

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: MANATEE COVE, LTD.

FHFC Case No.: 2009-023VW  
Application No.: 2005-006S

**ORDER GRANTING AMENDED AND RESTATED 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 18, 2009, pursuant to a "Amended and Restated Petition for Waiver of Rule 67-48.004(14)(e), F.A.C. (2005)," (the "Amended Petition"). Florida Housing received a "Petition for Waiver of Rule 67-48.004(14)(e), F.A.C. (2005)" on July 1, 2009, from Manatee Cove, Ltd. ("Petitioner"). On July 17, 2009, Notice of the Petition was published in Volume 35, Number 28, of the Florida Administrative Weekly. On August 28, 2009, Florida Housing received the Amended Petition.<sup>1</sup>

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:

<sup>1</sup> As the amended Petition was substantially similar to the Petition and requested the same relief from the same rule, it was not necessary to file a notice in the FAW for the Amended Petition.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Della M. Jarrell / DATE: 9/18/09

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 2005 Universal Cycle, Manatee Cove, Ltd. (“Petitioner”) applied for and was awarded State Apartment Incentive Loan (“SAIL”) funds to finance the construction of Manatee Cove, a 192 unit multi-family rental apartment (the “Development”) located in Brevard County on a 14.3 acre site. Petitioner’s application number was 2005-006S.

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. 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:

(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 waiver to the above provision. Specifically, Petitioner is seeking to convey a triangular ~~shaped~~ one acre outparcel on the Development site which is not part of the Development, but was included in the larger parcel identified in the Purchase and Sale Agreement provided in Petitioner's 2005 Universal Cycle Application as proof of site control.

6. As grounds for its request for a waiver, Petitioner states that the Development is complete and is leased-up. Petitioner provided that the conveyance of the one acre has no adverse affect on the Development as it is not part of the Development and is not used by the residents and did not impact the Tie Breaker Measurement Point ("TBMP") provided in Petitioner's 2005 Universal Cycle Application. Thus, Petitioner will not obtain any advantage over the other applicants from the Universal Cycle.

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. The outparcel was neither not part of the Site for the Development, nor was it developed. Denying the request would cause Petitioner to retain acreage that is not needed, creating additional expense through property taxes and potential liability by virtue of having property outside the Development, but still owned by Petitioner. Petitioner will use the proceeds from the sale to pay

Granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

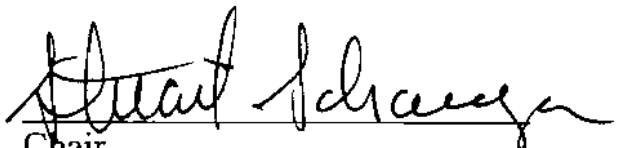
**IT IS THEREFORE ORDERED:**

The Petition for Waiver of Rule 67-48.004(14)(e), F.A.C., is hereby **GRANTED**, to allow Petitioner to change the site plan for the Development for purpose of conveying a one-acre triangular outparcel on the Development site, which is not part of the Development, but was included in the larger parcel identified in the Purchase and Sale Agreement provided in Petitioner's 2005 Universal Cycle Application as proof of site control. The proceeds from such conveyance are to be used to pay-down Petitioner's debt with the Brevard County Housing Finance Authority for the issuance of Variable Rate Demand Multifamily Housing Revenue Bonds, Series 2005 (Manatee Cove Apartment Project).

DONE and ORDERED this 18th day of September, 2009.

Florida Housing Finance Corporation



By:   
Chair

**Copies furnished to:**

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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 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.**