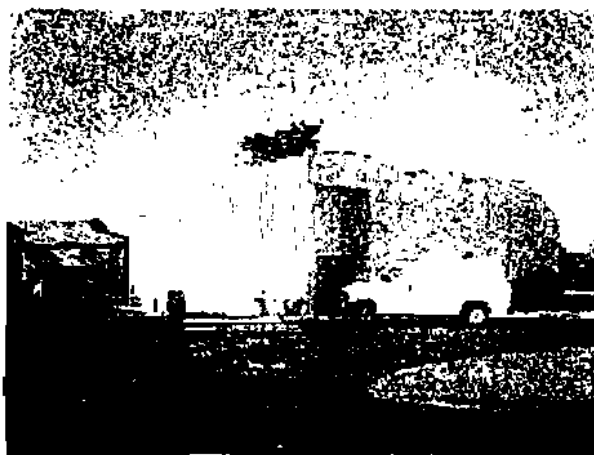


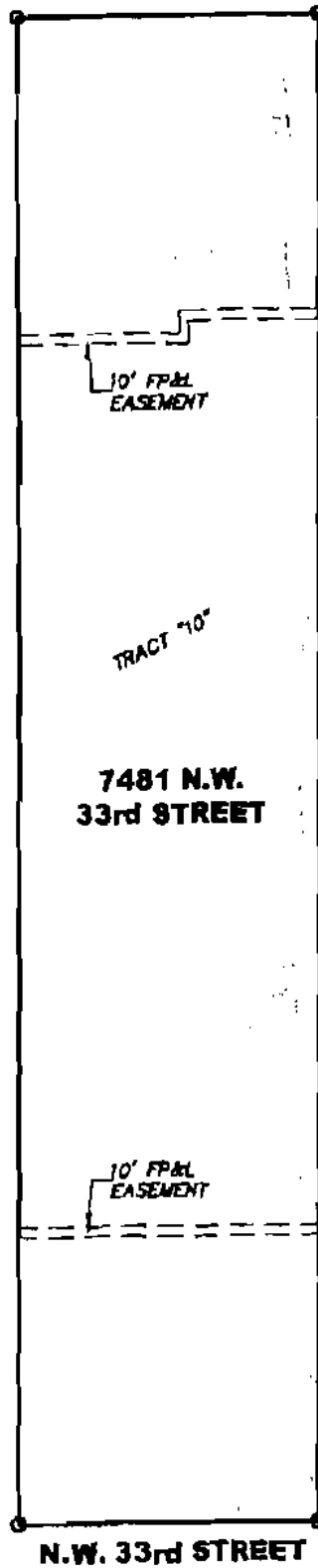
Exhibit C

SKETCH TO ACCOMPANY AFFIDAVIT

Address: 7481 N.W. 33rd Street, Davie, FL



NOT TO SCALE



NOT A SURVEY.

Alvarez, Alguesvives and Associates, Inc.  
L.B. No. 8867  
Surveyors, Mappers and Land Planners  
5701 S.W. 107th Avenue # 206, Miami, FL 33173  
Phone 305-220-2424 Fax 305-552-8181

**EXHIBIT "B"**

**UNIVERSAL APPLICATION PACKAGE  
NOTICE OF POSSIBLE SCORING ERROR (NOPSE)  
REQUEST FOR REVIEW FORM**

Notice of Possible Scoring Error(s) regarding Application No. 2008- 079 B5  
(one Application number per notice)

Part/Section/Subsection			Number of Issues For Review
<u>III</u>	<u>A</u>	<u>2</u>	<u>1</u>
<u>III</u>	<u>A</u>	<u>2 (b)</u>	<u>1</u>

Total Number of Issues For Review \_\_\_\_\_

Submitted by Authorized Representative for Application Number 2008- 176 B5

Signature of Authorized Representative for above-designated Application.

[Signature]  
Signature: \_\_\_\_\_

Michael G. [Signature]  
Print Name: \_\_\_\_\_

All notices must be submitted in accordance with subsections 67-48.004(4) and 87-21.003(4), F.A.C., and should contain enough information for staff to evaluate them. This will include, but may not be limited to, a detailed description of the issue being identified and action requested by the submitting Applicant, such as reduction of score or threshold failure. Attach additional pages if necessary. All notices should be submitted in typewritten form.

TRACKING NO: \_\_\_\_\_  
 086  
 RECEIVED  
 2008 MAY 15 PM 3:08  
 JEROME HOUSTON  
 OFFICE OF COMPLAINTS



# Michael G. Maida, P.A.

Attorney at Law

Post Office Box 12093, 32317-2093  
1709 Hermitage Blvd., Suite 201  
Tallahassee, FL 32308  
www.maidalawpa.com

Michael G. Maida  
Civil Circuit Mediator

TELEPHONE (850)425-8124  
TELECOPIER (850)681-0879

---

May 15, 2008

Debra Dozier Blinderman, Deputy Development Officer  
Florida Housing Finance Corporation  
227 N. Bronough Street Suite 5000  
Tallahassee, FL 32301

RE: Notice of Possible Scoring Error  
Applicant: Lakeshore Phase II, Ltd.  
Application Number: 2008-079BS  
Application Name: Mangonia Villas

Dear Ms. Blinderman:

Pursuant to Rule 67-48.004(4), Gardens at Driftwood, Ltd. (Application Number 2008-176BS) submits the following Notice of Possible Scoring Error and provides the following Brief Statement of Explanation regarding the deficiencies contained in the Application submitted by Lakeshore Phase II, Ltd., Application Number 2008-079BS:

**PART III: Development**  
**Section A: General Development Information**  
**Subsection 2: Location of Development Site**

As a Threshold item, an applicant is required to properly identify the location of the Development Site. Within its application, the Applicant identified the address of the Development Site as "5555 Lake Shore Drive, Mangonia Park, Florida 33407." (See attached Exhibit "A"). The address listed by the Applicant is incorrect and therefore the Application must be rejected as a result of having failed threshold. The incorrect address is also disclosed on Exhibits 26, 28, 29, 30, 31, 32, 47, 48, 49 and 50.

Pursuant to Rule 67-48.002(2), F.A.C.,

'Address' means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If address has not yet been assigned, include, at a

minimum, street name and closest designated intersection, city, state and zip code (emphasis added).

The correct city for this location is West Palm Beach and not Mangonia Park. As evidenced in Exhibit B attached, the official United States Postal Service (USPS) website states that "Mangonia Park" is "Not Acceptable" for use in zip code 33407. In fact, when entering the Applicant's address, the official USPS website corrects the misstated address to "5555 Lakeshore Dr West Palm Beach FL 33407". (See attached Exhibit B.)

The street name identified by the Applicant, "Lake Shore Drive," is also incorrect. Although the United States Postal Service recognizes Lake Shore Drive as a street in West Palm Beach, this street is in a totally different zip code - 33403. (See attached composite Exhibit "C").

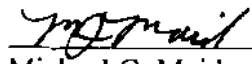
Given the multiple deficiencies in the address listed by the Applicant, the "address" is invalid and the application must be rejected as it has failed to achieve threshold.

**PART III: Development**  
**Section A: General Development Information**  
**Subsection 2(b): Scattered Sites**

Part III of the Application requires the Applicant to disclose whether or not the Development will consist of "Scattered Sites." Pursuant to Section 67-48.002 (98) F.A.C., scattered sites means "a Development consisting of real property in the same county . . . any part of which is divided by a street or easement ('divided parts')."

Within its Application, the Applicant stated that the Development would not consist of scattered sites. However, a review of the plat where the Development is located reveals that it is a scattered site. The Applicant's Purchase and Sale Agreement identifies the Development parcel as "Lots 1-through 12, inclusive, Plat of Oxford Village, according to the map or plat thereof as recorded in Plat Book 36, Page 176 Public Records of Palm Beach County, Florida" (See attached Exhibit D). The attached Plat of Oxford Village identifies the same parcel (See Exhibit E). The Plat conclusively demonstrates that that the Development site is divided by an easement and roadway that has been dedicated to the public. In light of the foregoing, the Applicant should have disclosed that the Development consisted of Scattered Sites. As a result of its failure to do so, the Application must be rejected as a result of failing to achieve threshold.

Attached to this petition is an executed Notice of Possible Scoring Error Request for Review form.



Michael G. Maida,  
Michael G. Maida, P.A.  
Florida Bar No. 0435945  
Attorney for Petitioner  
Gardens at Driftwood, Ltd.

b Provide the Service Provider's or principal of Service Provider's Prior Experience Chart behind a tab labeled "Exhibit 18".

8. Guarantor(s) Information (MMRB Applicants only):

Provide the Guarantor Information Chart behind a tab labeled "Exhibit 19".

**Part III. Proposed Development**

**A. General Development Information**

1. Name of Development:

Mangonia Villas

2. Location of Development Site:

a. Address of Development Site:

Street: 5555 Lake Shore Drive

City Mangonia Park

State: FL

Zip Code: 33407

b Will the Development consist of Scattered Sites?

Yes  No

If "Yes", for each of the sites, provide the Address, total number of units, and a latitude and longitude coordinate behind a tab labeled "Exhibit 20".

c. Does the location of the proposed Development qualify as an Urban In-Fill Development, as defined in Rule Chapters 67-21 and 67-48, F.A.C.?

Yes  No

If "Yes", to qualify as an Urban In-Fill Development for purposes of this Application, provide a properly completed and executed Local Government Verification of Qualification as Urban In-Fill Development form behind a tab labeled "Exhibit 21".

d. Is the proposed Development being revitalized utilizing HDPE VI funding?

Yes  No

If "Yes", to qualify as a Hope VI Development for purposes of this Application, provide the required documentation behind a tab labeled "Exhibit 21".

e. County:

Palm Beach - Large (E)



All Applicants must answer "Yes" or "No" to question (1) below. All HOME Applicants must also answer question (2) below.

(1) Is proposed Development located in the Florida Keys Area?

Yes  No

(2) HOME Applications Only -

Will the proposed HOME Development be located in either Alachua County or Leon County?

Yes  No

If "Yes", complete either (a) or (b) below, as applicable:

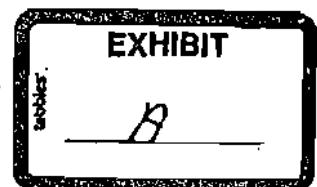
(a) Alachua County Developments - Is the Development located within Alachua County, but outside the boundaries of incorporated Gainesville?

Yes  No

If "Yes", provide the required letter from Alachua County behind a tab labeled "Exhibit 22".

(b) Leon County Developments - Is the Development located within Leon County but outside the boundaries of incorporated Tallahassee?

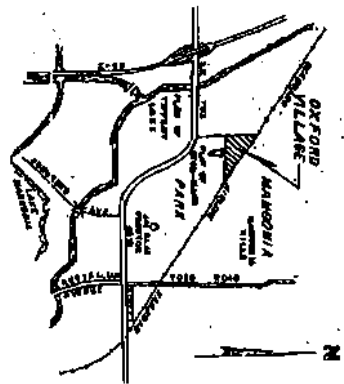
Yes  No



# PLAT OF OXFORD VILLAGE

IN SECTION 5, TOWNSHIP 43 SOUTH, RANGE 43 EAST  
PALM BEACH COUNTY, FLORIDA  
MANGONIA PARK

176



**RESOLUTION**  
The Board of Supervisors of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

RESOLVED, THAT the Board of Supervisors of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

**APPROVED AND ADOPTED**  
The Board of Supervisors of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

*James H. ...*  
Chairman of the Board of Supervisors

**DEPARTMENT OF COUNTY ENGINEERING**  
The Department of County Engineering of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

*[Signature]*  
Department of County Engineering

**APPROVED AND ADOPTED**  
The Department of County Engineering of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

**TITLE CERTIFICATION**  
The County Engineer of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

*[Signature]*  
County Engineer

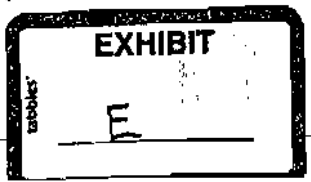
**APPROVED AND ADOPTED**  
The County Engineer of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

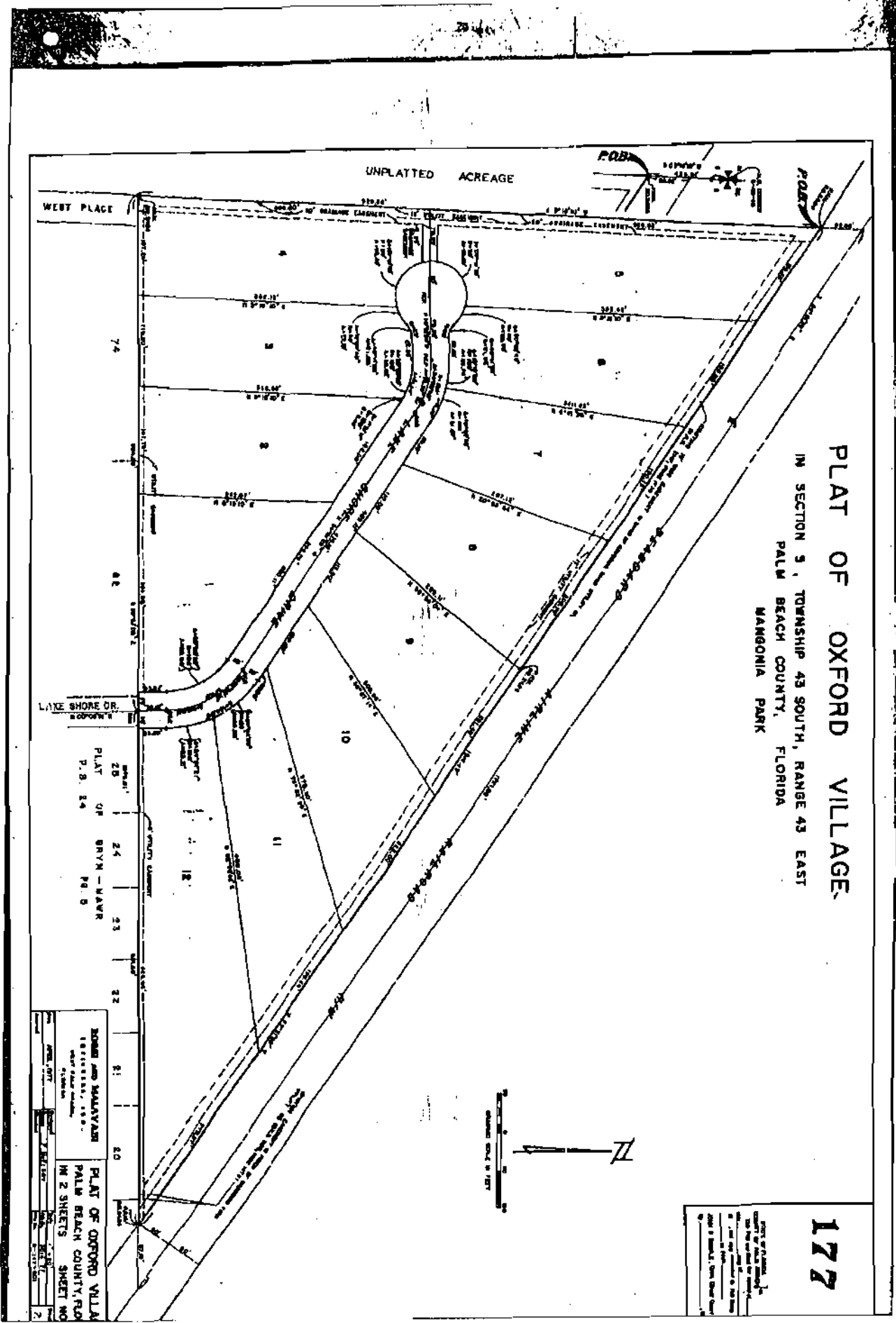
**APPROVED AND ADOPTED**  
The County Engineer of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

**APPROVED AND ADOPTED**  
The County Engineer of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

**APPROVED AND ADOPTED**  
The County Engineer of Palm Beach County, Florida, do hereby certify that the following is a true and correct copy of the resolution of the Board of Supervisors of Palm Beach County, Florida, passed on the 14th day of May, 1954:

**BOARD AND MANUVAIR**  
PLAT OF OXFORD VILLAGE  
PALM BEACH COUNTY, FLORIDA  
IN 8 SHEETS SHEET NO. 1





PLAT OF OXFORD VILLAGE  
 IN SECTION 5, TOWNSHIP 43 SOUTH, RANGE 43 EAST  
 PALM BEACH COUNTY, FLORIDA  
 MANGONIA PARK

LAKE SHORE DR  
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 0

BOARD AND MALAYARI  
 REGISTERED PROFESSIONAL ENGINEER  
 1111 S. PALM BEACH BLVD., SUITE 100  
 PALM BEACH, FLORIDA 33480  
 PLAT OF OXFORD VILLAGE  
 PALM BEACH COUNTY, FLORIDA  
 IN 2 SHEETS SHEET NO. 177

177

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-07985

Development Name: Mangonia Villas

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
09 - 24 - 2008	66	Y	0
Preliminary	60	N	0
NOPSE	60	N	0
Final	66	Y	0
Final Ranking	66	Y	0

**Scores:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
<b>Features &amp; Amenities</b>									
1S	III	B	2.a.	New Construction	9	9	9	9	9
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	12
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	9
4S	III	B	3	Green Building	5	5	5	5	5
<b>Set-Aside Commitments</b>									
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	3	3
6S	III	E	3.	Affordability Period	5	5	5	5	5
<b>Resident Programs</b>									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	0	0	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3	Programs for Elderly	6	0	0	6	6
8S	III	F	4.	Programs for All Applicants	8	8	8	8	8
<b>Local Government Support</b>									
9S	IV		A	Contributions	5	5	5	5	5
10S	IV		B	Incentives	4	4	4	4	4

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-0798S

Development Name: Mangonia Villas

**Reason(s) Scores Not Maxed:**

Item #	Reason(s)	Created As Result of	Rescinded as Result of
7S	The Applicant did not qualify for the Elderly Demographic and is therefore ineligible to select Qualified Resident Programs for Elderly Developments	Preliminary	Final

