

BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

BONITA COVE, LLC, as Applicant for
Bonita Cove - Application No. 2009-
077CH,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FHFC File No. 2010-0080C

Application No. 2009-121CH

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STATE OF FLORIDA
DEPARTMENT OF
HOUSING & COMMUNITY
AFFAIRS

**PETITION REQUESTING INFORMAL ADMINISTRATIVE PROCEEDING
AND THE GRANT OF THE RELIEF REQUESTED**

Pursuant to §§120.569 and 120.57(2), Florida Statutes ("FS"), Rule 67-48.005, Florida Administrative Code ("F.A.C.") and Rule 28-106.301, F.A.C., Petitioner BONITA COVE, LLC, as Applicant for Bonita Cove, LLC - Application No. 2009-077CH ("Petitioner") requests an informal administrative proceeding to challenge the scoring by Respondent, FLORIDA HOUSING FINANCE CORPORATION ("FHFC") of the following competing application for funding in the 2009 Universal Cycle: Mayfair Village Apartments, Application No. 2009-121CH ("Applicant"). The scoring issue being challenged is whether Applicant's development constitutes a "Scattered Site" development as that term is defined in Rule 67-48.002(106), F.A.C. FHFC incorrectly determined that Applicant's development site did not constitute a "Scattered Site." That determination resulted in FHFC improperly denying Petitioner its requested federal tax credit (and HOME) funding. In support of this Petition, Petitioner states as follows:

PARTIES

1. The name and address of the agency affected by this action are:

Florida Housing Finance Corporation
City Center Building, Suite 5000
227 N. Bronough Street
Tallahassee, Florida 32301-1329

2. The address and telephone number of the Petitioner is:

Bonita Cove, LLC
c/o Biscayne Housing Group, LLC
150 S.E. 2nd Avenue, Suite 1302
Miami, FL 33131
Telephone: (305) 372-5765

3. The name, address, telephone number, fax number and e-mail address of the Petitioner's attorney, which shall be the Petitioner's address for service purposes during the course of this proceeding, is:

Gary J. Cohen, Esq.
Shutts & Bowen, LLP
201 S. Biscayne Blvd., Ste. 1500
Miami, Florida 33131
Telephone No. (305) 347-7308
Fax: (305) 347-7808
Email: gcohen@shutts.com

STATEMENT OF WHEN AND HOW THE PETITIONER RECEIVED NOTICE OF THE AGENCY DECISION

4. On or about March 1, 2010, Petitioner received formal notice from FHFC of its final ranking and score, along with notice of its rights under Chapter 120 to challenge them. This Petition is timely filed in response to that notice.

STATEMENT OF MATERIAL FACTS

5. There are no disputed issues of material fact. However, it is important to set out the factual background and legal framework for this challenge at the outset.

The Low-Income Housing Tax Credit Program

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code (“IRC”), by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder’s federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

7. The tax credits allocated annually to each state are awarded by state “housing credit agencies” to single-purpose applicant entities created by real estate developers to construct and operate specific multi-family housing projects. The applicant entity then sells this ten-year stream of tax credits, typically to a “syndicator,” with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at below-market-rate rents that are affordable to low-income and very-low-income tenants.

8. Pursuant to section 420.5099, Florida Statutes, FHFC is the designated “housing credit agency” for the State of Florida and administers Florida’s low-income housing tax credit program. Through this program, FHFC allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing.¹

¹ FHFC is a public corporation created by law in section 420.504, Florida Statutes, to provide and promote the financing of affordable housing and related facilities in Florida. FHFC is an “agency” as defined in section 120.52(1), Florida Statutes, and is therefore subject to the provisions of Chapter 120, Florida Statutes.

