

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Pebble Hill Estates Limited Partnership

Case No. 2007-039VW

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

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on September 21, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(e), F.A.C." (the "Petition"), filed by Pebble Hill Estates Limited Partnership ("Petitioner") on August 20, 2007. Notice of the Petition was published in Volume 33, Number 35, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2005 Universal Application Cycle, Florida Housing awarded an allocation of low income housing tax credits to finance Pebble Hill Estates (the "Development").

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Green /DATE: 9-21-07

3. Rule 67-48.004(14)(e), Florida Administrative Code (2005), provides in pertinent part:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline ... Any attempted changes to these items will not be accepted. Those items are as follows...

(e) Site for the Development;

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

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

5. Petitioner requests a variance to the above provision, to reduce the number of acres on which the Development is located, as the remaining land has been dedicated to the City of Marianna for a drainage easement.

6. As grounds for its request for a waiver, Petitioner states that while in the process of completing the 2007 carryover process, Florida Housing staff requested Petitioner certify that the site had not changed. Petitioner further stated that the location of the Development, on approximately 20 of the originally described 45 acres did not change. As part of the Development process however, Petitioner

deeded approximately 25 acres of the originally described 45 acres to the City of Marianna. This reduction resulted in a change to the site for the development.

7. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner provided a new Surveyor Certification form and sketches with the exact same latitude and longitude coordinate for the Tie-Breaker Measurement Point as on the original form, demonstrating that the Point had not changed. Accordingly, Petitioner received no unfair advantage over the other applicants. The deeding of the land to the City of Marianna did not impact any land use or zoning requirements. Without the waiver, the Development cannot go forward as the obligation to convey the land to the City of Marianna is a condition of the development order issued by the City. Permitting this change in Development would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The “Petition for Waiver of Rule 67-48.004(14)(e), F.A.C.” is hereby **GRANTED**, only to the extent Petitioner deeded part of the site of the Development to the City of Marianna.

DONE and ORDERED this 21st day of September, 2007.

Florida Housing Finance Corporation

By: *Lynn M. Stultz*
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.