

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: PACES FOUNDATION, Inc.

FHFC Case No.: 2010-032 VW

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**ORDER GRANTING PETITION OF WAIVER  
OF RULES 67-48.004 AND 67-21.003 FLORIDA ADMINISTRATIVE  
CODE (2009) AND 67-48.004 PROPOSED FOR 2011.**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 18, 2011, pursuant to a "Petition for Waiver from Florida Administrative Code Rule 67-48.004 and 67-21.003, as well as, proposed Rule 67-48.004 for the 2011 cycle (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on August 18, 2010, from Paces Foundation, Inc. ("the Petitioner"). On September 3, 2010, the Notice of the Petition was published in Volume 36, 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:

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Hella M. Harrell / DATE: 18 Mar 2011

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

2. During the 2009 Universal Cycle, Paces Foundation, Inc. ("Paces"), Chastain Development Corp. ("Chastain"), Mark M. duMas, Douglas F. duMas, O.C. Adams, and Leigh C. Westraad (collectively ("Petitioners")) submitted two applications for funding to finance a development.

3. Both applications were rejected due to arrears totaling approximately \$2,000,000 regarding a development known as Edisto Lakes, located in Lee County, Florida.

4. All listed Petitioners are further prohibited from participating in future Universal Application processes until the Edisto Lakes' arrears are satisfied.

5. Rule 67-48.004(5), Fla. Admin. Code (2009) provides, in pertinent part:

The Corporation shall transmit to each Applicant the NOPSEs submitted by other applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant, *which may include financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.*

6. Rule 67-48.004(13), Fla. Admin. Code (2009) provides:

The Corporation shall reject an application if, following the submission of the additional documentation revised pages and other information s the Applicant deems appropriate as described in subsection (6) above:

7. Rule 67-48.004(13)(d), Fla. Admin. Code (2009) provides:

The Applicant fails to satisfy any arrearages described in subsection (5) above. For purposes of the SAIL and HOME Programs, this rule subsection does not include permissible deferral of SAIL or HOME interest.

8. Petitioners request a waiver of the above Rules to permit them to enter the Universal Application process for the 2011 cycle.

9. Additionally, Petitioners have requested waivers from the identical and corresponding Rules under Chapter 67-21, Florida Administrative Code.

10. Although permanent in nature, the waivers sought apply only to the arrearages owed to Florida Housing regarding Edisto Lakes.

11. The Petitioners, acting as a non-for-profit corporation, had no financial interest in Edisto Lakes except for Chastain, which was to receive a minimal financial benefit for the development in the form of an approximately \$10,000 scheduled payment from the managing general partner. Chastain is still owed money from the developer of Edisto Lakes,

Edisto Group, Ltd. and its associated partner, the Heritage Companies (“Heritage”).

12. Per the terms of their partnership agreements, Petitioners have been excluded from all financial or managerial involvement in Edisto Lakes.

13. Neither Chastain nor any of its past and present officers, nor the remaining Petitioners, possesses effective means to compel Heritage or Edisto to satisfy the arrearages owed to Florida Housing. Petitioners’ good faith efforts to persuade Heritage and Edisto to satisfy the arrearages have proven fruitless.

14. The requested change would neither affect the scoring of Petitioner’s application in the 2009 Universal Cycle, nor allow Petitioner to gain an unfair advantage over other applicants.

15. 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.

16. 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.

**IT IS THEREFORE ORDERED:**

Petitioner's request for waiver of Rules 67-21.003(5), 67-21.003(13), 67-21.003(13)(d), 67-48.004(5), 67-48.004(13), and 67-48.004(13)(d), Fla. Admin. Code (2009), is hereby **GRANTED**, to permit Petitioners to reenter future Florida Housing funding cycles without regard to only those arrearages owed to Florida Housing regarding the Edisto Lakes development.

DONE and ORDERED this 18th day of March, 2011.

Florida Housing Finance Corporation

By: 

Chairperson



Copies furnished to:

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

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

**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.**