The 2009 Universal Application Cycle

9. Because FHFC's available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, FHFC has established a competitive application process pursuant to Chapter 67-48, F.A.C. As set forth in Rules 67-48.002-.005, F.A.C., FHFC's application process for 2009 consisted of the following:

(a) the publication and adoption by rule of a "Universal Application Package," which applicants use to apply for a variety of FHFC-administered funding programs, including federal tax credits;

(b) the completion and submission of applications by developers;

(c) FHFC's preliminary scoring of applications;

(d) an initial round of administrative challenges in which an applicant may take issue with FHFC's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");

(e) FHFC's consideration of the NOPSE's submitted, with notice to applicants of any resulting change in their scores;

(f) an opportunity for the applicant to submit additional materials to FHFC to "cure" any items for which the applicant received less than the maximum score;

(g) a second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");

(h) FHFC's consideration of the NOAD's submitted, with notice to applicants of any resulting change in their scores;

(i) an opportunity for an applicant to challenge, via informal or formal administrative proceedings, FHFC's evaluation of any item in their own application for which the applicant received less than the maximum score;

(j) final scores, ranking, and allocation of tax credit funding to applicants, adopted through final orders; and

(k) an opportunity for applicants to challenge, via informal or formal administrative proceedings, FHFC's final scoring and ranking of competing applications where such scoring and ranking resulted in a denial of FHFC funding to the challenger.²

CONCISE STATEMENT OF THE ULTIMATE FACTS WARRANTING RELIEF

10. On or about August 20, 2009, numerous applications were submitted to FHFC seeking tax credit and HOME funding. Petitioner applied for \$1,572,513.00 in annual tax credits and a \$4,000,000.00 HOME loan to help finance the development of its project, a 60-unit apartment complex in Miami, Florida with units set aside for the homeless.

11. At its February 26, 2010 meeting, FHFC's Board adopted final scores and rankings. Petitioner's project met all of FHFC's threshold application requirements, received the maximum application scores of 70 points, the maximum proximity tie-breaker score of 7.5 points, and the maximum ability to proceed tie-breaker score of 6 points. Petitioner's application competed for tax credits in the Large County Geographic Set-Aside, and also competed with other applicants which selected the Homeless population as their demographic commitment.^{3 4}

² This Petition initiates such a challenge. Notably, if successful in such a challenge, FHFC funding is not taken away from the competing applicant who was scored or ranked in error and given to the challenger. Instead, the competing applicant keeps its funding, and the challenger receives its requested funding "off-the-top" from the next available source of such funds allocated to FHFC. Rule 67-48.005(7), F.A.C.

³ Aside from applicants proposing projects targeted to specific tenant populations (e.g., the Homeless) or located in specific areas (e.g., the Florida Keys), applicants generally compete

As between competing applicants with “perfect” scores, the ultimate tie-breaker (subject to the Set-Aside Unit Limitation rules described below) is that the applicant with the lower lottery number (arbitrarily assigned to each applicant by FHFC) prevails.

12. Petitioner would have received its requested tax credit (and HOME) funding but for FHFC’s erroneous scoring of the Applicant, by virtue of the fact that the top two ranked applicants selecting the Homeless demographic category are funded pursuant to the 2009 Universal Application Instructions (Page 92 of such Universal Application Instructions). Petitioner was the third ranked applicant in the Homeless demographic category, and Applicant was the top ranked Applicant in the Homeless competition by virtue of its perfect score and lower (than Petitioner’s) lottery number.

13. If FHFC had not improperly scored Applicant’s application, Petitioner would have received its requested tax credit (and HOME) funding. Petitioner’s substantial interests are therefore materially and adversely affected by FHFC’s improper action, and Petitioner has standing to challenge that action in this proceeding.

14. FHFC should have found that Applicant’s development site consisted of “Scattered Sites”, as defined in Rule 67-48.002(106), F.A.C. Such finding would have resulted in Applicant receiving less than the maximum “ability to proceed” tiebreaker points, since “cures” to the “ability to proceed” elements (forms verifying site plan approval, availability of infrastructure and proper zoning) would have been necessitated by a finding of “scattered sites” (to reflect the address of each “scattered site” on the forms for the “ability to proceed” elements,

against each other for funding within Geographic Set-Asides (Large, Medium, and Small) based upon the population of the county in which their project is located.

⁴ In an effort to distribute its available tax credits across the state, FHFC uses a Set-Aside Unit Limitation (“SAUL”) that restricts the number of units it will fund in any given county. Thus, an application ranked higher than applications in other counties may nonetheless be skipped over for funding if the SAUL for its county has been met under FHFC’s rules.

as required by the Application Instructions; see Question 31 of 2009 Universal Application Q & A) and such “cures” could not receive perfect “ability to proceed” tie-breaker points. See pages 29-30 of the Universal Application Instructions. Receiving less than the maximum “ability to proceed” tiebreaker points would have resulted in Applicant falling out of the funding range for tax credits, as its scoring would have been less than perfect. As a result, Petitioner would have been within the funding range for tax credits.