**Threshold(s) Failed:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	D	1.	Demographic Commitment	The Applicant selected the Elderly demographic but failed to provide a market analysis that demonstrates a local need for low-income Elderly housing	Preliminary	Final
2T	V	A	3.	Designation	The Applicant failed to qualify for the Elderly Demographic and is therefore ineligible to select the Elderly Designation.	Preliminary	Final
3T	III	C	2.	Site Control	The Purchase and Sale Contract provided does not reflect the Applicant as the buyer and no assignment was provided.	Preliminary	Final
4T	III	C	2.	Site Control	Neither the Purchase and Sale Contract nor the amendments thereto reflect a closing date that does not expire before October 31, 2008.	Preliminary	Final
5T	III	C	5.	Environmental Site Assessment	The Applicant failed to provide the required Verification of Environmental Safety - Phase I Environmental Site Assessment form and, if applicable, the Verification of Environmental Safety - Phase II Environmental Site Assessment form.	Preliminary	Final
6T	III	C	2.	Site Control	Both Amendment No. 2 and Amendment No. 3 to the Purchase and Sale Contract refer to an Amendment No. 1 dated April 11, 2008, but Amendment No. 1 was not provided.	Preliminary	Final
7T	V	D		Equity Commitment	The Applicant provided an equity commitment reflecting an anticipated Housing Credit allocation amount of \$8,441,796 over a 10 year period. However, because the Applicant only applied for an annual allocation of \$844,179 or \$8,441,790 over a 10 year period, the equity commitment was not considered a firm source of financing.	NOPSE	Final
8T	V	B		Construction Financing Shortfall	The Applicant has a construction financing shortfall of \$3,493,483.	NOPSE	Final
9T	V	B		Permanent Financing Shortfall	The Applicant has a permanent financing shortfall of \$3,493,483.	NOPSE	Final
10T	III	C	2.	Site Control	Paragraph 9(c) of the Purchase and Sale Agreement states "it is further understood and agreed by Seller and Purchaser that Purchaser's development of the premises shall be for only residential dwelling units for sale to third party owners." This provision is inconsistent with the multifamily Development proposed in this Application.	NOPSE	Final
11T	III	A	2.b.	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48-002(e)(3), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application and failed to provide the	NOPSE	Final

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-07985

Development Name: Mangonia Villas

**Threshold(s) Failed:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
					required information for each site.		
12T	III	B	2	Optional Features and Amenities	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to answer the question at Part III.B.2. of the Application relative to Scattered Sites.	NOPSE	Final

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	0	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	0	0	0	0
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	0	0	0	0

**Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:**

Item #	Reason(s)	Created As Result of	Rescinded as Result of
1P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
1P	The Applicant did not provide the required sketch.	Preliminary	Final
1P	In an attempt to cure Item 1P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor Certification form is not on the parcel with the greatest number of units.	Final	
3P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
3P	The Applicant did not provide the required sketch.	Preliminary	Final
3P	Per page 17 of the 2008 Universal Application Instructions, Applicants that select the Elderly Demographic Commitment at Part III.D, but fail to qualify for the Elderly Demographic Commitment will only be eligible for the proximity points that the Development would qualify for as a non-Elderly Development. As a non-Elderly Development, the Applicant is not qualified to choose Medical Facility and has therefore received zero points for this service.	Preliminary	Final
3P	In an attempt to cure Item 3P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor	Final	



### 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

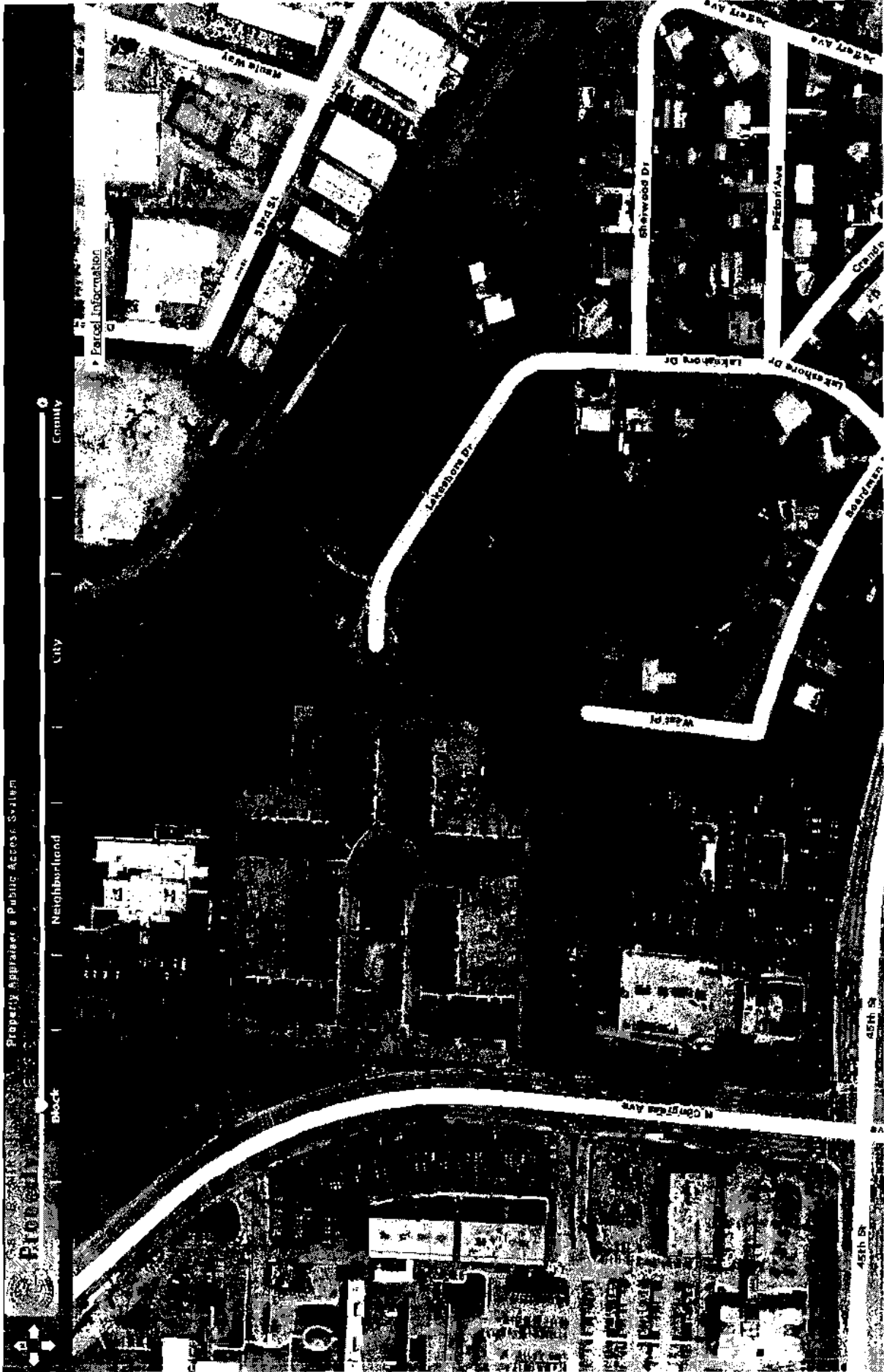
File # 2008-0799S

Development Name: Mangonia Villas

**Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:**

Item #	Reason(s)	Created As Result of	Rescinded as Result of
3P	Certification form is not on the parcel with the greatest number of units.		
5P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
5P	In an attempt to cure Item 5P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor Certification form is not on the parcel with the greatest number of units.	Final	
6P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
6P	In an attempt to cure Item 6P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor Certification form is not on the parcel with the greatest number of units.	Final	

**EXHIBIT "C"**



lat: 26°45'41.03"

N 80°04'58.94"

W

Streaming

100%

© 2010 Google

Lakeshore Dr

© 2010 Google  
All rights reserved









**EXHIBIT "D"**





## Brief Statement of Explanation regarding Application No. 2008 – 112C

**Provide a separate brief statement for each NOPSE**

### Part III.A.2.b

Part III.A.2.b of the Universal application asks “Will the development consist of scattered sites?” The applicant responded “No”. Upon review of the development’s site address, 2003 West 17<sup>th</sup> Court, Riviera Beach, Florida, 33404, stated in Part III.A.2.a, and the legal description provided in the Ground Lease Agreement dated March 31, 2008 submitted in Exhibit 27, **it is clear that this site falls under the definition of a scattered site**, as described on page 18 of the Florida Housing Finance Corporation Rule 67-48.002 (98), and further interpreted in Q&A #30 and #38 **because West 17<sup>th</sup> Court and West 17<sup>th</sup> Street run through the proposed site.**

Rule Chapter 67-48.002 (98) - “Scattered Sites” for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous (“non-contiguous parts”) or (ii) any part of which is divided by a street or easement (“divided parts”) and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.”

- Q&A 30 - “Q: Under the definition of Scattered Sites, if a proposed Development consists of two parcels that are divided by a roadway would this constitute a Development consisting of Scattered Sites? A: Yes.”
- Q&A 38 - “Q: If an alley runs through the proposed Development site, would this constitute a Scattered Site? A: Yes, if the alley constitutes a street or easement.”

The proposed development site clearly consists of *real property in the same county, parts of which are divided by streets, West 17<sup>th</sup> Court and West 17<sup>th</sup> Street*. Furthermore, it is readily apparent from the proximity of the divided parts of the real property that the non-contiguous

parts or the divided parts of the real property are part of a common or related scheme of development— as evidenced by Exhibit I and the accompanying exhibits.

The Applicant's documentation provided to evidence site control references the "Leased Premises" as that certain real property situated in Palm Beach County and legally described on Exhibit A. The legal description on Exhibit A includes the Property Control Number: 56-43-42-31-01-000-0010. The map on the Palm Beach County appraiser's website reveals that this 17.10 +/- acres parcel includes public right of ways - **West 17<sup>th</sup> Court and West 17<sup>th</sup> Street**. Further investigation of the Plat of Westside Estates (Riviera Beach Housing Authority) also evidences existing public right of ways dividing the property. Pursuant to the surveyed plat, "The interior streets (West 17<sup>th</sup> Court and W. 17<sup>th</sup> St.) as shown, are hereby dedicated to the City of Riviera Beach for the perpetual use of the public for proper purposes."

We have submitted a third party surveyor's affidavit and certification confirming that the proposed development address is located on the legal description, the legal description and property control number referenced and the Plat of Westside Estates are the same site, the measurements detailed in the Plat are correct, the public right of ways shown on the Plat and on the Palm Beach appraiser's map currently exist and were in existence as of the Application Deadline, April 7, 2008 and that the proposed Development is a Scattered Site Development.

In summary, Florida Housing must consider this site a Scattered Site Development. As such, the application fails threshold for the following reasons:

- 1) As a Scattered Site Development, the applicant should have checked "Yes" in response to Part III.A.2.b. The applicant selected "No."
- 2) The applicant did not follow the instructions with regard to scattered sites for Exhibit 20.
- 3) With respect to Exhibits 21, 23, 26, 27, 28, 29, 30, 31, 32, 45, 47, 48, 49 and 50 the Application fails threshold because the Applicant did not follow the directions for Scattered Sites prescribed in Q&A #29; On the verification/certification forms that require the "Development Location", if

the proposed Development will consist of Scattered Sites should the Applicant include a separate verification/certification form for each of the Scattered Sites or include all of the site addresses on each verification/certification form? A: If the Development will be comprised of Scattered Sites the Applicant must demonstrate that the required information is in place for each of the sites. This can be accomplished by (i) listing all of the site addresses on each verification /certification form, or (ii) providing a separate verification/certification form for each of the Scattered Sites, or (iii) attaching a list showing the address of each of the Scattered Sites behind each of the verification/certification forms.

Based on these points, the application fails threshold and should be rejected.

Affidavit and Certification of Kenneth Jackson

Before me, the undersigned authority, personally appeared Kenneth Jackson, who, being duly sworn, states that he personally knows the following facts and that the same are true and accurate.

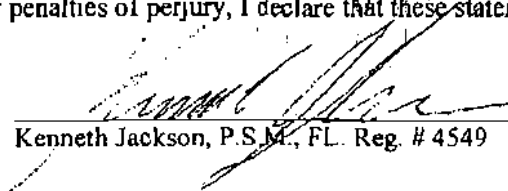
My name is Kenneth C. Jackson. I am licensed by the State of Florida as a Professional Surveyor and Mapper. My license number is LS 4549. I am the Vice President of Sea Diversified. I am submitting this Affidavit and Certification on behalf of Las Palmas I, Ltd. (the "Applicant") and am not related to the Applicant or any Principals or Financial Beneficiaries of the Applicant.

On May 14, 2008, representatives of Sea Diversified, Inc. visited the location described on the legal description attached as Exhibit A and determined that the proposed development site is a Scattered Site as defined on page 18 of the Florida Housing Finance Corporation Rule Chapter 67-48.002 (98).

On May 14, 2008, I Kenneth C. Jackson with Sea Diversified, Inc. went to 2003 West 17<sup>th</sup> Court, Riviera Beach, Florida, 33404, to determine if the development location address was located on the legal description attached, to confirm the legal description and property control number referenced and the Plat of Westside Estates (Plat Book 31, page 81 of the public records of Palm Beach County, Florida) attached as Exhibit B are the same site, to confirm that the public right of ways shown on the Plat and on the Palm Beach appraiser's map attached as Exhibit C currently exist.

I confirm all of the above. The Plat covers the entire site described in the legal description. The site described in the legal description is divided by West 17<sup>th</sup> Court and West 17<sup>th</sup> Street and these streets are dedicated public rights of way.

Under penalties of perjury, I declare that these statements are true and correct.

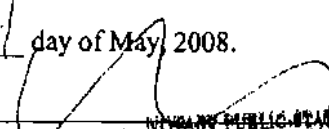
  
Kenneth Jackson, P.S.M., FL. Reg. # 4549

5/14/2008  
Dated

STATE OF FLORIDA  
COUNTY OF Palm Beach

Sworn to and subscribed before me this 14 day of May, 2008 by Kenneth Jackson, who  
is personally known to me or has produced \_\_\_\_\_ as  
identification.

WITNESS my hand and official seal, this 14 day of May, 2008.

  
Notary Public ~~NOTARY PUBLIC STATE OF FLORIDA~~ Teresa Martinez  
Commission # DD376724  
State of \_\_\_\_\_ Expires: DEC. 05, 2008  
My commission expires. © 2004 Atlantic Bonding Co., Inc.

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, City of Riviera Beach, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the North one quarter corner of said Section 31; Thence, run South 2° 32' 43" West, along the North-South one quarter Section line and along the Easterly right of way line of the Central and South Florida Flood Control District Canal No C-17, a distance of 611.98 feet; Thence run South 87° 57' 28" East, parallel with the North line of said Section 31, a distance of 1218.32 feet to the Easterly right of way line of Congress Avenue extension; thence run North 2° 42' 26" East, along the said Easterly right of way line of Congress Avenue extension, a distance of 612.00 feet to the North line of said Section 31; Thence run North 87° 57' 28" West, along the North section line of said Section 31, a distance of 1218.05 feet to the POINT OF BEGINNING.

The above described parcel of land contains 744.865 square feet or 17.10 Acre Parcel.

Property Control Number(s): 56-43-42-31-01-000-0010

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EXHIBIT B

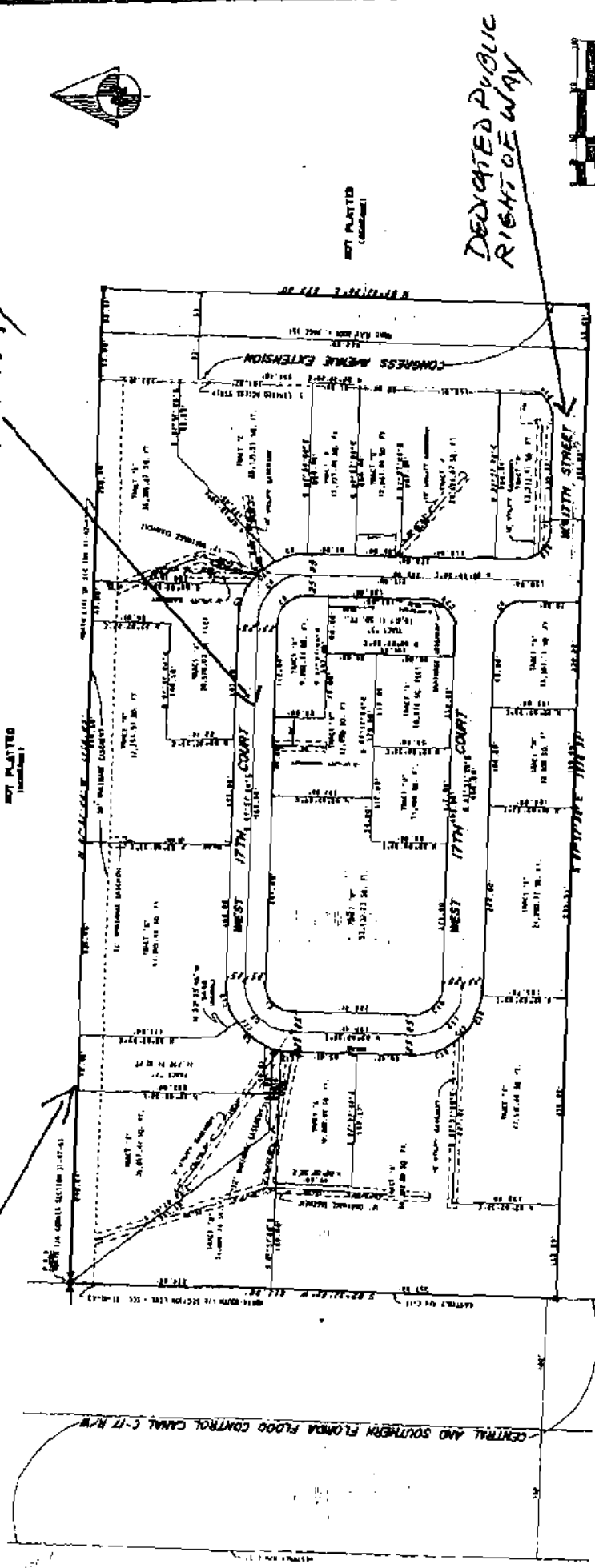
82  
STATE OF FLORIDA  
COUNTY OF PALM BEACH  
This plat was filed for record in the Public Records Office of the County of Palm Beach, Florida, on this 15th day of February, 1975.  
Notary Public  
John B. Smith, Esq.  
Palm Beach, Florida

**PLAT OF  
WESTSIDE ESTATES**  
(RIVERA BEACH HOUSING AUTHORITY)

BEING A PARCEL OF LAND IN THE NE 1/4-SECTION 31, TWP 42 SOUTH, RGE. 43 EAST  
PALM BEACH COUNTY, FLORIDA  
CITY OF RIVERA BEACH  
FEBRUARY 1975

Proposed Development Site

DEDICATED PUBLIC  
RIGHT OF WAY



CONVEYANCE TABLE

LOT	ACRES	DATE	RECORD
1	0.0000	11-15-74	11-15-74
2	0.0000	11-15-74	11-15-74
3	0.0000	11-15-74	11-15-74
4	0.0000	11-15-74	11-15-74
5	0.0000	11-15-74	11-15-74
6	0.0000	11-15-74	11-15-74
7	0.0000	11-15-74	11-15-74
8	0.0000	11-15-74	11-15-74
9	0.0000	11-15-74	11-15-74
10	0.0000	11-15-74	11-15-74
11	0.0000	11-15-74	11-15-74
12	0.0000	11-15-74	11-15-74
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21	0.0000	11-15-74	11-15-74
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24	0.0000	11-15-74	11-15-74
25	0.0000	11-15-74	11-15-74
26	0.0000	11-15-74	11-15-74
27	0.0000	11-15-74	11-15-74
28	0.0000	11-15-74	11-15-74
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34	0.0000	11-15-74	11-15-74
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36	0.0000	11-15-74	11-15-74
37	0.0000	11-15-74	11-15-74
38	0.0000	11-15-74	11-15-74
39	0.0000	11-15-74	11-15-74
40	0.0000	11-15-74	11-15-74
41	0.0000	11-15-74	11-15-74
42	0.0000	11-15-74	11-15-74
43	0.0000	11-15-74	11-15-74
44	0.0000	11-15-74	11-15-74
45	0.0000	11-15-74	11-15-74
46	0.0000	11-15-74	11-15-74
47	0.0000	11-15-74	11-15-74
48	0.0000	11-15-74	11-15-74
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72	0.0000	11-15-74	11-15-74
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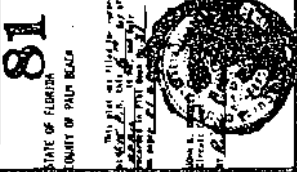
- NOTARY'S NOTES
1. PLANNING AND DESIGN SERVICES, INC., A PROFESSIONAL SERVICE CORPORATION, HAS BEEN RETAINED BY THE CITY OF RIVERA BEACH, FLORIDA, TO PREPARE THIS PLAT.
  2. ALL SURVEYS AND MEASUREMENTS WERE MADE BY THE SURVEYOR, JOHN B. SMITH, ESQ., ON THE DATE OF THE SURVEY, AND THE SAME WERE FOUND TO BE CORRECT.
  3. THE PLAT IS A CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN AS OWNED BY THE CITY OF RIVERA BEACH, FLORIDA, AND AS THE SAME ARE SHOWN ON THE PLAT.
  4. THE PLAT IS A CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN AS OWNED BY THE CITY OF RIVERA BEACH, FLORIDA, AND AS THE SAME ARE SHOWN ON THE PLAT.
  5. THE PLAT IS A CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN AS OWNED BY THE CITY OF RIVERA BEACH, FLORIDA, AND AS THE SAME ARE SHOWN ON THE PLAT.
  6. THE PLAT IS A CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN AS OWNED BY THE CITY OF RIVERA BEACH, FLORIDA, AND AS THE SAME ARE SHOWN ON THE PLAT.

