

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: LAKESIDE VILLAGE HOUSING, LTD., LLLP

FHFC Case No.: 2005-055VW

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

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

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2005 Universal Cycle, FHFC awarded an allocation of low-income housing credits to Petitioner and invited it into credit underwriting.
3. Rule 67-48.004(14), Florida Administrative Code, states in pertinent part:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

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

4. Rule 67-48.004(1)(a) defines the “Universal Application Package” and adopts the

Universal Application Instructions. Part II.A.2.a(1) provides in part:

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

5. Rule 67-48.004(1)(a) defines the “Universal Application Package” and adopts the

Universal Application Instructions. Part II.B.1 provides in part:

Developer or principal of Developer (Threshold)

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

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

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

7. Petitioner was tentatively awarded \$1,080,000 in annual tax credits to finance the development of Lakeside Village, a development which is to consist of 103 units.

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

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

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

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

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

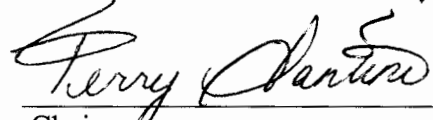
IT IS THEREFORE ORDERED:

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

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

Florida Housing Finance Corporation

By:


Chairman

Copies furnished to:

Wellington H. Meffert, II, General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Mr. Steve Auger
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Gary Cohen, Esq.
Shutts & Bowen LLP
1500 Miami Center
201 S. Biscayne Blvd.
Miami, Florida 33131

Mr. Joyous P. Gamble
211 North Ridgewood Ave., Suite 200
Daytona Beach, Fl 32114

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

NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.