Chronology of the Case

15. Applicant answered “No” to the question in Part III.A.2.b. (“Will the Development consist of Scattered Sites?”) of its Universal Application.

16. Applicant’s application was then subject to a NOPSE challenge, asserting that the development proposed by Applicant in fact consisted of “Scattered Sites”. In the Scoring Summary Report issued on or about October 23, 2009 by FHFC for Applicant, FHFC determined that the development site proposed by Applicant met the definition of “Scattered Sites”.

17. On or about November 3, 2009, Applicant submitted “cure” documentation asserting that its development did not consist of “Scattered Sites”. Applicant had no choice in making this argument in order to ultimately be eligible for tax credit funding, since had Applicant admitted the development consisted of “Scattered Sites” and cured its application accordingly, it would have received less than the full amount of “ability to proceed” tiebreaker points and would have fallen out of the funding range. Applicant in its “cure” documentation asserted that (a) the road alleged to divide its development site into “Scattered Sites” had in fact been abandoned and was not a public street and as such should have been disregarded, and (b) the road in question did not physically extend to the edge of the property and, as such, did not fully divide the development site into “Scattered Sites”.

18. On or about November 12, 2009, various competitors in the Universal Cycle filed NOAD's against the cure documentation filed by Applicant. Such NOAD's (a) contended that in connection with the abandonment of the road in question, the City of Jacksonville reserved a perpetual easement which completely divides the property, and (b) provided a surveyor affidavit and sketch indicating that the easement in question did in fact divide the property.

19. On or about December 3, 2009, FHFC issued final scores and notices of rights. With respect to the final Scoring Summary Report issued to Applicant, FHFC found that Applicant's development site had met the definition of "Scattered Sites", stating that "...documentation and an affidavit from a licensed surveyor provided by a NOAD demonstrates that although the road was vacated and abandoned as a public road by Ordinance No. 95-1032-593, the ordinance provided that there is hereby reserved unto the City of Jacksonville a perpetual, unobstructed easement for all public utilities... over, under, through and across the property ...". Thus, even though the road was vacated, the development site nevertheless remains divided by the easement reserved over that same property by the City. Because it is divided by an easement, the site meets the definition of Scattered Sites."

20. On or about December 28, 2009, counsel for Applicant filed a Petition for Review ("Petition") of its final Scoring Summary Report (as permitted under Rule 67-48.005).

21. On or about January 15, 2010, FHFC entered into a Consent Agreement with Applicant, determining in relevant part that "Florida Housing determined that the utility easement did not divide the Mayfair Development site within the meaning of the "Scattered Sites" definition of Rule 67-48.002(106)."

22. At the February 26, 2010 FHFC Board meeting, the Consent Agreement was submitted to and approved by the FHFC Board, at which time the FHFC Board approved final

rankings for the 2009 Universal Cycle. As a result of its adoption of the foregoing Consent Agreement, Applicant fell within the funding range for tax credits, and Petitioner (as a direct result of the Board's actions in approving such Consent Agreement) fell outside the funding range.

23. Since FHFC conceded the aforementioned case and no hearing was conducted, the rationale for FHFC's conclusion that the development site proposed by Applicant did not consist of "Scattered Sites" is unclear. The statement in the Consent Agreement ("Florida Housing determined that the utility easement did not divide the Mayfair Development site within the meaning of the "Scattered Sites" definition of Rule 67.48.002(106)") provides no real guidance. It is important to note, however, that (a) the Petition did not introduce any new evidence not considered during the scoring process, and (b) the Applicant did not contend in its Petition that the easement in question did not extend across the subject property from one end to another so as to completely bisect the property. In the Petition, Applicant included affidavits from a surveyor, a representative of the Jacksonville Electric Authority, and a local government official each stating their opinion that the easement in question did not divide the property; however, none of these affidavits stated that the easement in question did not extend from one edge of the property to the other. Rather, the affidavits expressed the opinion of each affiant (and not a factual statement) that such easement did not "divide" the property. Therefore, one must surmise that FHFC determined that (a) a utility easement does not and cannot "divide" a development site within the meaning of the "Scattered Site" definition, and/or (b) the intent of Rule 67-48.002(106), F.A.C. was that only physically apparent or visually evident easements could "divide" a property so as to create a "Scattered Site".

