

BEFORE THE STATE OF FLORIDA
 DIVISION OF ADMINISTRATIVE HEARINGS
 DOAH CASE Nos.: 14-1398BID
 14-1399BID
 14-1400BID
 14-1425BID
 14-1426BID
 14-1428BID

 PINNACLE RIO, LLC,
 Petitioner,

-vs-
 FLORIDA HOUSING FINANCE CORPORATION,
 Respondent,
 and
 ALLAPATTAH TRACE APARTMENTS, LTD.
 Intervenor.

 DEPOSITION OF
 MARK JOHNSON
 Taken on Behalf of the Intervenor
 DATE TAKEN: April 18, 2014
 TIME: 12:02 - 12:13 p.m.
 PLACE: 3240 Corporate Way
 Miramar, Florida 33025

Examination of the witness taken by:

CYNTHIA R. HEWLETT
 Registered Professional Reporter
 United Reporting, Inc.
 1218 Southeast 3rd Avenue
 Fort Lauderdale, Florida
 954-525-2221

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1 APPEARANCES:
 2 AUSLEY McMULLEN
 3 By: MICHAEL J. GLAZER, ESQ.,
 4 123 South Calhoun Street
 5 Tallahassee, FL 32301
 6 Appearing on behalf of the Intervenor/Allapattah Trace
 7 Apartments, Ltd.
 8
 9 TELEPHONIC APPEARANCES:
 10 CARLTON, FIELD, JORDEN, BURT, P.A.
 11 By: MICHAEL P. DONALDSON, ESQ.,
 12 215 S. Monroe Street, Suite 500
 13 Tallahassee, FL 32302
 14 Appearing on behalf of Defendant/Town Center Phase Two
 15
 16 SNIFFEN & SPELLMAN, P.A.
 17 By: MAUREEN M. DAUGHTON, ESQ.,
 18 123 North Monroe Street
 19 Tallahassee, FL 32301
 20 Appearing on behalf of Defendant/HPC5
 21
 22 FLORIDA HOUSING FINANCE CORPORATION
 23 By: HUGH R. BROWN, ESQ.,
 24 227 North Bronough Street, Suite 5000
 25 Tallahassee, FL 32301
 Appearing on behalf of Defendant/Florida Housing
 Finance Corporation
 RADEY LAW FIRM
 BY: BRITTANY ADAMS LONG, ESQ.,
 301 S. Bronough Street, Suite 200
 Tallahassee, FL 32301
 Appearing on behalf of Defendant/APC Four Forty-Four

1 Deposition of MARK JOHNSON, a witness of
 2 lawful age, taken by the Intervenor, for the purposes
 3 of discovery and for use as evidence in the
 4 above-entitled cause, pursuant to notice heretofore
 5 filed, before CYNTHIA R. HEWLETT, a Registered
 6 Professional Reporter and Notary Public, in and for
 7 the State of Florida at Large, at 3240 Corporate Way,
 8 Miramar, Florida.
 9 (A boundary survey was marked Exhibit 1,
 10 aerial color photos were marked Exhibit 2, color
 11 photos were marked Exhibit 3 and Rule
 12 67-48.002(101), Florida Administrative Code, was
 13 marked Exhibit 4 for Identification.)
 14 Thereupon:
 15 MARK JOHNSON
 16 a witness of lawful age, having been first duly sworn
 17 in the above cause, testified under oath as follows:
 18 THE WITNESS: I do.
 19 MR. GLAZER: Somebody else just join us?
 20 Hello.
 21 MS. DAUGHTON: Yeah. I don't know who you
 22 lost, Mike.
 23 MR. GLAZER: Let me do a quick roll call.
 24 Maureen, that's still you?
 25 MS. DAUGHTON: Yes.