COMMISSIONER OF REVENUE, COUNTY OF PALM BEACH, FLORIDA

DATE	11-15-74
BY	JOHN B. SMITH, ESQ.
NOTARY PUBLIC	

WESTSIDE ESTATES

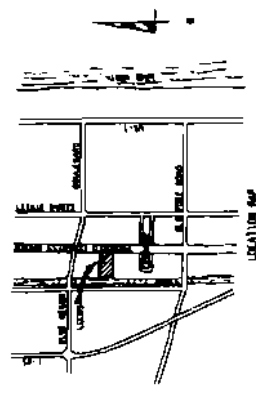




STATE OF FLORIDA  
COUNTY OF PALM BEACH

# PLAT OF WESTSIDE ESTATES (RIVERA BEACH HOUSING AUTHORITY)

BEING A PARCEL OF LAND IN THE NE 1/4 SECTION 34, TWP 42 SOUTH, RGE. 43 EAST  
PALM BEACH COUNTY, FLORIDA  
CITY OF RIVERA BEACH  
FEBRUARY 1975



LOCATION MAP  
WEST 19 MAP 4

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA, ON FEBRUARY 11, 1975.

ATTEST:  
*Richard P. Williams, Jr.*  
CITY ENGINEER

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA, ON FEBRUARY 11, 1975.

ATTEST:  
*Richard P. Williams, Jr.*  
CITY ENGINEER

THE PLAT IS HEREBY APPROVED FOR RECORD, THIS 11th DAY OF FEBRUARY, 1975.

*Richard P. Williams, Jr.*  
CITY ENGINEER

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA, ON FEBRUARY 11, 1975.

ATTEST:  
*Richard P. Williams, Jr.*  
CITY ENGINEER

THIS PLAT IS HEREBY APPROVED FOR RECORD, THIS 11th DAY OF FEBRUARY, 1975.

ATTEST:  
*Richard P. Williams, Jr.*  
CITY ENGINEER

RECORDING INFORMATION: THIS INSTRUMENT, BEING A PLAT OF LAND, IS SUBJECT TO THE PROVISIONS OF CHAPTER 173, F.S., WHICH PROVIDES THAT THE CITY OF PALM BEACH SHALL BE RESPONSIBLE FOR THE RECORDING OF THIS INSTRUMENT IN THE PUBLIC RECORDS OF THE COUNTY OF PALM BEACH, FLORIDA, AND SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE RECORDING FEES THEREON.

THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA, HAS REVIEWED THIS INSTRUMENT AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 173, F.S., AND HAS THEREFORE APPROVED IT FOR RECORD.

ATTEST:  
*Richard P. Williams, Jr.*  
CITY ENGINEER

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA, ON FEBRUARY 11, 1975.

ATTEST:  
*Richard P. Williams, Jr.*  
CITY ENGINEER

THIS PLAT IS HEREBY APPROVED FOR RECORD, THIS 11th DAY OF FEBRUARY, 1975.

*Richard P. Williams, Jr.*  
CITY ENGINEER



COUNTY OF PALM BEACH	
RECORDED	INDEXED
FILED	FILED
1-29-75	1-29-75

*EXHIBIT C*



**Property Information**

Location Address: 2003 W 17TH CT

[View Map](#)

[Calculate Portability](#)

Municipality: RIVIERA BEACH

Parcel Control Number: 56-43-42-31-01-000-0010

Subdivision: WESTSIDE ESTATES AS IN

Official Records Book: 20543 Page: 1551 Sale Date: Mar-2006

Legal Description: WESTSIDE ESTATES ALL OF PL LYG W OF CONGRESS AVE (LESS W 17TH ST R/W) & 50 FT ABND W 17TH COURT LYG WITHIN

**Owner Information**

Name: RIVIERA BEACH HOUSING AUTHORITY

[All Owners](#)

Mailing Address: 2014 17TH CT  
RIVIERA BEACH FL 33404 5002

**Sales Information**

Sales Date	Book/Page	Price	Sale Type	Owner
Mar-2006	20543/1551	\$10	WARRANTY DEED	RIVIERA BEACH HOUSING AUTHORITY
Jun-2005	18814/0327	\$10	QUIT CLAIM	RIVIERA BEACH HOUSING AUTHORITY
May-2005	18643/1968	\$10	QUIT CLAIM	RIVIERA BEACH HOUSING AUTHORITY

[All Sales](#)

**Exemptions**

Full: Municipal Government: \$942,741 Year of Exemption: 2007  
Total: \$942,741

**Appraisals**

Tax Year:	2007	2006	2005
Improvement Value:	\$817,741	\$3,670,119	\$0
Land Value:	\$125,000	\$385,000	\$0
Total Market Value:	\$942,741	\$4,055,119	\$3,500,000

Property Information  
Number of Units: 50  
\*Total Square Feet: 148494  
Acres: 15.3689

Use Code: 0300 Description: MULTIFAMILY

\* In residential properties may indicate living area.

**Assessed and Taxable Values**

Tax Year:	2007	2006	2005
Assessed Value:	\$942,741	\$4,055,119	\$3,500,000
Exemption Amount:	\$942,741	\$4,055,119	\$3,500,000
Taxable Value:	\$0	\$0	\$0

[Structure Detail](#)

**Tax Values**

	2007	2006	2005
Tax Year:			
Ad Valorem:	\$0	\$0	\$0
Non Ad Valorem:	\$0	\$0	\$0
Total Tax:	\$0	\$0	\$0

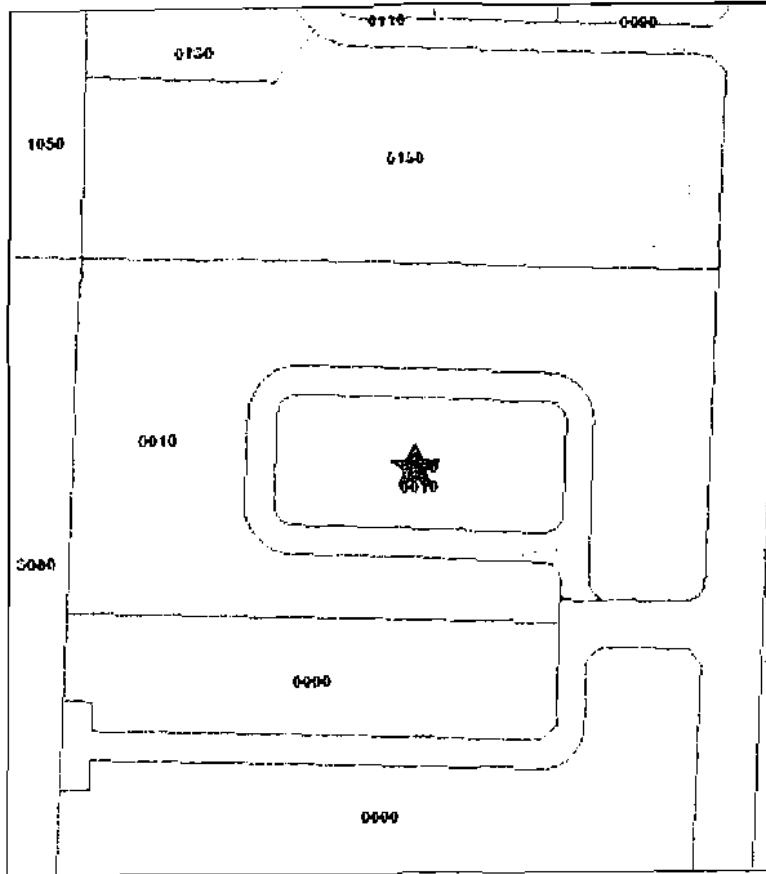
[Tax Calculator](#)  
[Details](#)  
[Calculate Additional Homestead](#)

[Tax Collector WebSite](#)

**NOTE:** Lower the top and bottom margins to 0.25 on File->Page Setup menu option in the browser to print the detail on one page.



Gary R. Nikolits, CFA  
 Palm Beach County Property Appraiser  
 Property Mapping System



**Search Parcel Details**

**Owner information**

PCN: 56434231010000010

**Return to PAPA**

Name: RIVIERA BEACH HOUSING AUTHORITY

Location: 2003 W 17TH CT

Mailing: 2014 17TH CT  
 RIVIERA BEACH, FL 33404  
 5002

**Appraisal Value**

Market Value: \$942,741

Assessed Value: \$942,741

Exempt Amnt: \$942,741

Taxable: \$0

**Tax Value**

Ad Valorem: Not Available



Non ad valorem: \$0.00

Total: Not Available

**Sales Information**

Sales Date	Price
Mar-2006	\$10
Jun-2005	\$10
May-2005	\$10
May-2005	\$10
Jun-1999	\$100

**Legend**

-  Parcel Boundary
-  Lot number

**Palm Beach County Property Map**

Map Scale 1:3893

Map produced on 5/14/2008 from PAPA  
<http://www.pbcgov.com/papa>





Nick Imandar  
Vice President, Florida Region

May 15, 2008

Debra Dozier Blinderman, Deputy Development Officer  
Florida Housing Finance Corporation  
227 N. Bronough Street Suite 5000  
Tallahassee, FL 32301

RE: Notice of Possible Scoring Error  
Applicant: Emerald Palms Redevelopment, LLC  
Application Number: 2008-112C  
Application Name: Emerald Palms

Dear Ms. Blinderman:

Pursuant to Rule 67-48.004(4), Magnolia Landing Apartments, Ltd. (Application Number 2008-177C) submits the following Notice of Possible Scoring Error and provides the following Brief Statement of Explanation regarding the deficiencies contained in the Application submitted by Emerald Palms Redevelopment, LLC, Application Number 2008-112C:

**PART III – PROPOSED DEVELOPMENT**  
**Section C – Ability to Proceed**

(2) Evidence of Site Control

Exhibit 9, submitted by the Applicant, states that Emerald Palm Revitalization, Inc. is the co-managing member of the Applicant, Emerald Palms Redevelopment, LLC. Exhibit 9 states that Emerald Palm Revitalization, Inc. has "No Directors or Shareholders" (See attached Exhibit "A").

The Ground Lease, provided by the Applicant as Evidence of Site Control in Exhibit 27, was signed by "Philip O. Goombs", as "Executive Director" of Emerald Palm Revitalization, Inc (See attached Exhibit "B"). However, the Applicant represented that Emerald Palm Revitalization, Inc. has no directors, therefore, the Ground Lease is invalid and the Applicant failed to demonstrate Evidence of Site Control. Based upon the following, the Application must be rejected as a result of failing to achieve threshold:

Page 2

**PART III: Development**  
**Section A: General Development Information**  
**Subsection 2(b): Scattered Sites**

Part III of the Application requires the Applicant to disclose whether or not the Development will consist of "Scattered Sites." Pursuant to Section 67-48.002 (98) F.A.C., scattered sites means "a Development consisting of real property in the same county . . . any part of which is divided by a street or easement ('divided parts')."

Within its Application, the Applicant stated that the Development would not consist of scattered sites. However, a review of a Title Search Report shows that the Development is encumbered by an easement which divides the property. (See attached Exhibit "C"). The subject easement is in favor of Florida Power and Light Company and was recorded in O.R. Book 2500, Page 115, of the Public Records of Palm Beach County, Florida. (See attached Exhibit "D"). The twelve-foot wide easement conclusively demonstrates that that the Development site is divided. In light of the foregoing, the Applicant should have disclosed that the Development consisted of Scattered Sites. As a result of its failure to do so, the Application must be rejected as a result of failing to achieve threshold.

**PART IV – LOCAL GOVERNMENT SUPPORT**  
**Section A – Contributions – MMRB, SAIL, HC, and HOME Applications**

**1.(a)(3) Local Government Verification of Contribution – Loan Form Exhibit 45**

In Part IV.A. 2.a. The Applicant claims a Loan from Palm Beach County and incorrectly values such Loan in the amount of \$200,000. To demonstrate this Loan, Applicant submitted the same Local Government Verification of Contribution – Loan Form behind Exhibit 45 and Exhibit 58 (See attached Exhibit "E"). Applicant listed it's Local Government Contribution as a \$200,000 loan at 0% for 32 years, which states that it is "forgivable" at the end of the term, although no conditions were stated. Such conditions could vary widely, including it being only forgiven at the sole discretion of the then County Commission if the property is donated to a qualified non-profit. It is clear that no conditions for forgiving this loan were given, and the County retained the right to later specify whatever conditions it desires.

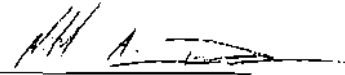
The Application Instructions state "A Loan with a forgiveness provision requiring approval of the Local Government will be treated as a loan, rather than a grant, for scoring purposes. The 'Loan' verification form should be used." Further the Application Instructions state, "All loans and fee deferrals must be present valued to determine the value of these contributions." That NPV calculation would have indicated a Local Government Value of \$173,421 (\$200,000 paid in 32 years at the discount rate).

The proposed Development is in Palm Beach County and the minimum Local Government requirement for the full 5 points is \$200,000. As the actual NPV of the Loan is \$173,421, the maximum of 5 points should not be awarded for this Local Government Contribution.

| Page 3

Based upon the foregoing, the Applicant has failed to demonstrate a Local Government Contribution and the Application should be awarded points on a pro-rata basis.

Attached to this petition is an executed Notice of Possible Scoring Error Request for Review form.

  
\_\_\_\_\_  
Nick A. Inamdar  
Vice President



Part III.2.(b)

# EXHIBIT "C"

## TITLE SEARCH REPORT

*Fund File Number:* 06-2008-4531

*The information contained in this title search is being furnished by Attorneys' Title Insurance Fund, Inc. If this report is to be used by a title insurance agent for evaluation and determination of insurability by the agent prior to the issuance of title insurance, then the agent shall have liability for such work.*

*Provided For:* Greenspoon Marder, PA

*Agent's File Reference:* Riviera Beach Housing Auth

*After an examination of this search the Agent must:*

- A. Evaluate all instruments, plats and documents contained in the report.*
- B. Include in the Commitment under Schedule B, any additional requirements and/or exceptions you find necessary from your analysis of the surveys, prior title evidence or other relevant information from the transaction.*
- C. Verify the status of corporations and limited partnerships and other business entities with the appropriate governmental agency or other authority.*
- D. Determine whether the property has legal access.*
- E. Determine if any unpaid municipal taxes or assessments exist, which are not recorded in the Official Records Books of the county.*
- F. Determine whether any portion of the property is submerged or artificially filled, if the property borders a body of water, and if riparian or littoral rights exist.*
- G. The information provided herein does not include a search of federal liens and judgment liens filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:
  - (a) Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and*
  - (b) Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)**

*Prepared this 15th day of May, 2008.*

*Attorneys' Title Insurance Fund, Inc.*

*Prepared by:* William C. Snyder

*Phone Number:* 1-800-515-0155

## TITLE SEARCH REPORT

*Fund File Number:* 06-2008-4531

*Effective Date of Fund approved base title information:* December 19, 1975

*Effective Date of Search:* April 30, 2008 at 11:00 PM

*Apparent Title Vested in:*

Riviera Beach Housing Authority, a public body corporate and politic created pursuant to the laws of the State of Florida

*Description of real property to be insured/foreclosed situated in Palm Beach County, Florida.*

See Exhibit A attached.

*Muniments of Title, including bankruptcy, foreclosure, quiet title, probate, guardianship and incompetency proceedings, if any, recorded in the Official Records Books of the county:*

1. Warranty Deed from Wiggs and Maale Construction Co., Inc., a Florida corporation as successor in merger with Floyd J. Voight, Inc. to Voight Investment Company, Trustee, recorded December 19, 1975, in O.R. Book 2489, Page 1650, Public Records of Palm Beach County, Florida.
2. Quit Claim Deed from Greta Cromwell, Inc., a Florida corporation to Riviera Beach Housing Authority, recorded June 10, 1999, in O.R. Book 11164, Page 353, Public Records of Palm Beach County, Florida.
3. Quit Claim Deed from Timothy Funk to Riviera Beach Housing Authority, recorded May 26, 2005, in O.R. Book 18643, Page 1860, Public Records of Palm Beach County, Florida.
4. Quit Claim Deed from John P. Little, III to Riviera Beach Housing Authority, recorded May 26, 2005, in O.R. Book 18643, Page 1968, Public Records of Palm Beach County, Florida.
5. Quit Claim Deed from Stephanie R. Williams to Riviera Beach Housing Authority, recorded June 7, 2005, in O.R. Book 18705, Page 114, Public Records of Palm Beach County, Florida.
6. Quit Claim Deed from Voight Investment Company, a dissolved Florida corporation to Riviera Beach Housing Authority, recorded June 27, 2005, in O.R. Book 18814, Page 327, Public Records of Palm Beach County, Florida.
7. Special Warranty Deed from Riviera Beach Housing Corporation, Inc., a Florida not-for-profit corporation to Riviera Beach Housing Authority, recorded June 29, 2006, in O.R. Book 20543, Page 1551, Public Records of Palm Beach County, Florida.
8. Declaration of Trust recorded in O.R. Book 20543, Page 1554, Public Records of Palm Beach County, Florida.