24. It is clear that FHFC did not reach its decision in the Consent Agreement by determining that the easement in question did not extend from one edge of the property to the other so as to bisect such development site. The only conclusion which can be reached from FHFC's statement in the Consent Agreement is that a utility or other access agreement can never "divide" a site within the meaning of Rule 67-48.002(106). This decision was incorrect and not supported by law or FHFC's prior relevant scoring determinations.

"Scattered Site" Definition

25. Rule 67-48.002(106), F.C.A. provides as follows: "'Scattered Sites' for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development (emphasis added)."

26. The sole issue in this case is whether a utility easement can "divide" a development site so as to create a "Scattered Site" development. Based on a plain reading of the Rule in question, it is clear that the development in question is a "Scattered Site" development per Rule 67-48.002(106), F.A.C. Conclusive evidence has been provided in the NOAD's that the easement in question extends from one end of the property to another so as to divide such property. *See Exhibit "A"*. Since such easement completely bisects the property so as to divide one portion of the property from the remainder of the property, by the Rule definition the development site of Applicant consists of "Scattered Sites". Absent any further guidance from FHFC (either by way of published guidance or prior scoring decisions), a common sense reading of the Rule requires a finding that Applicant's development site consists of "Scattered Sites".

Administrative Stare Decisis

27. Prior FHFC precedent does exist that demonstrates that FHFC has consistently ruled, in the past, that utility easements do divide a development site so as to create “Scattered Sites.” The decisions creating administrative stare decisis on this issue are the FHFC scoring decisions in Mangonia Villas, Application No. 2008-079BS and Emerald Palms, Application No. 2008-112C.

28. The Mangonia Villas and Emerald Palms scoring decisions of FHFC, which were affirmed by the FHFC Board, constitute binding precedent here. Not only were these decisions final agency actions in those disputes, they have an effect on the issue to be decided here by virtue of administrative stare decisis. FHFC was required to, but in its consideration of the Applicant’s appeal failed to, consider the precedential effect of its own prior decisions before making subsequent decisions on the same issue. Plante v. Department of Business and Professional Regulation, 716 So.2d 790 (Fla. 4th DCA 1998) (prior agency decisions are administrative stare decisis).

29. Rather than deal with this precedent, the Applicant contended, in connection with the prior FHFC decisions, that FHFC had never previously ruled on this matter. That position was clearly factually incorrect. Not only had FHFC taken a position on this issue, but FHFC’s previous decisions had created administrative stare decisis on this issue. FHFC is and was required to follow the precedent its own prior decisions created going forward. Applicant did not advance any principled basis for FHFC to depart from the administrative stare decisis of its previously announced scoring position on this matter, and no such basis exists.

30. Once FHFC interpreted its rule, if it desired to change its position, it should have done so by amending the Rule, rather than simply diverging from its established interpretation in a subsequent decision. As Applicant correctly noted in its Petition, FHFC cannot simply

“change its mind” about interpretation of its rules. See Cleveland Clinic v. Agency for Health Care Administration, 679 So. 2d 1237, 1241 (Fla. 1st DCA 1996), wherein the Court explained:

Without question, an agency must follow its own rules, ... but if the rule, as it plainly reads, should prove impractical in operation, the rule can be amended pursuant to established rule making procedures. However, “absent such amendment, experience cannot be permitted to dictate its terms.” That is, while an administrative agency “is not necessarily bound by its initial construction of the statute evidenced by the adoption of a rule,” the agency may implement its changed interpretation only by “validly adopting subsequent rule changes”. The statutory framework under which administrative agencies must operate in this state provides adequate mechanisms for the adoption or amendment of rules.

679 So. 2d at 1242 (emphasis supplied), quoting Boca Raton Artificial Kidney Center v. Department of Health and Rehabilitative Services, 493 So. 2d 1055, 1057 (Fla. 1st DCA 1986), and Department of Administration, Division of Retirement v. Albanese, 445 So. 2d 639, 642 (Fla. 1st DCA 1984); see also Brookwood-Walton Convalescent Center v. Agency for Health Care Administration, 845 So. 2d 223, 229 (Fla. 1st DCA 2003) (“The agency failed to explain why its policy had changed abruptly when applied to Appellants, despite the lack of any intervening change in the applicable provisions. AHCA’s unexplained, inconsistent policies are contrary to establish administrative principles and sound public policy.”).