<p style="text-align: right;">Page 5</p> <p>1 MR. GLAZER: Michael. Michael Donaldson. 2 Hugh Brown. 3 MR. BROWN: I'm here. 4 MR. GLAZER: Brittany. 5 MS. LONG: I'm here. 6 MR. GLAZER: Okay. Why don't we wait. 7 (A recess was taken, after which the 8 following proceedings were had.) 9 Thereupon: 10 MARK JOHNSON 11 a witness of lawful age, having been previously sworn 12 in the above cause, testified under oath as follows: 13 DIRECT EXAMINATION 14 Q (By Mr. Glazer) All right. Mr. Johnson, 15 would you please state your name and business address. 16 A Mark Johnson. 17 My business address is 3240 Corporate Way, 18 Miramar, Florida, 33025. 19 Q Mr. Johnson, my name is Michael Glazer. I'm 20 with the Law Firm of Ausley McMullen. I represent the 21 Richman Group of Florida and Allapattah Trace 22 Apartments. 23 By whom are you employed? 24 A Schwebke-Shiskin & Associates. 25 Q And what is the business of Schwebke-Shiskin</p>	<p style="text-align: right;">Page 7</p> <p>1 firm? 2 A I've been with Schwebke for a little over 3 ten years. 4 Q Are you familiar with the Richman Group of 5 Florida? 6 A I am. 7 Q And have you done work for them in the past? 8 A I am their client on several sites. 9 Q Okay. Could you very briefly tell us about 10 some of the kind of work that you've done for them? 11 A Surveying. And we've done some civil 12 engineering on -- on a handful of their sites, for 13 design development of those sites. 14 Q Are you familiar with the Allapattah Trace 15 Apartments project? 16 A I am. 17 Q And are you specifically familiar with the 18 proposed site for that project? 19 A I am. 20 Q And have you been to the site? 21 A I have. 22 Q And did your firm do any work on the project 23 prior to the date it was filed with Florida Housing 24 Finance Corporation on November 12, 2013? 25 A We have. We surveyed the site on behalf of</p>
<p style="text-align: right;">Page 6</p> <p>1 & Associates? 2 A We're surveyors, civil engineers and land 3 planners. 4 Q And what is your title? 5 A I'm secretary/treasurer. And I'm principal 6 at the firm. 7 Q And what is your occupation? 8 A I'm a professional land surveyor. 9 Q Could you briefly outline your education for 10 us, please. 11 A My terminal education is a bachelor of 12 science and physics from Florida State University. 13 Q All right. And do you hold any professional 14 licenses? 15 A I do. I'm licensed as a professional 16 surveyor in the State of Florida. 17 Q And for how long? 18 A I was licensed in 1990. So -- 19 Q Could you briefly outline your work history 20 for us. 21 A Various, you know, pretty broad-based 22 surveying experience, focusing substantially on 23 commercial multi-use, residential design or 24 construction development, high-rise and so forth. 25 Q And how long have you been with your current</p>	<p style="text-align: right;">Page 8</p> <p>1 the applicant. 2 Q All right. Did your firm prepare a boundary 3 survey? 4 A We did. 5 Q I have marked as our Deposition Exhibit 1 a 6 document that I provided to the other counsel that are 7 on the phone. This is the boundary survey. And can 8 you identify that for us? 9 A Yes. It's a boundary survey prepared by our 10 firm underneath my direction. 11 Q All right. And is that your name in the 12 lower left-hand corner? 13 A It is. 14 Q And what does this depict? 15 A It depicts the overall site and surrounding 16 area. 17 Q For the Allapattah Trace project? 18 A For the Allapattah Trace project. 19 Q I see that there are -- in the middle of the 20 survey there are kind of two blocks, one on the left 21 and one on the right. And then there appears to be a 22 12-foot strip of land between the left and the right 23 pieces of property. 24 Do you see that? 25 A Yeah. I mean, the left and right area of</p>