## TITLE SEARCH REPORT

*Fund File Number:* 06-2008-4531

*Mortgages, Assignments and Modifications:*

None

*Other Property Liens:*

1. Taxes for the year 2008, which are not yet due and payable.

*Restrictions/Easements:*

1. Subject to rights of tenants under unrecorded leases, if any.
2. Subject to the Ordinance No. 2802 of the City of Riviera Beach, Florida vacating and abandoning the Right-of-Way known as West 17th Court as recorded in O.R. Book 18430, Page 789, Public Records of Palm Beach County, Florida.
3. Restrictions, conditions, reservations, easements, and other matters contained on the Plat of Plat of Westside Estates, as recorded in Plat, Book 31, Page(s) 81, Public Records of Palm Beach County, Florida.
4. Permit-Buried Lines to Southern Bell Telephone and Telegraph Company recorded in O.R. Book 2447, Page 1943, Public Records of Palm Beach County, Florida.
5. Right of Way Easement Agreement recorded in O.R. Book 2734, Page 1058, Public Records of Palm Beach County, Florida.
6. Grant of Utility Easement recorded in O.R. Book 4809, Page 212, Public Records of Palm Beach County, Florida.
7. Easement to Florida Power and Light Company recorded in O.R. Book 2500, Page 115, Public Records of Palm Beach County, Florida.
8. Ordinance No. 1101 recorded in O.R. Book 2642, Page 1945, Public Records of Palm Beach County, Florida.
9. Grant of Landscape and Utility Easement recorded in O.R. Book 5425, Page 485, Public Records of Palm Beach County, Florida.
10. Easement to Florida Power and Light Company recorded in O.R. Book 5458, Page 1122, Public Records of Palm Beach County, Florida.
11. Covenants, conditions and restrictions recorded April 30, 1997, in O.R. Book 9768, Page 1618, as affected by Release of Restrictions recorded in O.R. Book 21551, Page 938, Public Records of Palm Beach County, Florida.

### TITLE SEARCH REPORT

*Find File Number:* 06-2008-4531

- 12. Covenants, conditions and restrictions recorded December 18, 2001, in O.R. Book 13210, Page 1839, Public Records of Palm Beach County, Florida.
- 13. Covenants, conditions and restrictions recorded March 24, 2003, in O.R. Book 14962, Page 879, Public Records of Palm Beach County, Florida.
- 14. Lease Agreement recorded in O.R. Book 2584, Page 29, Public Records of Palm Beach County, Florida. Appears to be terminated by its terms.
- 15. Deed to the City of Riviera Beach recorded in O.R. Book 2396, Page 16, Public Records of Palm Beach County, Florida
- 16. Resolution of the Riviera Beach Housing Authority recorded in O.R. Book 20543, Page 1533, Public Records of Palm Beach County, Florida.
- 17. Subject to the Right-of-Way of Congress Avenue as now laid out and in use.
- 18. Riparian and littoral rights are not insured.

*Other Encumbrances:*

None

### REAL PROPERTY TAX INFORMATION ATTACHED

*Proposed Purchaser/Mortgagor:*

N/A

*The name of the proposed purchaser/mortgagor was searched for the past twenty years for unsatisfied judgments and tax liens (state, federal and other liens for the recovery of money) and personal names were checked for unrestored incompetency and for guardianship proceedings. The following matters appeared of record and copies are attached for evaluation by the agent:*

N/A

## TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

### STANDARD EXCEPTIONS

*Unless satisfactory evidence is presented to the agent eliminating the need for standard exceptions, the following should be made a part of any commitment or policy.*

1. *Taxes for the year of the effective date of this policy and taxes or special assessments which are not shown as existing liens by the public records.*
2. *Rights or claims of parties in possession not shown by the public records.*
3. *Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.*
4. *Easements or claims of easements not shown by the public records.*
5. *Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.*
6. *Any owner policy issued pursuant hereto will contain under Schedule B the following exception: Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*
7. *Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:*
  - (a) *Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when these interests are held by a partnership, corporation, trust or decedent's estate; and*
  - (b) *Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)*
8. *Any lien provided by County Ordinance or by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.*

*This report does not cover matters filed in the Federal District Courts of Florida EXCEPT FOR BANKRUPTCY PROCEEDINGS filed prior to October 7, 1984, when the property lies in either DADE, DUVAL, HILLSBOROUGH, LEON OR ORANGE COUNTY.*

## TITLE SEARCH REPORT

*Fund File Number: 06-2008-4531*

*In foreclosure proceedings, title should be examined between the effective date of this report and the recording of the lis pendens to assure that all necessary and proper parties are joined. Consideration should be given to joining as defendants any persons in possession, other than the record owner, and any parties, other than those named herein, known to the plaintiff or the plaintiff's attorney and having or claiming an interest in the property.*

*Prior to issuance of any policy of title insurance underwritten by the Company, the agent must obtain and evaluate a title search for the period between the effective date of this Title Search Report and the recording date(s) of the instrument(s) on which the policy is based.*

*If this product is not used for the purpose of issuing a Fund policy, then the maximum liability for incorrect information is \$1,000.*

*Note: The Fund Agent is responsible for obtaining underwriting approval on any commitment prepared from this product in the amount of \$3,000,000.00 or more.*

**TITLE SEARCH REPORT**

*Fund File Number:* 06-2008-4531

**EXHIBIT A**

A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, City of Riviera Beach, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the North one quarter corner of said Section 31, thence run South 2 degrees 32' 43" West, along the North-South one quarter Section line and along the Easterly right of way line of the Central and Southern Florida Flood Control District Canal No. C-17, a distance of 611.98 feet; thence, run South 87 degrees 57' 28" East, parallel with the North line of said Section 31, a distance of 1216.32 feet to the Easterly right of way line of Congress Avenue extension; thence run North 2 degrees 42' 26" East, along the said Easterly right of way line of Congress Avenue extension, a distance of 612.00 feet to the North line of said Section 31; thence, run North 87 degrees 57' 28" West, along the North section line of said Section 31, a distance of 1218.05 feet to the Point of Beginning.

Also known as:

All of the Plat Westside Estates, according to the map or plat thereof as recorded in Plat Book 31, Page(s) 81. Public Records of Palm Beach County, Florida



Part III.2.(b)

# EXHIBIT "D"

BEST COPY

PREPARED BY:

Mr. J. D. Hardy  
Florida Power & Light Company  
Drawer "P"  
West Palm Beach, Florida 33402

EASEMENT

DATE November 24, 1975

SEC 31 TWP 42S RGE 3E

7352


JAN 22 PM 12:28 '76

In consideration of the payment to me/us by Florida Power & Light Company of \$1.00 and other good and valuable consideration which I/we have received, I/we and those holding through me/us, grant and give to Florida Power & Light Company and its successors and assign an easement for the construction, operation and maintenance of electric utility facilities (including wires, poles, guys, cables, conduits, transformer enclosures and appurtenant equipment) to be installed from time to time with the right to reconstruct, improve, add to, change the size of or remove such facilities or any of them; to permit the attachment of conduits, wires or cables of any other Company or person; also, to cut, trim and keep clear all trees, brush and undergrowth or other obstructions that might endanger or interfere with said facilities, on, over, upon, under, and across my/our property described as follows:

An easement more particularly described as a 12 foot wide strip, centerline of said easement represented by wide broken lines; and a 10 foot wide strip, centerline of said easement represented by thin broken lines drawn on Florida Power & Light Company Exhibit "A" attached hereto and made a part thereof. A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 47 East, Palm Beach County, Florida, shown hereon as Westside Estates, being more particularly described as follows: Beginning at the North one quarter corner of said Section 31; thence run South 2° 32' 49" West, along the North-South one quarter section line and along the Easterly right of way line of the Central and Southern Florida Flood Control District Canal No. C-17, a distance of 611.98 feet; thence, run South 87° 57' 28" East, parallel with the North line of said section 31, a distance of 1215.32 feet to the Easterly right of way line of Congress Avenue Extension; thence, run North 2° 42' 26" East, along the said Easterly right of way line of Congress Avenue Extension, a distance of 612.00 feet to the North line of said Section 31; thence, run North 87° 57' 28" West, along the North Section line of said Section 31, a distance of 1218.05 feet to the Point of Beginning.

In the presence of:

*Joseph M. Strain*  
*Josephine M. Strain*  
(Corporate Seal)

RIVIERA BEACH HOUSING CORPORATION, INC.  
BY *Larissa M. Gordon*  
ATTEST: 

STATE OF FLORIDA AND COUNTY OF Palm Beach

I HEREBY CERTIFY that before me, personally appeared PATRICK M. GORDON

XXXXXXXXX President XXXXX XXXXXXXX Riviera Beach Housing Corporation, Inc.

a Corporation organized under the Laws of the State of Florida to me known to be the persons described in and who executed the foregoing instrument, and severally acknowledged the execution thereof to be their free act and deed as such officers of the said corporation; and that they affixed thereto the official seal of said corporation and that said instrument is a true and correct copy of said corporation.

Official seal in said County and State this 24th day of November 1975  
My Comm. No. 18914  
*Josephine M. Strain*  
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE

RWC/SR/XXX 768 ER 7-450 STRUCT. NO. FORM 3322C REV. 7/73

STATE OF FLORIDA DOCUMENTARY TAX STAMP TAX DEPT. OF REVENUE 00.30

FLORIDA DOCUMENTARY SUR TAX 00.55

BEST COPY

DENOTES 4' OR 12' EASEMENT  
DENOTES 4' OR 10' EASEMENT

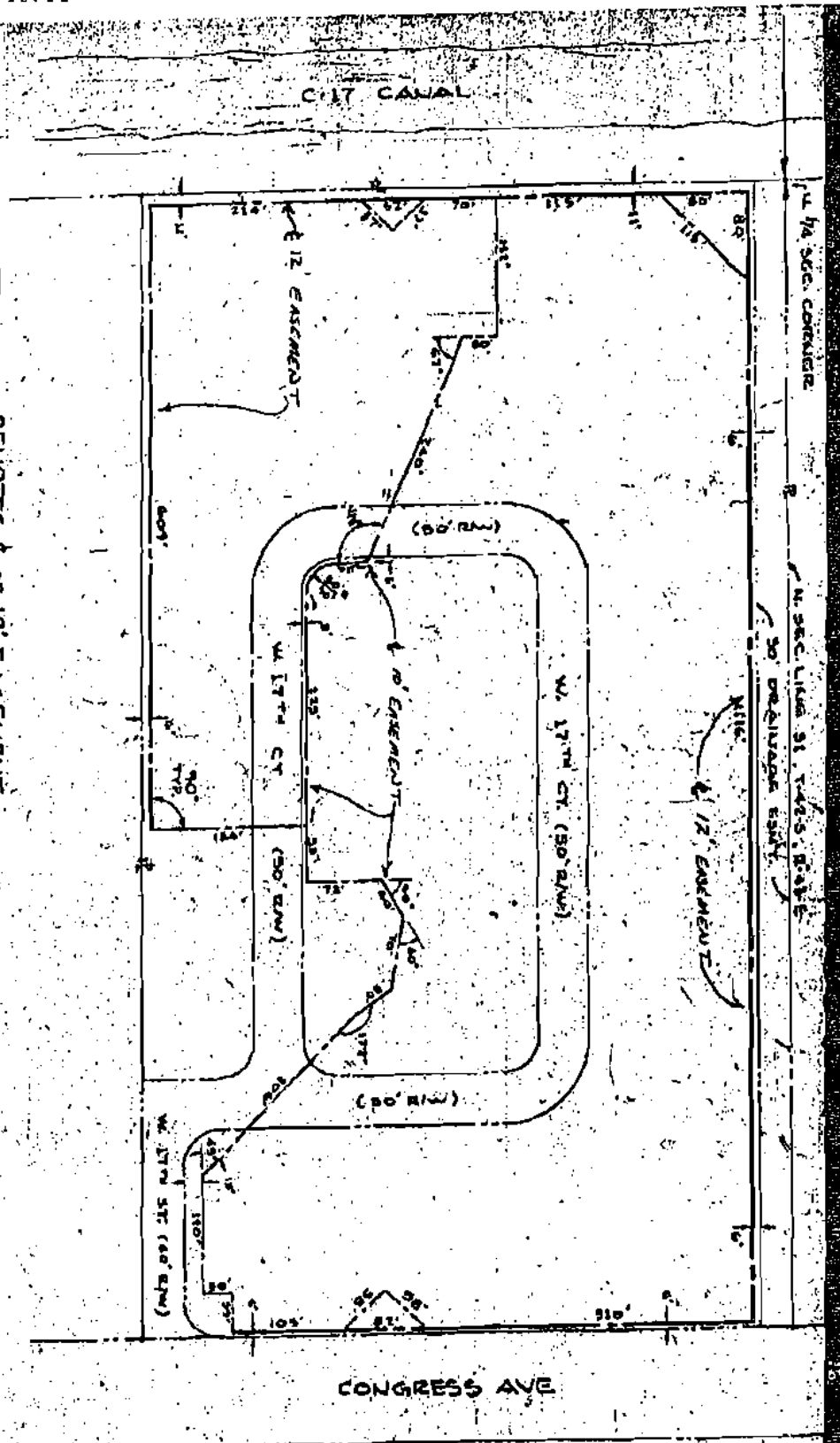


EXHIBIT 'A'  
FOR F.P.A.L.C. EASEMENTS  
WEST SIDE ESTATES  
CONGRESS AVE. (300' x 570'  
BLUE HERON BLVD.

SHOWN IN P.P. 2008 B  
ASAP FOR THE  
FROM WEST SIDE ESTATES, P.P.  
11/11/2500 B  
MARK GREEN BLVD

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 06/04/2008

File # 2008-112C

Development Name: Emerald Palms

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
06-04-2008	66	N	7.5
Preliminary	66	N	7.5
NOPSE	66	N	7.5
Final	0	N	0
Final-Ranking	0	N	0

**Scores:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
<b>Features &amp; Amenities</b>									
1S	III	B	2.a.	New Construction	9	9	9	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	0	0
4S	III	B	3	Green Building	5	5	5	0	0
<b>Set-Aside Commitments</b>									
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	0	0
6S	III	E	3.	Affordability Period	5	5	5	0	0
<b>Resident Programs</b>									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	6	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	0	0	0	0
8S	III	F	4.	Programs for All Applicants	8	8	8	0	0
<b>Local Government Support</b>									
9S	IV		A.	Contributions	5	5	5	0	0
10S	IV		B.	Incentives	4	4	4	0	0

### 2008 MMRB, SAIL & HC Scoring Summary

As of: 06/04/2008

File # 2008-112C

Development Name: Emerald Palms

**Threshold(s) Failed:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	5	Environmental Site Assessment	The Applicant failed to provide the required Verification of Environmental Safety Phase I Environmental Site Assessment form and, if applicable, the Verification of Environmental Safety Phase II Environmental Site Assessment form.	Preliminary	
2T	III	A	2.b.	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application and failed to provide the required information for each site.	NOPSE	
3T	III	B	2	Optional Features and Amenities	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to answer the question at Part III.B.2. of the Application.	NOPSE	
4T				Financial Arrears	Pursuant to subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C., NOPSE scoring may include financial obligations for which an Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or the Developer is in arrears to the Corporation or an agent or assignee of the Corporation as of the due date for NOPSE filing (May 15, 2008). As provided in paragraph(s) 67-48.004(13)(d) and/or 67-21.003(13)(d), F.A.C., following the submission of the "Cures," the Corporation shall reject an Application if the Applicant fails to satisfy any arrearages described in subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C. A party to this Application (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) is listed on the May 15, 2008 Past Due Report as being in arrears to the Corporation as a related party (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) of Hidden Grove. The May 15, 2008 Past Due Report is posted to the FHFC Website at <a href="http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm">http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm</a> . A portion of the arrearage was satisfied prior to issuance of the NOPSE Scoring Summary; however, \$500.00 is still due and owing as of May 15, 2008. Payments and questions should be addressed to the servicer and not to Florida Housing.	NOPSE	

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	1.25	1.25	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	1.25	0	0

### 2008 MMRB, SAIL & HC Scoring Summary

As of: 06/04/2008

File # 2008-112C

Development Name: Emerald Palms

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	0	0
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	0	0

**Additional Application Comments:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	10	Proximity	Per page 14 of the Application Instructions, the Application automatically received 7.50 proximity tie breaker points because it involves a Public Housing Authority.	Preliminary	

**EXHIBIT "E"**

## 2008 CURE FORM

(Submit a SEPARATE form for EACH reason relative to EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2008- 112C** and pertains to:

Part III Section A Subsection 2.6 Exhibit No. 20 (if applicable)

The attached information is submitted in response to the 2008 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2008 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>2</u> T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____ P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. ____ C	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part \_\_\_\_ Section \_\_\_\_ Subsection \_\_\_\_ Exhibit \_\_\_\_ (if applicable).



## Brief Statement of Explanation regarding Cure for Application No. 2008 – 112C

### **Provide a separate brief statement for each Cure**

In Scoring Item 2T, FHFC has determined that the development is a “scattered site”, and that Applicant failed to correctly answer the question at Part III.A.2.b. and failed to provide the requested information for each site in Exhibit 20.

Attached is a revised excerpt to the application indicating the correct answer (“Yes”) to Part III.A.2.b. Also enclosed is Exhibit 20 containing the information required for “scattered sites”.

b. Provide the Service Provider's or principal of Service Provider's Prior Experience Chart behind a tab labeled "Exhibit 18".

8. Guarantor(s) Information (MMRB Applicants only):

Provide the Guarantor Information Chart behind a tab labeled "Exhibit 19".

**Part III. Proposed Development**

**A. General Development Information**

1. Name of Development:

Emerald Palms

2. Location of Development Site:

a. Address of Development Site:

Street: see addendum

City: Riviera Beach

State: FL

Zip Code: 33404

b. Will the Development consist of Scattered Sites?