31. Thus, to be consistent with its prior interpretations of its “Scattered Site” rule, FHFC must find here that the presence of a utility easement which completely bisects a site causes a development to consist of “Scattered Sites”, because the FHFC scoring decisions in Mangonia Villas, Application No. 2008-079BS and Emerald Palms, Application No. 2008-112C have established binding precedent on that point.

32. In Mangonia Villas, a NOPSE was filed alleging that the development site was divided by an easement and roadway that had been dedicated to the public. The plat (provided as part of the NOPSE) clearly demonstrated that the road by itself did not divide the property, but

rather ended approximately 50 feet from the edge of the property. However, from the end of the road to the edge of the property existed a drainage easement which resulted in a complete “division” of Lots 1 through 4 from the remaining lots (Lots 5 through 12) of the development site. The scoring summary issued by FHFC in response to the NOPSE stated that “... it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites ...” (emphasis added). *See Exhibit “B”*.

33. The drainage easement in Mangonia Villas was a utility easement, and was not physically apparent and did not otherwise physically divide the property. *See Exhibit “C”*. Notwithstanding the absence of any “physically apparent” evidence of such easement, FHFC determined such utility easement (in combination with the roadway) “divided” the property, as such term is used in the definition of “Scattered Site”. The applicant in question admitted that the development consisted of “Scattered Sites”, by virtue of submitting cure documentation revising its application to reflect that it was a “Scattered Site” development.

34. In Emerald Palms, Application No. 2008-112C, two NOPSE’s were filed against the application in question. One NOPSE alleged that the site was divided by a road, and the other NOPSE alleged that the site was divided by a Florida Power & Light utility easement; each NOPSE claimed that the property consisted of “Scattered Sites”. Neither of the NOPSE’s alleged that a combination of the two (road and easement) created the “Scattered Sites”. In the scoring summary issued after review of the NOPSE’s, FHFC determined that “... it appears that the Development site is divided by an easement and roadway and thus meets the definition of “Scattered Sites”.” *See Exhibit “D”*. Clearly, FHFC did not determine the development site to consist of “Scattered Sites” solely by virtue of the existence of the road; FHFC found that the site was divided “by an easement and roadway”. In the Emerald Palms case, the applicant submitted

“cure” documentation admitting that it was a “Scattered Site” development, but also indicating that the road in question had been vacated and was no longer a public road which divided the property (i.e., admitting it was a “Scattered Site” development by virtue of the FP&L easement only). *See Exhibit “E”*.

35. In response to such “cure documentation”, a NOAD was filed against Emerald Palms alleging that the applicant had incorrectly characterized the development as “Scattered Site”; that is, that since the road no longer divided the site (due to its abandonment), the site was no longer a “Scattered Site”, because the FPL easement (which FHFC had previously determined divided the property as set forth in the Scoring Summary) could not create a “Scattered Site”. As was the case in Mangonia Villas, the easement in question in Emerald Palms was a utility easement, and was not physically apparent and did not otherwise physically divide the property. *See Exhibit “F”*. FHFC, in its final scoring summary, disregarded this NOAD and found that the applicant had correctly characterized its development as a “Scattered Site” development, notwithstanding the vacation and abandonment of the roads in question. *See Exhibit “G”*. Clearly, FHFC determined that the Emerald Palms site was a “Scattered Site” development notwithstanding the fact that the road had been abandoned; that is, the development was “Scattered Site” by virtue of the FPL easement only.

36. The definition of “Scattered Sites” and the disclosure requirements resulting therefrom (that the address of each “scattered site” be included on all forms requiring the location of the development) has not changed since the 2008 Universal Cycle, under which the Mangonia Villas and Emerald Palms scoring decisions were reached. It is important to note that FHFC considered revising the definition of “Scattered Sites” after the 2008 Universal Cycle (in which Mangonia Villas and Emerald Palms were decided) but decided not to do so. *See Exhibit*

“H”. As noted above, in each instance the easements in question were not “physically apparent”; they were merely utility easements in the nature of access easements and FHFC determined (in each case) that such utility easements did in fact divide the property and create a “Scattered Site”.

