

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

IN THE MATTER OF:

VILLA CAPRI ASSOCIATES, LTD.,  
Petitioner,

v.

FHFC CASE NO.: 2008-058UC

FLORIDA HOUSING FINANCE  
CORPORATION,  
Respondent.

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**FINAL ORDER ON REMAND**

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on April 30, 2010. After review of the record hearing argument of counsel, and being fully advised in this matter, the Board finds and orders as follows:

The issue in this case is whether Florida Housing properly evaluated and scored Petitioner’s application, more specifically, whether Florida Housing correctly found that Villa Capri failed to adequately provide verification that electric infrastructure was available to the project site on or before the application deadline, as required by Florida Housing’s rules.

This matter is considered pursuant to the opinion and mandate of the First District Court of Appeal (the “Court”), in Villa Capri Associates, Ltd., v. Florida

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Della M Farrell* / DATE: 5/4/2010

Housing Finance Corporation, 23 So.3d 795 (Fla. 1<sup>st</sup> DCA 2009). The District Court of Appeal specifically held that by failing to publish the Final Order in Eclipse West Associates, Ltd. v. Florida Housing Finance Corporation, FHFC Case No. 2006-078RRLP (March 13, 2007) on the Florida Housing website in the same location as all its other final orders, Florida Housing had deprived Villa Capri of the use of that case in its argument in the hearing below. To remedy this error, the Court provided, “Accordingly, we remand for Florida Housing to submit the instant case to a hearing officer to conduct a hearing to assess the applicability of Eclipse to this case.” Villa Capri Associates Ltd., 23 So. 3d at 798.

Pursuant to the remand and after notice, an informal hearing was held in this matter before Hearing Officer Diane D. Tremor on February 23, 2010, in Tallahassee, Florida. On March 23, 2010, the Hearing Officer filed a Recommended Order, a copy of which is attached as Exhibit “A.”

### **Written Argument**

On March 26, 2010, Villa Capri filed its “Written Argument,” in response to the Recommended Order, arguing that the Hearing Officer erred in her conclusion that the cases were factually distinguishable due to the difference in “triggering events,” in the two cases. A copy of the Written Argument is attached as exhibit “B.” Villa Capri, having previously argued on appeal that the cases were “almost identical,” argued that the cases are “identical factually and legally,” because both

cases involved, at some point, a letter that failed to verify that electric service was available on or before the application deadline.

In Eclipse, Florida Housing's scoring error—accepting the NOPSE's contention, based on a mapping program not approved by rule for that purpose, began a series of events that culminated in Florida Housing admitting its error and correcting same by placing the Eclipse Applicant in the same position as before the error; as though its cure had never been filed. In Villa Capri, the Applicant created an inconsistency when its electric service verification letter bore an address in a different city from every other part of its application. The letter offered as a cure for that issue created yet another problem—that while the address issue was resolved, the letter failed to demonstrate that electric service was available to the project site on or before the application deadline.

Villa Capri's Written Argument is rejected.

### **Findings of Fact**

1. Florida Housing adopts the Findings of Fact contained in the Recommended Order dated March 23, 2010, and incorporates those Findings of Fact as though fully set forth in this Order.

### **Conclusions of Law**

1. Florida Housing adopts the Conclusions of Law contained in the Recommended Order dated September 8, 2008, and incorporates those Conclusions of Law as though fully set forth in this Order.

2. Florida Housing's decision in Eclipse West Associates, Ltd. v. Florida Housing Finance Corporation, FHFC Case No. 2006-078RRLP (Final Order March 13, 2007) does not affect or change the recommendation previously filed in this case on September 8, 2009, for the reasons stated in the Recommended Order.

### **ORDER**

In accordance with the foregoing, it is hereby **ORDERED**:

1. The findings of fact of the Recommended Order dated March 23, 2010, are adopted as Florida Housing's findings of fact and incorporated by reference as though fully set forth in this Order.

2. The conclusions of law of the Recommended Order dated March 23, 2010, are adopted as Florida Housing's conclusions of law and incorporated by reference as though fully set forth in this Order.

3. Villa Capri's Written Argument in opposition to the Recommended Order is rejected.

IT IS HEREBY ORDERED that:

Villa Capri's Petition is hereby DISMISSED.

DONE and ORDERED this 30<sup>th</sup> day of April, 2010.



FLORIDA HOUSING FINANCE ORPORATION

By:   
Chair

Copies to:

Wellington H. Meffert II  
General Counsel  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Kevin Tatreau  
Director of Multifamily Development Programs  
Florida Housing Finance Corporation  
337 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

Michael P. Donaldson, Esquire  
Carlton & Fields, P.A.  
215 South Monroe, Street, Suite 500  
Tallahassee, Florida 32301