Yes  No

If "Yes", for each of the sites, provide the Address, total number of units, and a latitude and longitude coordinate behind a tab labeled "Exhibit 20".

c. Does the location of the proposed Development qualify as an Urban In-Fill Development, as defined in Rule Chapters 67-21 and 67-48, F.A.C.?

Yes  No

If "Yes", to qualify as an Urban In-Fill Development for purposes of this Application, provide a properly completed and executed Local Government Verification of Qualification as Urban In-Fill Development form behind a tab labeled "Exhibit 21".

d. Is the proposed Development being revitalized utilizing HOPE VI funding?

Yes  No

If "Yes", to qualify as a Hope VI Development for purposes of this Application, provide the required documentation behind a tab labeled "Exhibit 21".

e. County:

Palm Beach - Large (E)



All Applicants must answer "Yes" or "No" to question (1) below. All HOME Applicants must also answer question (2) below.

(1) Is proposed Development located in the Florida Keys Area?

Yes  No

(2) HOME Applications Only -

Will the proposed HOME Development be located in either Alachua County or Leon County?

Yes  No

If "Yes", complete either (a) or (b) below, as applicable:

(a) Alachua County Developments - Is the Development located within Alachua County, but outside the boundaries of incorporated Gainesville?

Yes  No

If "Yes", provide the required letter from Alachua County behind a tab labeled "Exhibit 22".

(b) Leon County Developments - Is the Development located within Leon County but outside the boundaries of incorporated Tallahassee?

Yes  No

**Exhibit 20**  
**Scattered Site Address of the Development Site**  
**Emerald Palms**

Tract 1: West of W. 17<sup>th</sup> Street, west of the intersection of W. 17<sup>th</sup> Street and Congress Avenue, Riviera Beach, Florida 33404  
80 units  
Latitude N26°46'41.8"  
Longitude W80°05'25.0"  
(tie breaker measurement point)

Tract 2: On West 17<sup>th</sup> Street, west of the intersection of W. 17<sup>th</sup> Street and Congress Avenue, Riviera Beach, Florida 33404  
0 units  
Latitude N26°46'41.1"  
Longitude W80°05'20.5"

Tract 3: On Congress Avenue, north of the intersection of W. 17<sup>th</sup> Street and Congress Avenue, Riviera Beach, Florida 33404  
60 units  
Latitude N26°46'43.4"  
Longitude W80°05'27.0"

## 2008 CURE FORM

(Submit a SEPARATE form for EACH reason relative to EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2008-112 C** and pertains to:

Part \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_ Exhibit No. \_\_\_\_\_ (if applicable)

The attached information is submitted in response to the 2008 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2008 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Failed Threshold	Item No. _____ T	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. _____ P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. _____ C	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part III Section A Subsection 2.6. Exhibit 20 (if applicable).

## Brief Statement of Explanation regarding Cure for Application No. 2008 – 112C

### **Provide a separate brief statement for each Cure**

In Scoring Item 2T, FHFC determined that the development consists of “scattered sites”, because it was divided by an easement and a roadway. The roadway referenced in the NOPSE filed against Applicant (Tracking #115) has been abandoned and vacated by the City of Riviera Beach (see attached Ordinance No. 2802).

In order to more correctly reflect the legal description of the site due to the vacation and abandonment of the aforementioned roadway, Applicant is amending the ground lease in order to reflect inclusion of the vacated roadway in the premises being leased to the Applicant. Also included is an affidavit from a surveyor demonstrating that the former “road” is no more. In fact, the Applicant intends (as part of its development plan) to dig up the pavement of the former road and build over it.

Name

Address



CFN 20050224859  
DR BK 18430 PG 0789  
RECORDED 09/16/2005 11:38:02  
Palm Beach County, Florida  
Sharon E. Bock, CLERK & COMPTROLLER  
Pgs 0789 - 792; (4pgs)

ORDINANCE NO. 2802

**AN ORDINANCE OF THE CITY OF RIVIERA BEACH, FLORIDA, VACATING AND ABANDONING THE RIGHT-OF-WAY KNOWN AS WEST 17<sup>TH</sup> COURT AS PER THE PLAT OF WESTSIDE ESTATES PLAT BOOK 31, PAGES 81 AND 82, BEGINNING WITH ITS INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF WEST 17<sup>TH</sup> STREET; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, West 17<sup>th</sup> Court is a public right-of-way, and

WHEREAS, the City of Riviera Beach has no public purpose for the West 17<sup>th</sup> Court right-of-way; and

WHEREAS, the City Council held a public hearing and found that the above West 17<sup>th</sup> Court right-of-way serves no public purpose and should be vacated and abandoned as a public right-of-way.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:**

**SECTION 1.** That the portion of West 17<sup>th</sup> Court more particularly described hereinafter be vacated, closed and abandoned and the City of Riviera Beach hereby relinquishes all claim, right, title, and interest in said property for public right-of-way purposes. Said public right-of-way is more particularly described as follows:

All that portion of West 17<sup>th</sup> Court.

**SECTION 2.** If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**SECTION 3.** That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 4. This Ordinance shall be effective immediately upon adoption and shall not be codified.

PASSED AND APPROVED on First Reading this 3rd day of February 1999.

PASSED AND ADOPTED on Second Reading this 17th day of February 1999.

APPROVED:

*Clark K. Williams*  
CLARK K. WILLIAMS, MAYOR

*Marilyn S. Moffitt*  
MARILYN MOFFITT,  
CHAIRPERSON

[MUNICIPAL SEAL]

*Lenora Hurley*  
LENORA HURLEY,  
CHAIRPERSON PRO-TEM

*Hyacinthia Becton*  
HYACINTHIA BECTON

ATTEST:

*Marge Callahan*  
MARGE CALLAHAN

*Carrie E. Ward*  
CARRIE E. WARD, CMC/AAE  
CITY CLERK

*William H. Burrs*  
WILLIAM BURRS  
COUNCIL MEMBERS

1st Reading

2nd & Final Reading

MOTIONED BY:  
SECONDED BY:

W. Burrs                      H. Becton  
H. Becton                      W. Burrs

M. MOFFITT  
L. HURLEY  
H. BECTON  
M. CONFREY  
W. BURRS

\_\_\_\_\_  
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ORDINANCE NO. 2802

PAGE 3

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

*February 3, 1999*  
Date

*Carrie E. Ward*  
Carrie E. Ward, CMC/AEE, City Clerk

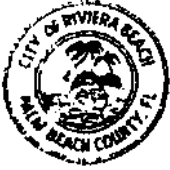
REVIEWED AS TO LEGAL SUFFICIENCY

*M. J. ...*  
CITY ATTORNEY  
CITY OF RIVIERA BEACH

c:\17\hcf.abd.doc  
12-23-98

This is a Certified Copy





# CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404  
(561) 845-4090 WWW.RIVIERABCH.COM FAX (561) 840-3438

DESK OF  
CITY CLERK  
CARRIE E. WARD,  
MASTER MUNICIPAL CLERK

This is a true and correct copy

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.  
CITY OF RIVIERA BEACH )

I, CARRIE E. WARD, MASTER MUNICIPAL CLERK, CITY CLERK OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA DO HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF Ordinance No. 2802

AS SHOWN IN THE RECORDS OF THE CITY ON FILE IN THE OFFICE OF THE CITY CLERK.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIX THE SEAL OF THE CITY OF RIVIERA BEACH, FLORIDA, THIS THE 29th DAY OF March, 2005.

(SEAL)

CARRIE E. WARD, MMC  
CITY CLERK

This is a true and correct copy

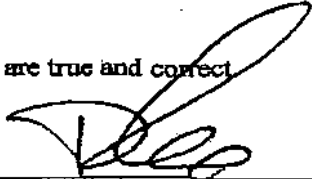
**AFFIDAVIT**

Before me the undersigned authority personally appeared David P. Lindley who being duly sworn states that he personally knows the following facts and that the same are true and correct.

My name is David P. Lindley I am licensed by the State of Florida as a professional surveyor and mapper. My license number is 5005. I am employed by Caulfield & Wheeler, Inc. I am submitting this Affidavit and Certification on behalf of Emerald Palms Redevelopment, LLC (the "Applicant") and am not related to the Applicant or any principals of any financial beneficiaries of the Applicant. On May 28, 2008, representatives of Caulfield & Wheeler, Inc. visited the location described on the legal description attached as Exhibit "A". We have also reviewed that certain Ordinance No. 2802, recorded in Official Record Book 18430, Page 0789 on April 16, 2005 (the "Ordinance"), attached as Exhibit "B". Finally, I have reviewed the Affidavit and Certification of Kenneth Jackson dated May 14, 2008 attached as Exhibit "C", which was submitted as part of a Notice of Potential Scoring Error filed against the applicant.

I hereby confirm that, after review of the Ordinance and all of the necessary documentation, that the "road" known as West 17<sup>th</sup> Court has been vacated and abandoned by the City of Riviera Beach, and is no longer a public right of way. The public has no longer any right to use this former "road", and the public has no rights of easement or access thereto. As such, West 17<sup>th</sup> Court is no longer a dedicated right of way, and does not constitute a "road" or "street" under any common usage of such terms.

Under penalty of perjury, I declare that these statements are true and correct.

  
\_\_\_\_\_  
David P. Lindley, P.L.S.

Dated: 6/12/08

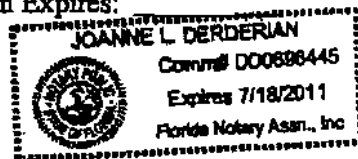
STATE OF FLORIDA )  
 )  
COUNTY OF Palm Beach)

Sworn to and subscribed before me this 12<sup>th</sup> day of June,  
2008 by David P. Lindley, who is personally known to me or has produced  
as identification:

WITNESS my hand and official seal this 12<sup>th</sup> day of June, 2008.

(NOTARY SEAL)

Joanne L. Derderian  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**Exhibit "A"**

A Leasehold Estate in and to the following described lands:

Tracts A through X, WESTSIDE ESTATES, according to the Plat thereof, as recorded in Plat Book 31, Pages 81 and 82, TOGETHER WITH the vacated right-of-way for West 17th Court, as recorded in Official Records Book 18430, Page 789, both of the Public Records of Palm Beach County, Florida.

Exhibit B



CPM 20050224089  
OR BK 18430 PD 0789  
ISSUED 04/16/2005 11:30:02  
Palm Beach County, Florida  
Baron E. Beck, CLERK & COMPTROLLER  
Pgs 0709 - 752 (4pgs)

ORDINANCE NO. 2802

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All that portion of West 17<sup>th</sup> Court.

**SECTION 2.** If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**SECTION 3.** That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

TRIP  
CLERK  
COPY

SECTION 4. This Ordinance shall be effective immediately upon adoption and shall not be codified.

PASSED AND APPROVED on First Reading this 3rd day of February 1999.

PASSED AND ADOPTED on Second Reading this 17th day of February 1999.

APPROVED:

Clark K. Williams  
CLARK K. WILLIAMS, MAYOR

Marlyn B. Moffitt  
MARLYN MOFFITT,  
CHAIRPERSON

(MUNICIPAL SEAL)

Lenora Hurley  
LENORA HURLEY,  
CHAIRPERSON PRO-TEM

Hyacintha Becton  
HYACINTHA BECTON

ATTEST:

Marge Callahan  
MARGE CALLAHAN

Carré E. Ward  
CARRÉ E. WARD, CMC/AAE  
CITY CLERK

William H. Burrs  
WILLIAM BURRS  
COUNCIL MEMBERS

1st Reading

2nd & Final Reading

MOTIONED BY:  
SECONDED BY:

W. Burrs  
H. Becton

H. Becton  
W. Burrs

M. MOFFITT  
L. HURLEY  
H. BECTON  
M. CONFREY  
W. BURRS

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ORDINANCE NO. 2802

PAGE 3

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

*This is not a certified copy*  
February 3, 1999  
Date

Carle E. Ward  
Carle E. Ward, CM/CIAAE, City Clerk

REVIEWED AS TO LEGAL SUFFICIENCY

Martin D. ...  
CITY ATTORNEY  
CITY OF RIVIERA BEACH

c:\17\hcl\abd.doc  
12-23-88

*This is not a certified copy*



# CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404  
(561) 845-4060      WWW.RIVIERABEACH.COM      FAX (561) 840-3438

DESK OF  
CITY CLERK  
CARRIE E. WARD,  
MASTER MUNICIPAL CLERK

This is a  
Certified  
Copy

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )      SS.  
CITY OF RIVIERA BEACH )

I, CARRIE E. WARD, MASTER MUNICIPAL CLERK, CITY CLERK OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA DO HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF Ordinance No. 2802

AS SHOWN IN THE RECORDS OF THE CITY ON FILE IN THE OFFICE OF THE CITY CLERK.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIX THE SEAL OF THE CITY OF RIVIERA BEACH, FLORIDA, THIS THE 29th DAY OF March, 2005.

(SEAL)

  
CARRIE E. WARD, MMC  
CITY CLERK

This is a  
Certified  
Copy



Exhibit C

Affidavit and Certification of Kenneth Jackson

Before me, the undersigned authority, personally appeared Kenneth Jackson, who, being duly sworn, states that he personally knows the following facts and that the same are true and accurate.

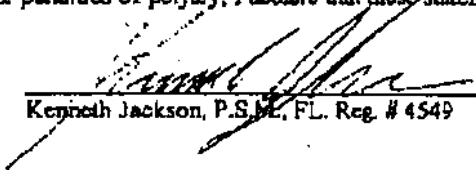
My name is Kenneth C. Jackson. I am licensed by the State of Florida as a Professional Surveyor and Mapper. My license number is LS 4549. I am the Vice President of Sea Diversified. I am submitting this Affidavit and Certification on behalf of Las Palmas I, Ltd. (the "Applicant") and am not related to the Applicant or any Principals or Financial Beneficiaries of the Applicant.

On May 14, 2008, representatives of Sea Diversified, Inc. visited the location described on the legal description attached as Exhibit A and determined that the proposed development site is a Scattered Site as defined on page 18 of the Florida Housing Finance Corporation Rule Chapter 67-48.002 (98).

On May 14, 2008, I Kenneth C. Jackson with Sea Diversified, Inc. went to 2003 West 17<sup>th</sup> Court, Riviera Beach, Florida, 33404, to determine if the development location address was located on the legal description attached, to confirm the legal description and property control number referenced and the Plat of Westside Estates (Plat Book 31, page 81 of the public records of Palm Beach County, Florida) attached as Exhibit B are the same site, to confirm that the public right of ways shown on the Plat and on the Palm Beach appraiser's map attached as Exhibit C currently exist.

I confirm all of the above. The Plat covers the entire site described in the legal description. The site described in the legal description is divided by West 17<sup>th</sup> Court and West 17<sup>th</sup> Street and these streets are dedicated public rights of way.

Under penalties of perjury, I declare that these statements are true and correct.

  
Kenneth Jackson, P.S., M., FL. Reg. # 4549

5/14/2008  
Dated

STATE OF FLORIDA  
COUNTY OF Palm Beach

Sworn to and subscribed before me this 14 day of May, 2008 by Kenneth Jackson, who  
is personally known to me or has produced \_\_\_\_\_ as  
identification.

WITNESS my hand and official seal, this 14 day of May 2008.

  
Notary Public ~~NOTARY PUBLIC STATE OF FLORIDA~~ Teres Martinez

Commission # DD176724

State of FLORIDA Expires: DEC. 05, 2008

My commission expires: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, City of Riviera Beach, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the North one quarter corner of said Section 31; Thence, run South  $2^{\circ} 32' 43''$  West, along the North-South one quarter Section line and along the Easterly right of way line of the Central and South Florida Flood Control District Canal No C-17, a distance of 611.98 feet; Thence run South  $87^{\circ} 57' 28''$  East, parallel with the North line of said Section 31, a distance of 1218.32 feet to the Easterly right of way line of Congress Avenue extension; thence run North  $2^{\circ} 42' 25''$  East, along the said Easterly right of way line of Congress Avenue extension, a distance of 612.00 feet to the North line of said Section 31; Thence run North  $87^{\circ} 57' 28''$  West, along the North section line of said Section 31, a distance of 1218.05 feet to the POINT OF BEGINNING.

The above described parcel of land contains 744,865 square feet or 17.10 Acre Parcel.