37. Each of the above-described scoring decisions by FHFC constitute “final agency action”, by virtue of adoption by the FHFC Board of the final scoring summaries as final scores. As a result, each decision bears the same weight and precedential value as a final order adopting a recommended order from a hearing officer.

38. In light of the evidence provided by NOPSE’s and NOAD’s against the Applicant and FHFC’s final scoring decisions (prior to the submission of the Petition by the Applicant) that the development site in question was a “Scattered Site”, one can only surmise that one or more arguments made in the Petition was determinative in persuading FHFC to change course and concede that the development in question did not consist of “Scattered Sites”. Petitioner hereby refutes each of the contentions contained in the relevant provisions of the Petition as follows.

39. Applicant alleges that treating a development site as “Scattered Sites” solely because of the presence of a utility easement is unprecedented prior to the 2009 Universal Cycle and contrary to FHFC’s long-standing interpretation of Rule 67-48.002(106), and that a comprehensive review of the submissions and scoring decisions from the 2006, 2007 and 2008 Universal Cycles shows that no development site was deemed to be “Scattered Sites” based on the presence of one or more utility easements extending across the property (see Paragraph 7(b) of the Petition filed by Applicant). As demonstrated above by reference to the Mangonia Villas and Emerald Palms cases, this is patently false. In both Mangonia Villas and Emerald Palms,

FHFC found that a utility easement created the necessary division of property to create a “Scattered Site” development.

40. In its Petition, Applicant completely disregards FHFC’s directly on point decision in Mangonia Villas, and mischaracterizes FHFC’s scoring decision in Emerald Palms. Petitioner’s characterization of FHFC’s determination in Emerald Palms that the site was a “scattered site” solely by virtue of such site’s division by a road is clearly erroneous; as discussed above, the road in question was abandoned (a fact conveniently ignored by Applicant in its Petition) so that the only way FHFC could have continued to find “Scattered Sites” was by virtue of the utility easement on the site.

41. Applicant’s reference to the Black’s Law Dictionary definition of “easement” to mean an “apparent easement” or a “visually evident easement, such as a paved trail or a sidewalk” is irrelevant. If it were FHFC’s position that access or utility easements (as opposed to “apparent easements”) do not divide a property so as to create a “Scattered Site”, FHFC is free to amend the foregoing Rule definition to say so. FHFC specifically considered amending the subject Rule prior to the 2009 Universal Cycle and declined to do so. *See Exhibit “H”*. Applicant’s attempted interpretation is without merit in light of FHFC’s published scoring decisions in Mangonia Villas and Emerald Palms, wherein FHFC determined that utility easements did in fact create “Scattered Sites”.

42. If this interpretation were accepted, Applicant’s site would still consist of “scattered sites”, since the easement in question was both “apparent” and “physically evident”, since the vacated/abandoned paved road overlies the easement in question and renders it “apparent” and “evident”. *See Exhibit “I”*.

43. Applicant's reference to procedures available under Florida law to have easements relocated is not germane to the instant issue. The test is whether an easement divides the property as of the application deadline; subsequent relocation of such an easement is irrelevant.

44. Applicant's purported knowledge of FHFC's "intent" or state of mind in originally adopting the "Scattered Site" concept contained in Rule 67-48.002(106) is unsupported by evidence of any sort, and should be disregarded. Applicant's argument that "dramatic and deleterious public policy consequences" will result (particularly to existing public housing projects) by FHFC "... changing its interpretation of the word 'easements' to stretch beyond apparent easements ..." is nonsense; all that is required of developments involving existing public housing projects which are submitting applications for FHFC financing is that such applicants correctly fill out the forms in question to reflect their "Scattered Site" status, if in fact such developments even meet the definition of "Scattered Sites". It is not difficult for an applicant to ascertain whether their development site is divided by an easement. All that is required is to order a title search and have any easements reviewed by a surveyor to determine whether they divide the site in question.

45. Applicant asserts (in Section 7.1 of its Petition) that the utility easement issue was not timely raised and therefore cannot be considered by FHFC. This argument is at best disingenuous; the issue of whether or not a "Scattered Site" development exists was raised at both the NOPSE and NOAD stage of the scoring process. Applicant "created" the "utility easement issue" by virtue of its "cure" documentation, indicating that the road in question had been abandoned and (with some investigation by Petitioner) leading to the result that the road

had been replaced by an easement. As such, the utility easement issue is fairly considered at this time.