<p style="text-align: right;">Page 9</p> <p>1 the survey are part of a single block, actually. But 2 the block is bifurcated by a T-shaped private alley, 3 both east/west and north/south.</p> <p>4 Q Is the alley part of the legal description 5 of the land that comprises the site of the Allapattah 6 Trace project?</p> <p>7 A Well, the land is described by the 8 underlying platted lots, which do not include the 9 alley.</p> <p>10 Q Okay. And is that legal description 11 contained on the boundary survey, as well?</p> <p>12 A It is. To the left, just above my signature 13 block is the legal description for the site which 14 describes the platted lots.</p> <p>15 Q Do we have some pictures with us today of 16 that strip of land which is the alley?</p> <p>17 A We do.</p> <p>18 MR. GLAZER: All right. We have marked, 19 folks, as our Deposition Exhibit 2 the group of 20 pictures, the first one of which says Northwest 21 17th at the top. It is a six-page composite 22 exhibit.</p> <p>23 Q And Mr. Johnson, let me show you that, and 24 ask you if you can identify what that composite 25 exhibit is, please.</p>	<p style="text-align: right;">Page 11</p> <p>1 A Don't have it here. How about I cloud it.</p> <p>2 Q Okay. And do the other pictures -- let's 3 look back to Page 4. And tell us what Pages 4, 5 and 4 6 show.</p> <p>5 A Page 4, 5 and 6 are essentially street views 6 of the alley from the adjacent public streets.</p> <p>7 Page 4 is the view from Northwest 35th 8 Street looking south. Page 5 is the view from 9 Northwest 34th Street looking north. And Page 6 is 10 also from Northwest 34th Street looking north.</p> <p>11 Q Next I'd like to show you a composite 12 exhibit comprised of 18 pages of pictures, and ask 13 you -- and this has been marked as our deposition 14 Exhibit 3.</p> <p>15 First, let me just ask you generally, what 16 is that composite exhibit?</p> <p>17 A These are additional photos that I had taken 18 myself of the alley and surrounding areas.</p> <p>19 Q And when did you do that?</p> <p>20 A Last week.</p> <p>21 Q And do they accurately depict the items that 22 are shown in the pictures?</p> <p>23 A They do.</p> <p>24 Q Okay. I don't want you to walk us page by 25 page. But if you could generally describe what the</p>
<p style="text-align: right;">Page 10</p> <p>1 A Yeah. It's essentially an overhead aerial 2 of the project area, which shows the physical site and 3 an alley and some areas of the surrounding streets.</p> <p>4 Q And did you actually take these pictures?</p> <p>5 A I took a few of the photos that are taken at 6 street view.</p> <p>7 Actually, these are the Google photos. 8 I've taken some photos, but these particular 9 photos were sourced from Google and Bing.</p> <p>10 Q But based on your personal observation, are 11 they -- do they accurately depict the site?</p> <p>12 A Yeah. I've been to the site, and I took 13 additional photos, and the imagery that's shown here 14 is consistent with the current site condition.</p> <p>15 Q Could you generally describe to us, where is 16 this alley on these pictures?</p> <p>17 A Well, the alley runs generally behind the 18 green building. You see the green building at 34th 19 Street and 17th Avenue. And to the east of that are 20 some dozen or so parking stalls. And there's a small 21 area between those parking stalls and the green 22 building which runs north/south. That is the 23 north/south portion of the alley.</p> <p>24 Q All right. Why don't you draw a little 25 arrow on that first page to show that.</p>	<p style="text-align: right;">Page 12</p> <p>1 pictures show, making sure you reference the page 2 numbers as you're giving your general description.</p> <p>3 A Pages 1 through 5 are essentially shots 4 north -- looking north and south into the alley, the 5 north/south alley that we've been discussing.</p> <p>6 Pages 6 and 7 are shots of the adjacent 7 public street intersections at the site. These are 8 actually at the southwest corner of the site, at 34th 9 Street and 17th Avenue.</p> <p>10 Pages 8 through 10 are areas at the south 11 end of the alley where it comes into the public 12 right-of-way of Northwest 34th Street.</p> <p>13 Q Let me stop you.</p> <p>14 On Page 8 I see a gate. What -- is that -- 15 where is that?</p> <p>16 A Again, that's at the southerly terminus of 17 the alley, where it meets the public right-of-way of 18 Northwest 35th Street. And is a gate that's attached 19 to the existing building for security and to, you 20 know, close and restrict access into the alley from 21 time to time.</p> <p>22 Q And what is Page 9, by the way?</p> <p>23 A Pages 9 and 10 essentially show the grooved 24 asphalt. The gate has security pins, so they drag on 25 the asphalt. It just kind of illustrates the gate is,</p>