Property Control Number(s): 56-43-42-31-01-000-0010

---

EXHIBIT B

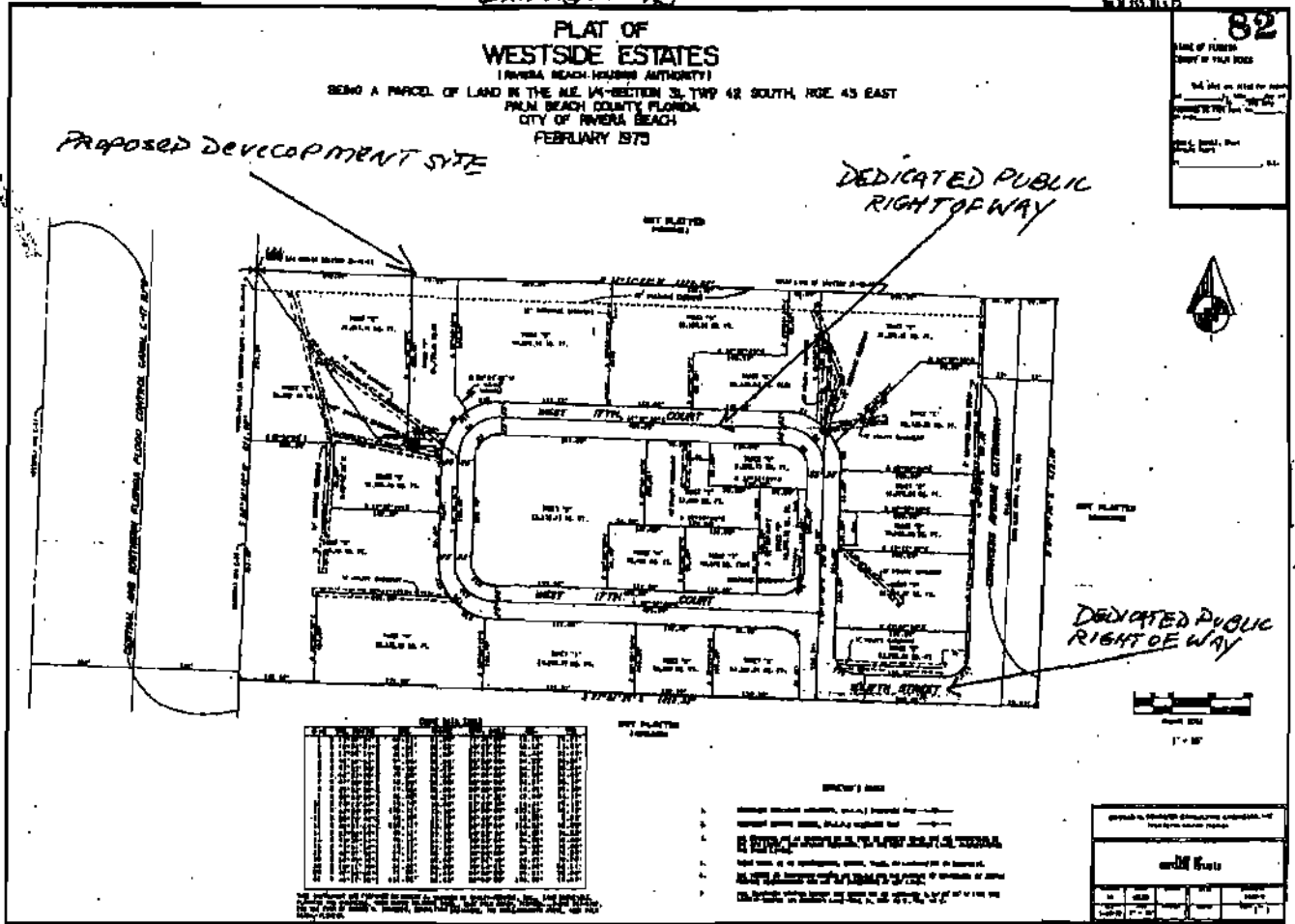
PLAT NO. 82

PLAT OF  
WESTSIDE ESTATES

(RIVERA BEACH HOUSING AUTHORITY)  
BEING A PARCEL OF LAND IN THE S.E. 1/4 SECTION 31, TWP 42 SOUTH, RGE 43 EAST  
PALM BEACH COUNTY, FLORIDA  
CITY OF RIVERA BEACH  
FEBRUARY 1973

Proposed Development Site

Dedicated Public Right of Way



Lot No.	Area (sq. ft.)	Owner
1	10,000	Westside Estates
2	10,000	Westside Estates
3	10,000	Westside Estates
4	10,000	Westside Estates
5	10,000	Westside Estates
6	10,000	Westside Estates
7	10,000	Westside Estates
8	10,000	Westside Estates
9	10,000	Westside Estates
10	10,000	Westside Estates
11	10,000	Westside Estates
12	10,000	Westside Estates
13	10,000	Westside Estates
14	10,000	Westside Estates
15	10,000	Westside Estates
16	10,000	Westside Estates
17	10,000	Westside Estates
18	10,000	Westside Estates
19	10,000	Westside Estates
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26	10,000	Westside Estates
27	10,000	Westside Estates
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30	10,000	Westside Estates
31	10,000	Westside Estates
32	10,000	Westside Estates
33	10,000	Westside Estates
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35	10,000	Westside Estates
36	10,000	Westside Estates
37	10,000	Westside Estates
38	10,000	Westside Estates
39	10,000	Westside Estates
40	10,000	Westside Estates
41	10,000	Westside Estates
42	10,000	Westside Estates
43	10,000	Westside Estates
44	10,000	Westside Estates
45	10,000	Westside Estates
46	10,000	Westside Estates
47	10,000	Westside Estates
48	10,000	Westside Estates
49	10,000	Westside Estates
50	10,000	Westside Estates

- OWNER'S NAME
1. All lots shown on this plat are owned by Westside Estates, Inc.
  2. All lots shown on this plat are owned by Westside Estates, Inc.
  3. All lots shown on this plat are owned by Westside Estates, Inc.
  4. All lots shown on this plat are owned by Westside Estates, Inc.
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  49. All lots shown on this plat are owned by Westside Estates, Inc.
  50. All lots shown on this plat are owned by Westside Estates, Inc.

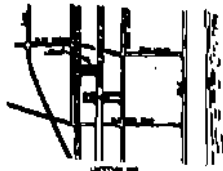
OWNER'S NAME	
1	Westside Estates, Inc.
2	Westside Estates, Inc.
3	Westside Estates, Inc.
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47	Westside Estates, Inc.
48	Westside Estates, Inc.
49	Westside Estates, Inc.
50	Westside Estates, Inc.

PLAT OF  
WESTSIDE ESTATES

(RIVERA BEACH HOMEING AUTHORITY)

BEING A PARCEL OF LAND IN THE 1/4 SECTION 32, TWP 42 SOUTH, RGE. 43 EAST  
PALM BEACH COUNTY, FLORIDA  
CITY OF RIVERA BEACH

FEBRUARY 1973



THE UNDERSIGNED, COUNTY CLERK OF PALM BEACH COUNTY, FLORIDA, DO HEREBY CERTIFY THAT THE ABOVE DESCRIBED PARCEL OF LAND IS THE SAME AS THAT DESCRIBED IN THE PLAT OF WESTSIDE ESTATES, BEING A PARCEL OF LAND IN THE 1/4 SECTION 32, TWP 42 SOUTH, RGE. 43 EAST, PALM BEACH COUNTY, FLORIDA, CITY OF RIVERA BEACH, FEBRUARY 1973.

- 1. PROPERTY IS SUBJECT TO A DEED OF TRUST TO THE BANK OF AMERICA NATIONAL ASSOCIATION, MEMPHIS, TENNESSEE.
- 2. DEED OF TRUST IS FILED IN PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
- 3. DEED OF TRUST IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE DEED OF TRUST.
- 4. DEED OF TRUST IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE DEED OF TRUST.

*Signature*  
County Clerk

EXEMPTION  
THIS PLAT IS EXEMPT FROM THE PAYMENT OF AD VALOREM TAXES FOR THE YEAR 1973.

*Signature*  
County Clerk

NOTARIAL PUBLIC  
NOTARY IN PALM BEACH COUNTY, FLORIDA  
NOTARY NO. 12345

*Signature*

NOTARIAL PUBLIC  
NOTARY IN PALM BEACH COUNTY, FLORIDA  
NOTARY NO. 67890

*Signature*

NOTARIAL PUBLIC  
NOTARY IN PALM BEACH COUNTY, FLORIDA  
NOTARY NO. 11111

*Signature*

81

PLAT OF WESTSIDE ESTATES  
FEBRUARY 1973

*Signature*  
*Signature*

*Signature*  
*Signature*

*Signature*

PLAT OF WESTSIDE ESTATES	
FILED	INDEXED
SEARCHED	SERIALIZED
FILED	INDEXED

**EXHIBIT "F"**

TRACKING NO.

543

Page 1 of 1 Pages

**2008 NOTICE OF ALLEGED DEFICIENCIES (NOAD) SUMMARY FORM**

This NOAD Summary Form is being submitted with regard to **Application No. 2008- 112C** and pertains to the revisions/additions made to the Application parts, sections, subsections and exhibits listed below (please list the parts, sections, subsections, and exhibits in the order they appear in the most recent Scoring Summary Report with regard to the Application revisions/additions being challenged):

Part (I, II, III, IV, V)	Section (A, B, C, D, etc.)	Subsection (1, 2, 3, etc. or 1.a., 2.a., etc.)	Exhibit (1, 2, 3, etc.)	Submitted in Response to:				Created by:	
				Reason Score Not Maxed (Provide Item No. from Application Scoring Summary)	Reason Failed Threshold (Provide Item No. from Application Scoring Summary)	Proximity Scoring (Provide Item No. from Application Scoring Summary)	Additional Comment (Provide Item No. from Application Scoring Summary)	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from Preliminary Scoring	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from NOPSE scoring and state NOPSE Tracking No., if known
III	A	2.b	20	S	2 T	P	C		X 035
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		

SUBMITTED BY APPLICATION NO. 2008-132C IN ACCORDANCE WITH RULES 67-21.003 and/or 67-48.004, F.A.C.

Brief Statement of Explanation regarding  
Application 2008 – 112C

Provide a separate brief statement for each NOAD

In response to Item 2T, Applicant filed the attached cure amending its Application to state that it is a scattered site and filing Exhibit 20.

Attached is a copy of City of Riviera Beach Ordinance #2802 vacating West 17<sup>th</sup> Court on the Applicant's site. Also attached are maps of the site before and after the vacation of the road. As shown on the map as modified for the vacation of the road, the site no longer meets the definition of a scattered site.

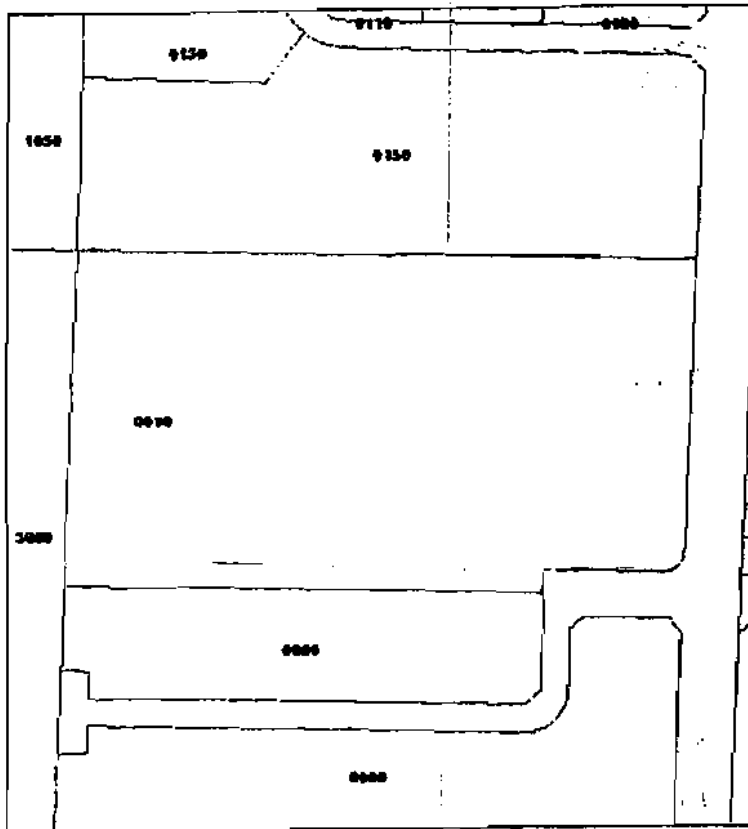
The Application, as modified to state that the development is a scattered site is incorrect, as is Exhibit 20.

Therefore, the Applicant should fail threshold for failure to provide complete and accurate information.





Gary R. Nikolits, CFA  
 Palm Beach County Property Appraiser  
 Property Mapping System



Search Parcel Details

**Owner Information**  
 PCN: 88434231010000010  
 Return to PAPA  
 Name: RIVIERA BEACH HOUSING AUTHORITY  
 Location: 2003 W 17TH CT  
 Mailing: 2014 17TH CT  
 RIVIERA BEACH, FL 33404  
 5002

**Appraisal Value**  
 Market Value: \$942,741  
 Assessed Value: \$942,741  
 Exempt Amnt: \$942,741  
 Taxable: \$0

**Tax Value**  
 Ad Valorem: Not Available  
 Non ad valorem: \$0.00  
 Total: Not Available

**Sales Information**

Sales Date	Price
Mar-2006	\$10
Jun-2005	\$10
May-2005	\$10
May-2005	\$10
Jun-1999	\$100

Legend

- Parcel Boundary
- Lot number

Palm Beach County Property Map  
 Map Scale 1:3893

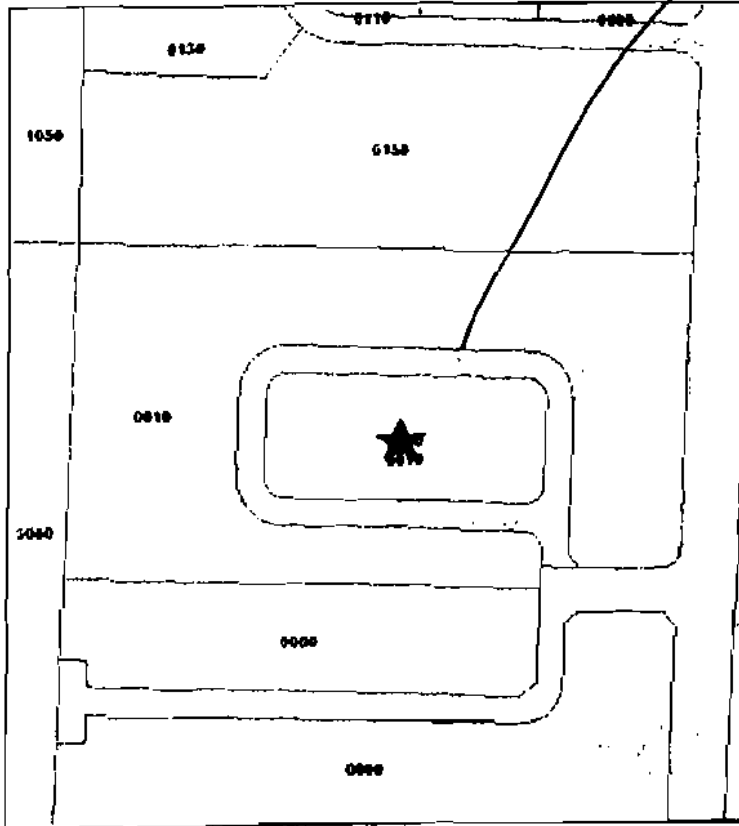


- After Road was vacated, it no longer qualifies as a scattered site.



Gary R. Nikolits, CFA  
 Palm Beach County Property Appraiser  
 Property Mapping System

*This road made it  
 a scattered site.*



**Search Parcel Details**

**Owner Information**

PCN: 56434231010000010  
 Return to PAPA

Name: RIVIERA BEACH HOUSING  
 AUTHORITY

Location: 2003 W 17TH CT

Mailing: 2014 17TH CT  
 RIVIERA BEACH, FL 33404  
 5002

**Appraisal Value**

Market Value: \$942,741  
 Assessed Value: \$942,741  
 Exempt Amnt: \$942,741  
 Taxable: \$0

**Tax Value**

Ad Valorem: Not Available  
 Non ad valorem: \$0.00  
 Total: Not Available

**Sales Information**

Sales Date	Price
Mar-2006	\$10
Jun-2005	\$10
May-2005	\$10
May-2005	\$10
Jun-1999	\$100

**Legend**

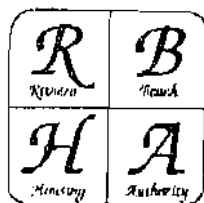
- Parcel Boundary
- Lot number

**Palm Beach County Property Map**

Map Scale 1:3893

Map produced on 5/14/2008 from PAPA  
<http://www.pbcgov.com/papa>

*- Before Road was vacated.*



## Riviera Beach Housing Authority

2014 West 17th Court  
Riviera Beach, FL 33404-5002

---

Mr. Philip O. Goombs  
Executive Director

March 15, 2010

Administration

Phone:  
(561) 845-7450

Fax:  
(561) 845-9665

Stephen P. Anger, Executive Director  
Florida Housing Finance Corp.  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301

**RE: Development Site for Emerald Palms  
2003 W. 17<sup>th</sup> Court, Riviera Beach FL**

Dear Mr. Anger:

Per your inquiry, the Riviera Beach Housing Authority is the current owner of the Emerald Palms site and was the owner of the site on April 7, 2008, at the time an application for Housing Tax Credits was filed for this property (2008-112C). At that time, there was (and continues to be) a utility easement through the site (which bisects the site) to the benefit of Florida Power and Light.

There were no visible improvements in or any other physical evidence of this easement as of April 7, 2008, nor was such easement visually evident in any way.

Please contact me if additional information is required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip O. Goombs', written over a horizontal line.

Philip O. Goombs  
Executive Director

cc: Gary J. Cohen, Esq.

**EXHIBIT "G"**

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-112C

Development Name: Emerald Palms

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
09 - 24 - 2008	66	Y	7.5
Preliminary	66	N	7.5
NOPSE	66	N	7.5
Final	66	Y	7.5
Final-Ranking	66	Y	7.5

**Scores:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
<b>Features &amp; Amenities</b>									
1S	III	B	2.a.	New Construction	9	9	9	9	9
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	12
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	9
4S	III	B	3	Green Building	5	5	5	5	5
<b>Set-Aside Commitments</b>									
5S	III	E	1.b.(2)(b)	Total Set-Asides Commitment	3	3	3	3	3
6S	III	E	3.	Affordability Period	5	5	5	5	5
<b>Resident Programs</b>									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	6	6	6
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	0	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	8	8	8
<b>Local Government Support</b>									
9S	IV		A.	Contributions	5	5	5	5	5
10S	IV		B.	Incentives	4	4	4	4	4

### 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-112C

Development Name: Emerald Palms

**Threshold(s) Failed:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	5	Environmental Site Assessment	The Applicant failed to provide the required Verification of Environmental Safety Phase I Environmental Site Assessment form and, if applicable, the Verification of Environmental Safety Phase II Environmental Site Assessment form.	Preliminary	Final
2T	III	A	2.b.	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application and failed to provide the required information for each site.	NOPSE	Final
3T	III	B	2	Optional Features and Amenities	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to answer the question at Part III.B.2. of the Application.	NOPSE	Final
4T				Financial Arrears	Pursuant to subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C., NOPSE scoring may include financial obligations for which an Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or the Developer is in arrears to the Corporation or an agent or assignee of the Corporation as of the due date for NOPSE filing (May 15, 2008). As provided in paragraph(s) 67-48.004(13)(d) and/or 67-21.003(13)(d), F.A.C., following the submission of the "Cures," the Corporation shall reject an Application if the Applicant fails to satisfy any arrearages described in subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C. A party to this Application (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) is listed on the May 15, 2008 Past Due Report as being in arrears to the Corporation as a related party (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) of Hidden Grove. The May 15, 2008 Past Due Report is posted to the FHFC Website at <a href="http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm">http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm</a> . A portion of the arrearage was satisfied prior to issuance of the NOPSE Scoring Summary, however, \$500.00 is still due and owing as of May 15, 2008. Payments and questions should be addressed to the servicer and not to Florida Housing.	NOPSE	Final

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10 a.(2)(a)	Grocery Store	1.25	1.25	1.25	1.25	1.25
2P	III	A	10 a.(2)(b)	Public School	1.25	1.25	1.25	1.25	1.25

## 2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-112C

Development Name: Emerald Palms

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	1.25	1.25
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	3.75	3.75

**Additional Application Comments:**

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	10	Proximity	Per page 14 of the Application Instructions, the Application automatically received 7.50 proximity tie breaker points because it involves a Public Housing Authority.	Preliminary	

**EXHIBIT "H"**



**Florida Housing Finance Corporation  
2009 Universal Cycle Public Meeting Agenda  
Jacksonville Hyatt Regency,  
225 East Coast Line Drive, Jacksonville, FL 32202  
August 8, 2008**

**1. 2009 Application Cycle**

The Application Period will be reduced from 30 days to 14 days.

**2. Scattered Sites**

Should the definition of Scattered Sites be revised?

**3. Proximity**

- a. Should the requirement for sketches be discontinued?
- b. Preservation Developments will be excluded from the Proximity List.