46. In summary, the legal issue is simple and straight forward; can a utility easement divide a property so as to create a “Scattered Site” within the meaning of Rule 67-48.002(106), F.A.C.? FHFC has previously determined that a utility easement can divide a property so as to create a “Scattered Site.”

STATEMENT OF THE SPECIFIC RULES AND STATUTES WARRANTING RELIEF

47. The scoring issue being challenged is whether Applicant’s development constitutes a “Scattered Site” development as that term is defined in Rule 67-48.002(106), F.A.C. FHFC incorrectly determined that Applicant’s development site did not constitute a “Scattered Site.”

48. That determination resulted in FHFC improperly denying Petitioner its requested federal tax credit and HOME funding.

49. By rule, FHFC has sought to limit the types of scoring errors that an applicant may challenge via Chapter 120 proceedings. FHFC’s rule in this regard, Rule 67-48.005(5)(b), states as follows:

For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant’s control. The contested issue cannot be one that was both curable and within the Applicant’s sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-48.004(6).

50. The mistake by Applicant in failing to categorize its development as consisting of “Scattered Sites” was curable. However, as part of such cure, Applicant would have had to have

cure and re-submit each of the forms (site plan approval, infrastructure availability and zoning forms) which are awarded “ability to proceed” tiebreaker points, and such cure would have resulted in less than a perfect score in the “ability to proceed” tiebreaker. See pages 29-30 of the Universal Application Instructions. Thus, such cure would have resulted in Applicant falling outside of the funding range. Therefore, it would have been impossible for Applicant to “cure” the defect of mischaracterizing its Development as other than “Scattered Site” and remain in the funding range.

RELIEF SOUGHT BY PETITIONER

51. The specific action which Petitioner seeks is a determination that Applicant should have been characterized as undertaking a “Scattered Site” development, and as a result of such mischaracterization (assuming that Applicant cured its Application satisfactorily to reflect a “Scattered Site” development) Applicant would have fallen outside of the funding range by virtue of receiving less than maximum “ability to proceed” tiebreaker points. Petitioner further requests FHFC to determine that, but for the error by FHFC in determining that Applicant had not undertaken a “Scattered Site” development, Petitioner’s application would have been allocated tax credits (and HOME funds) in the 2009 Universal Cycle. Finally, Petitioner requests FHFC to provide the tax credit (and HOME) allocation requested in its 2009 Universal Cycle application and to declare Petitioner eligible for funding under FHFC’S Request for Proposals 2010-04 (Section One, third paragraph therein).

WHEREFORE, Petitioner requests the following:


- (a) FHFC award Petitioner its requested tax credits (and HOME funds) from either currently available allocation and funds or next available allocation and funds;
- (b) FHFC conduct an informal hearing on the matters presented in this Petition;

(c) FHFC's designated hearing officer enter a recommended order directing FHFC to award Petitioner its requested tax credits (and HOME funds);

(d) FHFC enter a final order awarding Petitioner its requested tax credits (and HOME funds) and declaring Petitioner eligible for funding under RFP 2010-04; and

(e) Petitioner be granted such other and further relief as may be deemed just and proper.

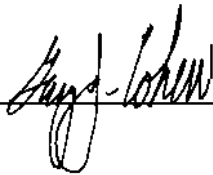
Respectfully submitted on this 17th day of March, 2010.

By: 
GARY A. COHEN, ESQ.
Florida Bar No. 353302
Shutts & Bowen LLP
201 S. Biscayne Boulevard
1500 Miami Center
Miami, Florida 33131
(305) 347-7308 (telephone)
(305) 347-7808 (facsimile)

Attorney for Petitioners

CERTIFICATE OR SERVICE

I HEREBY CERTIFY that the original and a true and correct copy of the foregoing document were served via Federal Express to the **CORPORATION CLERK**, Florida Housing Finance Corporation, 227 N. Bronough Street, City Center Building, Suite 5000, Tallahassee, Florida, 32301-1329, on this 19th day of March, 2010.