<p style="text-align: right;">Page 13</p> <p>1 you know, closed regularly and has, you know, impacted 2 the asphalt surface. 3 Q All right. Keep going. 4 A Pages 11 and 12 are, again, in the same 5 north/south alley segment, looking north and south, 6 just to illustrate the alley condition. 7 Pages 13 and 14 are at the junction of the 8 east/west and north/south alley portion, which is near 9 our northerly property line, and looks west -- I'm 10 sorry, excuse me -- east into the alley, showing the 11 locked gate for the east/west portion of the alley. 12 Q Looking back to the boundary survey, can you 13 describe for the record where we find that -- 14 A Yeah. That's -- 15 Q -- chunk? 16 A -- essentially at the northwest corner of 17 Lot 19. You'll see that there's a 12-foot annotation, 18 kind of midpoint in the alley. That's just above that 19 area looking to the east. 20 Photos 15 and 16 are actually at that same 21 gate area peering through to show the east/west alley 22 that's completely blocked. 23 Pages 17 and 18 are the east terminus of the 24 same east/west alley at the public road, 16th Avenue, 25 I believe it is, which show that that portion of the</p>	<p style="text-align: right;">Page 15</p> <p>1 2014? 2 A No. 3 MR. GLAZER: I don't have any further 4 questions right now. 5 Let's see if anybody on the phone does. 6 MS. DAUGHTON: This is Maureen. 7 No questions. 8 MR. GLAZER: Michael, any questions? 9 MR. DONALDSON: No, no questions. 10 MR. GLAZER: Brittany? 11 MS. LONG: No questions. 12 MR. GLAZER: Hugh? 13 MR. BROWN: No questions. 14 MR. GLAZER: All right. I think we're done. 15 Mr. Johnson, you have the right to read and 16 sign this deposition, or you may waive that 17 right. 18 THE WITNESS: I'll waive. 19 MR. GLAZER: All right. He waives. 20 And, folks, I think we're done. 21 (A discussion was held off the record, after 22 which the following proceedings were had:) 23 MR. GLAZER: I need it a week from Monday -- 24 or a week from Friday. I don't want to pay 25 expedited.</p>
<p style="text-align: right;">Page 14</p> <p>1 alley is -- is closed and locked by a private gate. 2 Q Mr. Johnson, we've marked as Deposition 3 Exhibit 4 a sheet where I have duplicated a definition 4 from Florida Administrative Code, Rule 67-48.002, it's 5 Subsection 101, the definition of scattered sites. 6 And are you familiar with that? 7 A I am. 8 Q All right. In your view, is the Allapattah 9 Trace project located on a scattered site? 10 A Not based on this definition, no. 11 Q And tell me why not. 12 A Because the streets bifurcate -- or the site 13 is bifurcated by a private alley, not a street. 14 Q And what leads you to believe it's a private 15 alley? 16 A Well, the -- the plat dedicates the streets, 17 avenues and boulevards on the face of the plat. The 18 alley is not dedicated. So as such, the alley would 19 be -- would be considered private. 20 Q Okay. 21 A And as shown in the photos, you know, the 22 alley character is obviously private, as well. 23 Q And then, finally, Mr. Johnson, do you 24 anticipate being in or within 100 miles of 25 Tallahassee, Florida, during the week of April 29,</p>	<p style="text-align: right;">Page 16</p> <p>1 AND FURTHER DEPONENT SAITH NAUGHT 2 STIPULATION ON READING AND SIGNING 3 It is hereby stipulated and agreed by and 4 between counsel present at this deposition and by the 5 deponent that the reading and signing of this 6 deposition is waived. 7 (The deposition was concluded at 12:13 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 CERTIFICATE OF OATH
2 STATE OF FLORIDA)
3)
4 COUNTY OF BROWARD)

5 I, Cynthia R. Hewlett, Registered
6 Professional Reporter, Notary Public, State of
7 Florida, certify that MARK JOHNSON, personally
8 appeared before me on the 18th day of April, 2014, and
9 was duly sworn.

10 Signed this 24th day of April, 2014.

11 Cynthia R. Hewlett
12
13 CYNTHIA R. HEWLETT, R.P.R.
14 Notary Public, State of Florida
15 Commission No.: EE O67518
16 My commission expires:
17 March 12, 2015
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER
2
3 STATE OF FLORIDA)
4)
5 COUNTY OF BROWARD)

6 I, CYNTHIA R. HEWLETT, Registered Professional
7 Reporter and Notary Public in and for the State of
8 Florida at Large, do hereby certify that I was
9 authorized to and did stenographically report the
10 deposition of MARK JOHNSON; that a review of the
11 transcript was not requested; and that the foregoing
12 transcript, pages 1 through 17, is a true record of my
13 stenographic notes.

14 I further certify that I am not a relative,
15 employee, or attorney, or counsel of any of the
16 parties, nor am I a relative or employee of any of the
17 parties' attorney or counsel connected with the
18 action, nor am I financially interested in the action.

19 Dated this 24th day of April, 2014 at Fort
20 Lauderdale, Broward County, Florida.

21 Cynthia R. Hewlett 
22 CYNTHIA R. HEWLETT, R.P.R.
23 Notary Public, State of Florida at Large
24 Commission No.: EE 067518
25 My commission expires: March 12, 2015

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