**4. Special Needs**

Should point incentives be provided for a commitment to set aside a percentage of the ELI units for special needs households?

**5. Set-Aside Location A**

- a. Should more restrictions be added for Set-Aside Location A areas?
- b. How should Florida Housing target resources where they are needed most and away from soft markets?
- c. How should Florida Housing prevent cannibalizing existing transactions?

**6. Preservation Set-Aside**

- a. Should the Preservation requirements be revised?
- b. Should the funding source be Bonds/SAIL rather than Competitive HC?

**7. HC Non-Profit Set-Aside**

The Non-Profit set-aside will be increased from 12% to 15%.

**8. Universal Design**

Should point incentives be provided for universal design?

**9. New Federal Legislation**

- a. 30% boost
- b. Increased Bond and LIHTC allocation
- c. 9% Lock-In rate

**10. Florida Housing is considering ways to delineate Applications and get more “ready to go” Applications by the Application Deadline. For example:**

- a. Include point ranges for Developer experience (number of deals completed);
- b. Require Site Plan Approval, Zoning and Site Control to be in place by Application Deadline;
- c. Draw only one line (at 80%) for A/B Leveraging;
- d. If Total Development Cost changes more than 25% (increase or decrease) in credit underwriting, then the Application with the highest lottery number in the next cycle will be skipped;
- e. Continue new provisions governing returned awards of funding;
- f. Scoring of Ability to Proceed (Site Plan Approval, Site Control, Infrastructure, Zoning and Environmental Safety) and Finance Documents:
  - (1) At preliminary scoring, if pass threshold Applicant is awarded 5 points;
  - (2) At final scoring, if successfully cure and pass threshold Applicant is awarded only 3 points.
- g. Include additional services. Suggestions?

**11. Prioritizing Applications**

Should Florida Housing allow Applicants to prioritize their Applications (Applications must be same county, same number of units, same HC request amount and same score)?

**12. Tentative 2009 Universal Cycle Time Line**

**13. Other Changes**

What other changes should be considered?

**EXHIBIT "T"**

**Brief Statement of Explanation regarding NOAD for  
Application No. 2009 – 097C**

**Provide a separate brief statement for each NOAD**

In its response to the numerous Scoring Items determined to be deficient by FHFC as a result of the finding that the proposed development was comprised of "scattered sites", Applicant (in response to Scoring Item 2S) filed cure documentation, which as then repeated for all other Scoring Items pertaining to the "scattered site" issue.

Applicant submitted an affidavit from Daniel L. Van Horn, concluding that the subject property "is a whole property and is not divided or separated by the easement referenced in the NOPSE."

For the reasons set forth below, Applicant's cure documentation does not proof that the development site is not comprised of "scattered sites".

Applicant failed to provide any sketch attached to the Van Horn affidavit demonstrating how the subject easement does not divide the property.

Attached is an affidavit from John T. Deliman, who also submitted an affidavit in the original NOPSE. Note that Mr. Deliman's affidavit provided herewith specifically states that he has taken into account the affidavit from Mr. Van Horn and the assertions made therein, and continues to state in his professional opinion that the subject easement completely divides the property. Also note that Mr. Deliman attaches to his affidavit the drawing attached to the subject easement, and highlights that drawing to demonstrate how the easement completely divides the property.

Also attached is an affidavit from John Waby, who visited the site and reaches the same conclusion as Mr. Deliman.

The affidavit supplied in the cure documentation merely contains Mr. Van Horn's statement (not supported by any other information) that the easement does not divide the property.

For the reason set forth herein, Applicant has failed to demonstrate that the project is not comprised of "scattered sites". The information provided in the original NOPSE and in this NOAD conclusively establish that the Progress Energy easement completely divides the property, and that the proposed development is comprised of "scattered sites".

FHFC should determine that the proposed development is comprised of "scattered sites", and that the numerous cures submitted by Applicant in connection therewith should be denied.

---

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared John T. Deliman, who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is John T. Deliman. I am licensed by the State of Florida as a Surveyor. My license number is 6082. I am submitting this Affidavit on behalf of Oak Ridge Estates, LLC ("Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the letter from Progress Energy dated September 28, 2009 and the Easement recorded in Official Records Book 3406, Pages 254 through 257, of the public records of Pinellas County, Florida, both of which are attached (the "Easement").

3. Attached is an Affidavit executed and delivered by me dated September 30, 2009 (the "Original Affidavit").

4. I have reviewed the Affidavit dated October 8, 2009 from David L. Van Horn attached hereto (the "Van Horn Affidavit").

5. Nothing in the Van Horn Affidavit changes in any way the conclusion reached in the Original Affidavit that the Easement completely divides the property described in the Original Affidavit, from one boundary edge of such property to another boundary edge of such property. Attached is the drawing from the last recorded page of the Easement, highlighted by me to reflect how the Easement completely divides the property.

Under penalties of perjury, I declare that these statements are true and correct.

Signature: [Handwritten Signature] Dated: 11/10/2009  
Name: John T. Deliman  
Address: 3411 Fern Ridge Street  
Winter Haven FL 33884

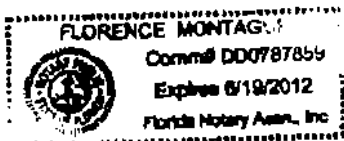
STATE OF FLORIDA )  
 ) SS:  
COUNTY OF Polk )

Sworn to and subscribed before me on this 12 day of Nov, 2009, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS MY HAND AND OFFICIAL SEAL

This 12 day of Nov, 2009.

[Handwritten Signature]  
Notary Public, State of Florida at Large



Printed Name of Notary Public

My Commission Expires:



September 28, 2009

Michael E. Boutzoukas, Attorney at Law  
Becker & Pollakoff, P. A.  
Park Place  
311 Park Place Boulevard Suite 250  
Clearwater, FL 33759-3977

**RE: Release of Progress Energy Florida, Inc. Distribution Easement  
Official Records Book 3406, Pages 254 and 255, Pinellas County, Florida  
Parcel Number: 30/30/16/35064/000/0120...6721 Park Boulevard Pinellas Park, FL**

Dear Mr. Boutzoukas:

It is my understanding that your client is engaged in due diligence relative to the above referenced parcel, which was formerly known as "Park Boulevard Trailer Park." Progress Energy (formerly Florida Power Corporation) has a descriptive easement over this parcel of land which shows where the facilities are located on this referenced property. Should your customer wish to develop this parcel, it would be their responsibility to contact Progress Energy (800-700-8744) and request a Progress Energy Engineer contact them concerning facilities needed for this new development. It will be customer responsibility to pay for removal of all old facilities on site for the new development. Once the scope of the new project has been determined, the Progress Energy Engineer will advise the Land Agent for Distribution Right Of Way-Florida to prepare a new easement for this development. Once a new easement is prepared and signed by the Grantor and returned, Progress Energy will prepare and record the new easement. The process for release of the old descriptive easement can be started at this time.

If I can be of further assistance, please do not hesitate to contact my office at 727-562-5795.

Sincerely,

Diane Emanuel for Tuyet La  
Land Agent  
Distribution Right of Way - Florida

3116 Palmco Street • Clearwater • Florida • 33765 • CW-13  
Telephone (727) 562-5795 • Facsimile (727) 562-5753  
Barbara.emmanuel@gmail.com

70065125

ORIGINAL

22

12. 3406 net 254

EASEMENT

THIS INSTRUMENT, made this 10th day of August - 1970, A. D. 1970 between RICHARD ELVIN and BETTY ELVIN, his wife, parties of the First Part, GRANITE BROS., and FLORIDA POWER CORPORATION, a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 101 Fifth Street South, in the City of Ft. Petersburg, County of Duval and State of Florida, Party of the Second Part, GRANITE BROS.

WITNESSETH

A. WHEREAS, the GRANITE BROS. are the owners in fee of a tract of land in the County of Duval and State of Florida, described as GRANITE'S Drawing No. A-1218-D (hereinafter referred to as "drawing") dated June 22, 1970 attached hereto, incorporated herein and by this reference made a part hereof; and

B. WHEREAS, GRANITE is engaged in the business of manufacturing, transmitting and distributing electric energy to the public; and

C. WHEREAS, GRANITE are constructing a trailer park to be known as HARK HIGHLAND TRAILER PARK said trailer park being located in part or wholly on that portion of land described on said drawing (said land hereinafter referred to as "premises"). In connection therewith GRANITE have requested GRANITE to provide such facilities as are necessary to extend electric service to said PREMISES; and

D. WHEREAS, GRANITE are constructing and installing a portion of the facilities (hereinafter referred to as "INSTALLATIONS") and GRANITE will construct, install, operate and maintain all additional facilities (hereinafter referred to as "FACILITIES") necessary to provide electric service to the PREMISES and the general public. The type, quantity and location of said INSTALLATIONS and FACILITIES are shown on attached drawing; and

E. WHEREAS, GRANITE is desirous of obtaining an easement covering the location, construction and maintenance of said FACILITIES and the utilization of said INSTALLATIONS, all in accordance with existing local laws and the National Electrical Safety Code.

NOW, THEREFORE, for and in consideration of the mutual benefits hereunder and all other covenants and conditions contained herein, GRANITE do hereby grant and convey to GRANITE, for such period of time as it may require the use of the PREMISES or until the use thereof is abandoned by GRANITE, the right, privilege and easement to (1) locate its FACILITIES on, over, across, through and under said PREMISES within the easement area shown on said drawing; (2) construct, operate, maintain, repair and remove its INSTALLATIONS; (3) convey and utilize said INSTALLATIONS and (4) obtain ingress and egress to and upon the PREMISES for the purpose of exercising rights and privileges herein granted.

The Parties herein agree as follows:

1. GRANITE shall have the right to operate, inspect, alter, improve, repair, remove and rebuild its INSTALLATIONS together with the rights and privileges necessary and convenient for the full use and enjoyment thereof.

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REC...  
PUBLIC RECORDS  
DUVAL COUNTY, FLORIDA



ORIGINAL

17. 3406 NZ 255

2. GRANTORS shall not utilize the areas in which the FACILITIES are located in any way or manner which would create a dangerous condition with respect to said FACILITIES or create any interference with the construction, reconstruction, removal, repair or safe operation and safe maintenance thereof without written notification to GRANTEE and submission of written plans of such utilization of the easement area and GRANTEE agrees to reimburse GRANTEE for any relocation of the FACILITIES necessitated by GRANTEE'S planned utilization of said easement area, and GRANTORS covenant to indemnify and hold GRANTEE harmless from any and all damages and injuries, whether to persons or property, resulting from interference by GRANTEE or their agents, from any cause whatsoever, with the FACILITIES.

3. Should GRANTEE remove or abandon the use of its FACILITIES, or fail for any reasonable period of time to exercise the rights herein granted, then in that event all rights and privileges hereunder shall cease and the easement, privileges and rights herein granted shall revert to the GRANTORS; further, in the event the tract of land owned by GRANTORS and referred to in Paragraph A, above, is no longer used as a mobile home park, then and in that event GRANTORS will so notify GRANTEE in writing and within 30 days from the receipt of such notification, GRANTEE will vacate, surrender and quit-claim the easement conveyed by this instrument to the GRANTORS or their assignee.

4. GRANTORS covenant that they have the right to convey this easement and that GRANTEE shall have quiet and peaceful possession, use and enjoyment of said easement.

All covenants, terms, provisions and conditions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, successors or assigns.

IN WITNESS WHEREOF, the GRANTORS have hereunto affixed their hands and seals, the day and year first above mentioned.

Signed, sealed and delivered  
to the presence of:

Barbara A. Helms

Richard E. Helms  
Richard E. Helms

P. Grant Helms

Betty Helms (L.S.)  
Betty Helms

071507  
FLORIDA  
DOCUMENTARY  
SURTAX  
\$00.55

041074  
STATE OF FLORIDA  
DOCUMENTARY  
SURTAX  
\$00.30

ORIGINAL  
at 3408 PAGE 256

STATE OF Florida  
COUNTY OF Pinellas ss.

I HEREBY CERTIFY that on this 19<sup>th</sup> day of August,  
A. D. 19 70, before me the undersigned authority, personally appeared  
RICHARD ELVIN AND ERIC ELVIN, his wife,  
\_\_\_\_\_ as known to be the person(s)  
described in and who executed the foregoing instrument and he is acknowledged  
before me this 19<sup>th</sup> day of August 1970.

WITNESS my signature and official seal to said County and State,  
this day and year last aforesaid.

(NOTARIAL SEAL)

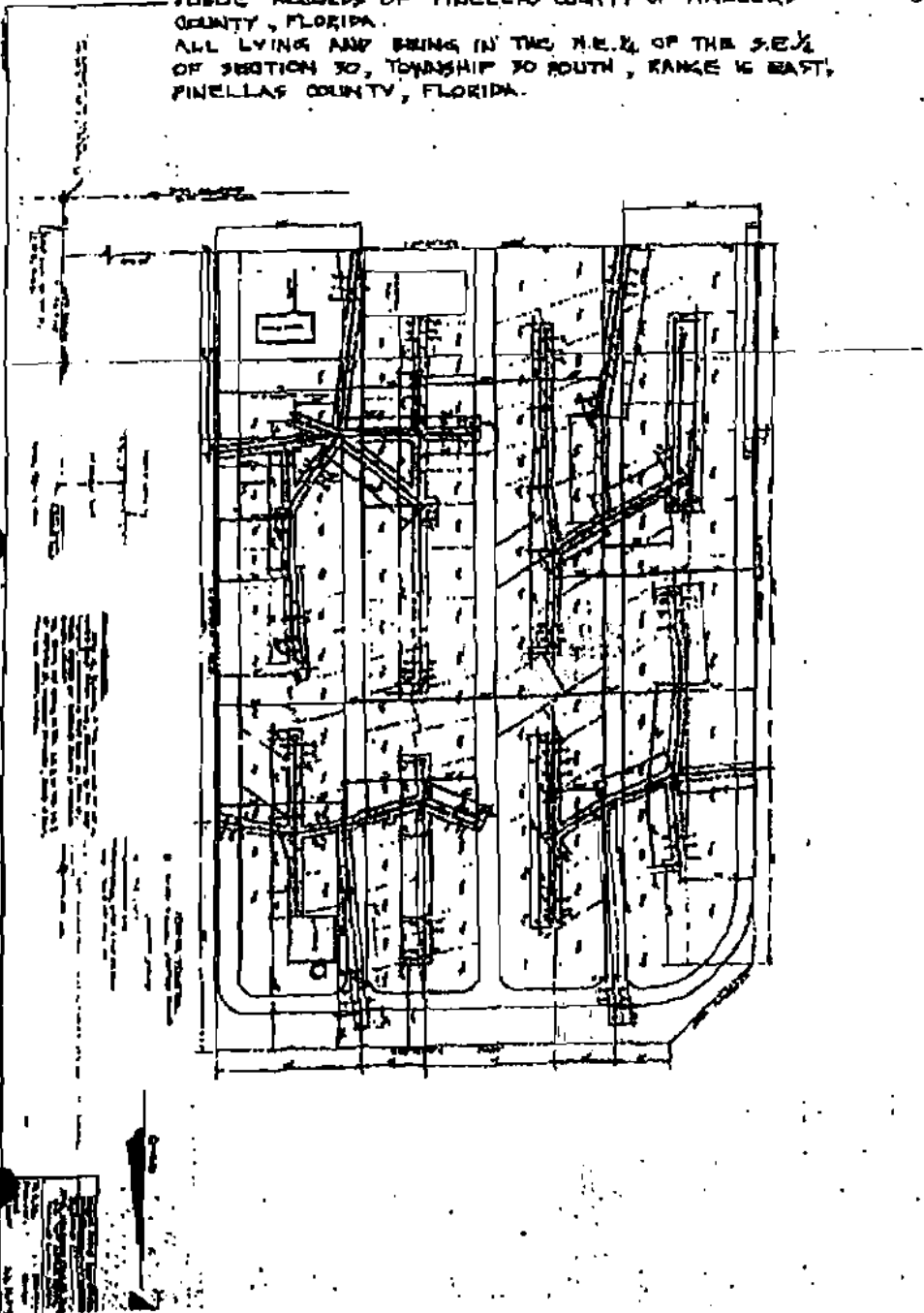
Clara J. Dennis  
Notary Public

My Commission Expires  
Every Fourth Month of Month of Year  
My Commission Expires Jan. 17, 1972

L. 3408 REC 257

LEGAL DESCRIPTION

LOTS 12, 13, 14, 15, & THE WEST 5 FT. OF LOT 16,  
HAMES ROAD FARM NO 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 22, PAGE 97,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.  
ALL LYING AND BEING IN THE N.E. 1/4 OF THE S.E. 1/4  
OF SECTION 30, TOWNSHIP 30 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.



**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Sohn T. Deliman who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is Sohn T. Deliman. I am licensed by the State of Florida as a Surveyor. My license number is 60882. I am submitting this Affidavit on behalf of Oak Ridge Estates, LLC ("Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the letter from Progress Energy dated September 28, 2009 and the Easement recorded in Official Records Book 3406, Pages 254 and 255, of the public records of Pinellas County, Florida, both of which are attached.

3. After reviewing the aforementioned Easement and other public records pertaining to the property located at 6721 Park Boulevard, Pinellas Park, Florida legally described as "Lots 12, 13, 14, 15, and the West 8 feet of Lot 16, Haines Road Farms No. 4, according to the map or plat thereof, as recorded in Plat Book 22, Page 97 of the Public Records of Pinellas County, Florida, LESS and EXCEPT in South 5 feet thereof", I conducted research necessary to conclude that the Easement completely divides the property described above, from one boundary edge of such property to another boundary edge of such property.

4. The addresses "6721 Park Boulevard" and "6741 Park Boulevard", are both addresses which have been assigned by the United States Postal Service to the property described herein, and both addresses are located on the site legally described above.

Under penalties of perjury, I declare that these statements are true and correct.

Signature: [Handwritten Signature]  
Name: 3411 Fox Ridge St  
Address: Winter Haven FL  
33884

Dated: 9/30/09

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Daniel L. Van Horn who being duly sworn, states that he personally knows the following facts and that the same are true and correct:

1. My name is Daniel L. Van Horn, I am licensed by the State of Florida as a Professional Land Surveyor and my License number is 4267, I am submitting this Affidavit on behalf of RST LODGES AT PINELLAS PARK, L. P. (Applicant) and regarding THE LODGES AT PINELLAS PARK (The "Development"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.
2. I have reviewed the letter from Progress Energy dated September 28, 2009 and the Easement recorded in the Official Records Book 3406, Pages 254 - 257, of the public records of Pinellas County, Florida, both of which are attached.
3. After reviewing the aforementioned Easement and the Pinellas County Property Appraisers Folio Panel Number 30-30-16-35064-000-0120 pertaining to the property located on Park Boulevard, Pinellas County, Florida, legally described as "lots 12, 13, 14, 15 and West 8 feet of Lot 16, Hatnes Road No. 4, According to the map or Plat thereof, as recorded in Plat Book 22, Page 97, of the Public Records of Pinellas County, Florida. LESS AND EXCEPT the South 5 feet thereof. My Professional Opinions is as follows:
  - A. Legal description defines a whole and continuous parcel of land.
  - B. No address found on Pinellas County Property Appraisers Folio Panel.
  - C. Letter from Progress Energy states the proper procedure for release of Progress Energy Florida, Inc. Distribution Easement.
  - D. Easement OR 3406, Pages 254-257 defines a typical Progress Energy Easement agreement over a parcel of land for the distribution of Electrical Power.
  - E. Drawing on OR 3406, Page 257 shows the distribution easements for the power to the different trailer lots.

In Conclusion, it is my opinion that this parcel of land is whole and continuous with a Progress Energy Easement in effect at this time. This Easement sits on the property in four different electrical power systems. This property is a whole property and is not divided or separated by this current Easement.

Under penalties of perjury, I declare that these statements are true and correct.



*Daniel L. Van Horn*  
Daniel L. Van Horn, PLS      4267  
Van Horn & Associates, Inc.      LB 6907  
Address: 17610 Sydney Road  
Dover, Florida 33527

Dated 10/8/09

*Christopher Nelson*  
10/8/09

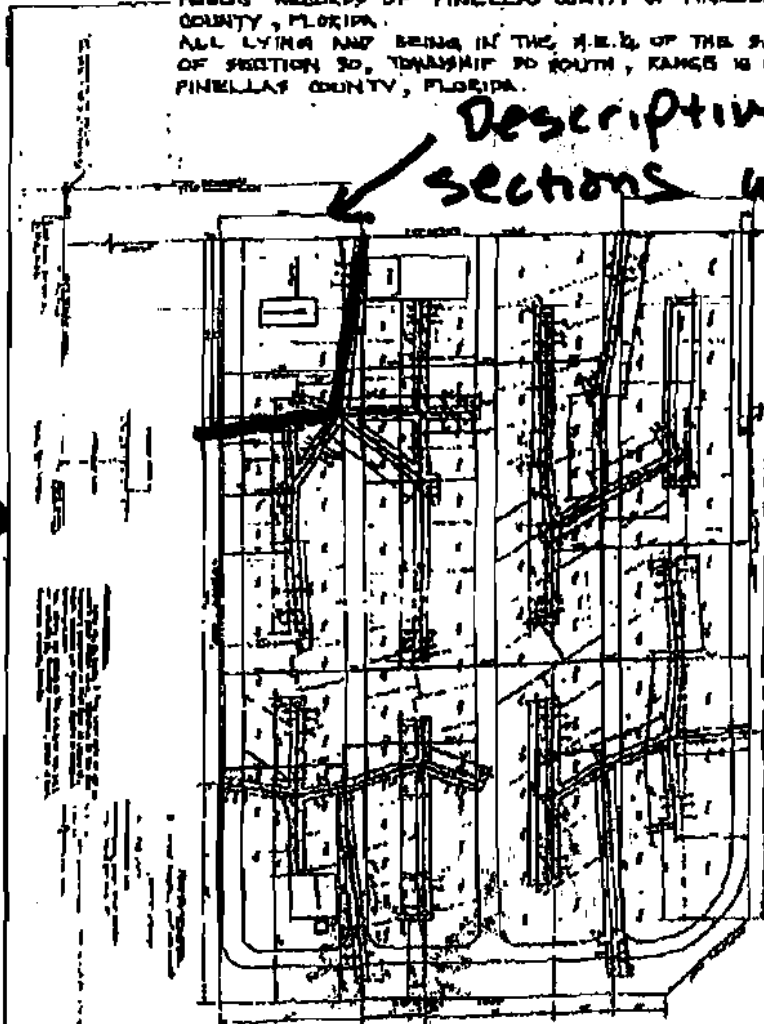


P.L. 3408 REG 267

LEGAL DESCRIPTION.

LOTS 12, 13, 14, 15, & THE WEST 1/2 OF LOT 16,  
HAINES ROAD PLANNED NO. 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 22, PAGE 97,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.  
ALL LYING AND BEING IN THE N.E. 1/4 OF THE S.E. 1/4  
OF SECTION 30, TOWNSHIP 30 SOUTH, RANGE 18 EAST,  
PINELLAS COUNTY, FLORIDA.

Descriptive Easement  
sections which create  
a "scattered  
site."



**AFFIDAVIT**

Before me, the undersigned authority, personally appeared JOHN WABY, who being duly sworn, states that he personally knows the following facts and that the same are true and accurate:

1. My name is John Waby, I am licensed by the State of Florida as a Professional Surveyor. My license number is 4270. I am with the AVID Group based in Palm Harbour, Florida. I am submitting this Affidavit on behalf of Oak Ridge Estates, LLC (the "Applicant"). I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. I have reviewed the attached easement and sketch (benefiting Progress Energy) recorded in Pinellas County O.R. Book 3406, pages 254-257 for the development site of the proposed development known as "The Lodges at Pinellas Park" (the "Property") who applied to the Florida Housing Finance Corporation's Universal Cycle as Application #2009-097C.

3. I conducted a physical inspection of the Property and the improvements located within the easement on November 10, 2009. I reviewed the definition of "scattered site" as contained in Rule 67-48.002(106), FAC (the "Rule").

4. Based on my review of the foregoing and my physical inspection of the Property, in my professional opinion, this easement creates a "scattered site" as defined in the Rule. As highlighted on the attached sketch contained in the recorded easement, the easement completely divides the Property from one boundary edge of such Property to another boundary edge of the Property. It is apparent from my inspection that improvements exist within the easement.





70095425

ORIGINAL

EX. 3406 PAGE 254

ASSUMENT

THIS INSTRUMENT, Made this 19th day of August, 1970, A. D. 1970 between RICHARD ELFVIN AND BETTY ELFVIN, his wife, Parties of the First Part, GRANTORS hereto, and FLORIDA POWER CORPORATION, a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 102 Fifth Street South, in the City of St. Petersburg, County of Pinellas and State of Florida, Party of the Second Part, GRANTEE herein.

WITNESSETH

A. WHEREAS, the GRANTORS are the owners in fee of a tract of land in the County of PINELLAS and State of Florida, described on GRANTEE'S Drawing No. A-1319-D (hereinafter referred to as "drawing") dated June 22, 1970 attached hereto, incorporated herein and by this reference made a part hereof; and

B. WHEREAS, GRANTEE is engaged in the business of manufacturing, transmitting and distributing electric energy to the public; and

C. WHEREAS, GRANTORS are constructing a trailer park to be known as PARK BOULEVARD TRAILER PARK said trailer park being located in part or wholly on that portion of land described on said drawing (said land hereinafter referred to as "PREMISES"). In connection therewith GRANTORS have requested GRANTEE to provide such facilities as are necessary to extend electric service to said PREMISES; and

D. WHEREAS, GRANTORS are constructing and installing a portion of the facilities (hereinafter referred to as "INSTALLATIONS") and GRANTEE will construct, install, operate and maintain all additional facilities (hereinafter referred to as "FACILITIES") necessary to provide electric service to the PREMISES and the general public. The type, ownership and location of said INSTALLATIONS and FACILITIES are shown on attached drawing; and

E. WHEREAS, GRANTEE is desirous of obtaining an easement covering the location, construction and maintenance of said FACILITIES and the utilization of said INSTALLATIONS, all in accordance with existing local codes and the National Electrical Safety Code.

NOW, THEREFORE, for and in consideration of the mutual benefits hereunder and all covenants and conditions contained herein, GRANTORS do hereby grant and convey to GRANTEE, for such period of time as it may require the use of the PREMISES or until the use thereof is abandoned by GRANTEE, the right, privilege and easement to (1) locate its FACILITIES on, over, across, through and under said PREMISES within the easement area shown on said drawing; (2) construct, operate, maintain, repair and remove its FACILITIES; (3) occupy and utilize said INSTALLATIONS and (4) attain ingress and egress to and upon the PREMISES for the purpose of exercising rights and privileges herein granted.

The Parties hereto agree as follows:

1. GRANTEE shall have the right to operate, inspect, alter, improve, repair, remove and rebuild its FACILITIES together with the rights and privileges necessary and convenient for the full use and enjoyment thereof.

OCT 6 11 25 AM '70

WHEELER & WHEELER  
HARDEN BOLLING, CLERK

ORIGINAL

D.P. 3406 PAGE 255

2. GRANTORS shall not utilize the areas in which the FACILITIES are located in any way or manner which would create a dangerous condition with respect to said FACILITIES or create any interference with the construction, reconstruction, removal, repair or safe operation and safe maintenance thereof without written notification to GRANTEE and submission of written plans of such utilization of the easement area and GRANTORS agree to reimburse GRANTEE for any relocation of the FACILITIES necessitated by GRANTORS' planned utilization of said easement area, and GRANTORS covenant to indemnify and hold GRANTEE harmless from any and all damages and injuries, whether to persons or property, resulting from interference by GRANTORS or their agents, from any cause whatsoever, with the FACILITIES.

3. Should GRANTEE remove or abandon the use of its FACILITIES, or fail for any reasonable period of time to exercise the rights herein granted, then in that event all rights and privileges hereunder shall cease and the easement, privilege and rights herein granted shall revert to the GRANTORS; further, in the event the tract of land owned by GRANTORS and referred to in Paragraph A, above, is no longer used as a mobile home park, then and in that event GRANTORS will so notify GRANTEE in writing and within 90 days from the receipt of such notification, GRANTEE will vacate, surrender and quit-claim the easement conveyed by this instrument to the GRANTORS or their assigns.

4. GRANTORS covenant that they have the right to convey this easement and that GRANTEE shall have quiet and peaceful possession, use and enjoyment of said easement.

All covenants, terms, provisions and conditions hereof shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, administrators, successors or assigns.

IN WITNESS WHEREOF, the GRANTORS have hereunto affixed their hands and seals, the day and year first above mentioned.

Signed, sealed and delivered  
in the presence of:

Arthur G. Halany

Richard E. Elvin (L.S.)  
Richard Elvin

C. Grant Brown

Betty Elvin (L.S.)  
Betty Elvin



ORIGINAL  
B.B. 3406 REC 256

STATE OF Florida )  
COUNTY OF Duval ) ss.

I HEREBY CERTIFY that on this 19<sup>th</sup> day of August,  
A. D. 19 70, before me the undersigned authority, personally appeared  
RICHARD ELVIN AND BETTY ELVIN, his wife,  
\_\_\_\_\_ to me known to be the person(s)  
described in and who executed the foregoing instrument and he vs acknowledged  
before me that he executed the same.

WITNESS my signature and official seal in said County and State,  
the day and year last aforesaid.

(NOTARIAL SEAL)

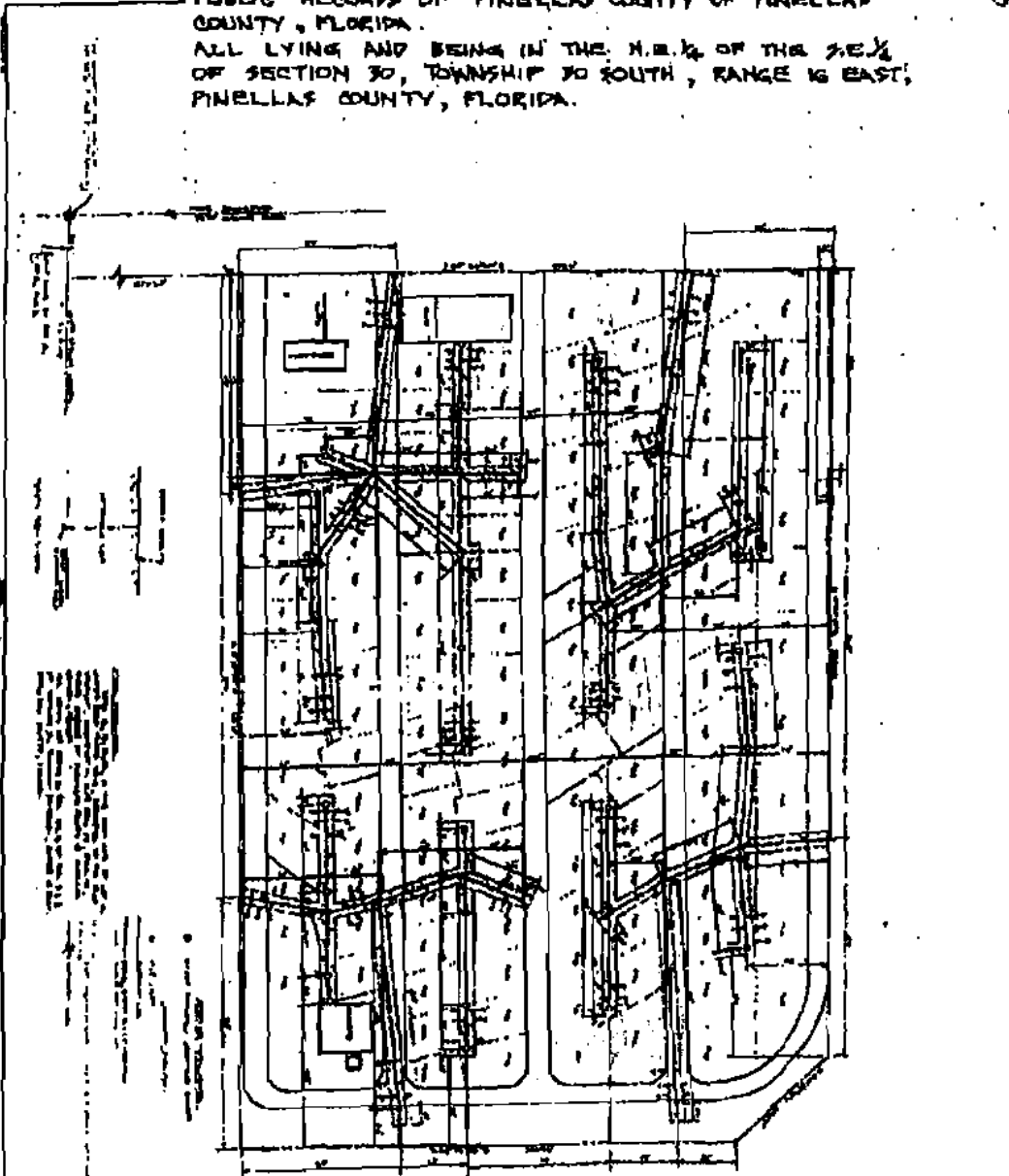
Clara J. Dennis  
Notary Public

My Commission Expires:  
Notary Public, State of Florida at Large  
My Commission Expires Jan. 19, 1972

LEGAL DESCRIPTION.

LOTS 12, 13, 14, 15, & THE WEST 8 FT. OF LOT 16,  
HAINES ROAD FARMS NO. 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 22, PAGE 77,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.

ALL LYING AND BEING IN THE N.E. 1/4 OF THE 2E 1/4  
OF SECTION 30, TOWNSHIP 30 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.



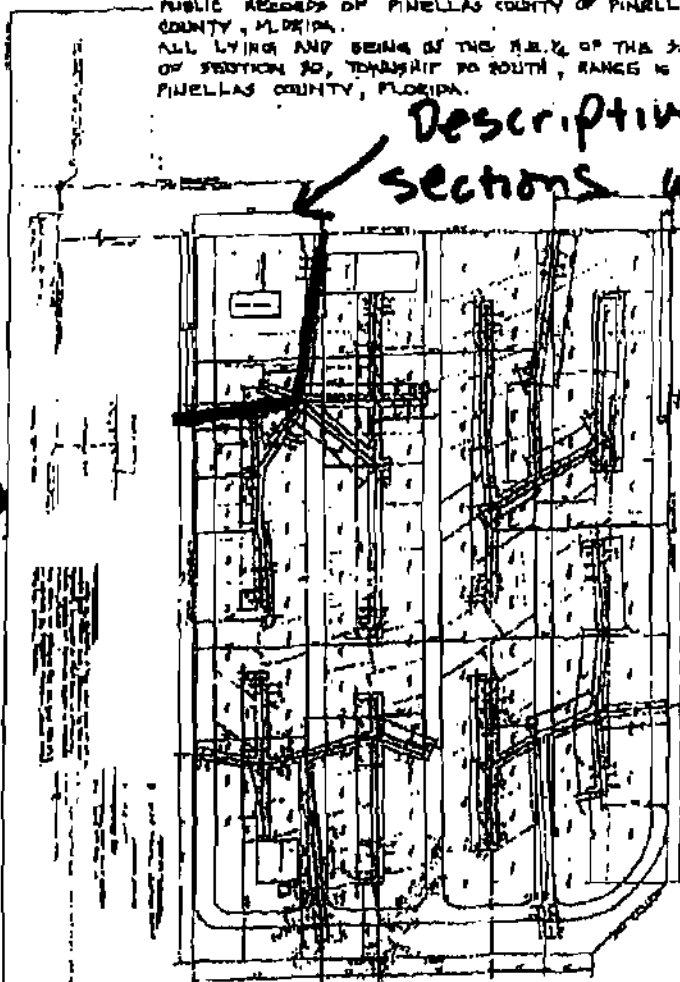
LI. 3408 NO 267

LEGAL DESCRIPTION.

LOTS 12, 13, 14, 15, & THE WEST 80% OF LOT 16,  
HAMES ROAD FARMS NO. 4, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN PLAT BOOK 62, PAGE 77,  
PUBLIC RECORDS OF PINELLAS COUNTY OF PINELLAS  
COUNTY, FLORIDA.

ALL LYING AND BEING IN THE N.E. 1/4 OF THE S.E. 1/4  
OF SECTION 30, TOWNSHIP 20 SOUTH, RANGE 16 EAST,  
PINELLAS COUNTY, FLORIDA.

Descriptive Easement  
sections which create  
a "scattered  
site."



(104) "SAIL Development" means a residential development comprised of one (1) or more residential buildings, each containing five (5) or more dwelling units and functionally related facilities, proposed to be constructed or substantially rehabilitated with SAIL funds for Eligible Persons.

(105) "SAIL Minimum Set-Aside Requirement" means the least number of set-aside units in a SAIL Development which must be held for Very Low-Income persons or households pursuant to the category (i.e., Family, Elderly, Homeless, or Farmworker and Commercial Fishing Worker) under which the Application has been made, as further described in Rule 67-48.009, F.A.C.

(106) "Scattered Sites" for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.

(107) "Section 8 Eligible" means a Family with an income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2009 Universal Application link labeled Related References and Links.

(108) "Single Room Occupancy" or "SRO" means housing, consisting of single room dwelling units, that is the primary residence of its occupant or occupants. An SRO