Attorney

BONITA COVE, LLC v. FHFC
APPLICATION NO. 2009-121C

EXHIBIT "A"

Brief Statement of Explanation regarding
Application 2009 – 121-CH

Provide a separate brief statement for each NOAD

Part III, Section A, Subsection 2.b

In response to item 7T, the Applicant submitted evidence to show that the site should not be considered a scattered site and therefore cures a number of Threshold failures.

The definition of scattered sites according to the FHFC Charter 67-48.002(106) is as follows:

"a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development."

The definition clearly states that to be considered scattered sites, the sites must be in the same county, and either section (i) OR section (ii) AND section (iii) must apply.

The Applicant submitted as part of their cure proof that the site is contiguous and is not divided by a street. Even if this is the case, the definition still leaves open the possibility that the site could be considered "scattered" if (ii) an easement divides the site AND (iii) the divided parts are part of a common or related scheme of development.

Attached herein is a copy of Ordinance 95-1032-593 showing the closing and abandonment of Mayfair Village Road as indicated in the Applicant's cure as certified by the Surveyor. If the Applicant had submitted a copy of this Ordinance, it would have been apparent that included in that Ordinance is an easement reservation which was not addressed by the Surveyor in his Declaration. According to the legal description attached to the Ordinance, this easement encompasses the same 50 foot right of way as Mavport Village Road. Although the pavement of the road ends just before the property line as indicated by the Applicant, the legal description of the easement continues to the back property line, thereby dividing the property into two parts. This meets part (ii) of the definition of "scattered sites". Furthermore, "it is readily apparent from the proximity of the divided parts of the real property....that the divided parts of the real property are part of a common or related scheme of development," thus meeting part (iii) of the definition. In summary, because parts (ii) and (iii) of the definition of "scattered sites" have been met, the property itself meets the definition of scattered sites. Therefore, the Applicant failed to correctly answer the question at Part III, A. 2.b of the application and does meet Threshold.

1 Introduced by the Council President at the request of the Mayor.

2 Book 8233 Pg 1647

3 ORDINANCE 95-1032- 593

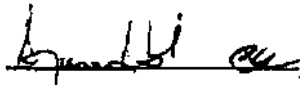
4
5 AN ORDINANCE CLOSING AND ABANDONING A PORTION
6 OF MAYFAIR VILLAGE ROAD AND PALM STREET AS
7 DESCRIBED HEREIN, SUBJECT TO EASEMENT
8 RESERVATION; PROVIDING AN EFFECTIVE DATE.

9
10 BE IT ORDAINED by the Council of the City of Jacksonville:

11 Section 1. The portion of Mayfair Village Road and Palm Street as described in
12 Exhibit A, attached hereto and made a part hereof, is hereby closed, vacated and abandoned as
13 a public road, street, alley, right-of-way or thoroughfare, provided however, that there is hereby
14 reserved unto the City of Jacksonville a perpetual, unobstructed easement for all public utilities,
15 as defined in Section 177.031(7)(b), Florida Statutes (1989), over, under, through and across
16 the property described in Exhibit A.

17 Section 2. This ordinance shall become effective upon signature by the Mayor and
18 or upon becoming effective without the Mayor's signature.

19 Form Approved:

20
21 

22 Assistant General Council

23 (SSH:j:10/04/95)

24
25
26 (mayfair.ca)

BOOK 8233
PAGE 1647
DATE 12/07/95
FILED & RECORDED
12:13:13 P.M.
HENRY H. ECK
CLERK CIRCUIT COURT
DUVAL COUNTY, FL
REC. \$ 15.00

RETURN TO:
REAL ESTATE DIVISION
9.00W 2209, CITY HALL

PREPARED BY: Jack Floyd
AS AGENT FOR CITY OF JACKSONVILLE

LEGAL DESCRIPTION

All of that portion of Mayfair Village Road (a 50 foot right of way) as shown on the plat of Mayfair Village recorded in Plat Book 21, page 56 of the current public records of Duval County, Florida, together with all of that portion of Palm Street (as the same is shown on the plat of St. Nicholas, Schumacher and Kelden Subdivision recorded in Plat Book 1, page 21 of the former public records of Duval County, Florida), lying between the southeasterly prolongation of the easterly right of way line of Marlton Avenue (as closed by Ordinance 80-238) and the southerly prolongation of the West boundary line of Lot 5, Block 1, Mayfair Place, according to the plat thereof recorded in Plat Book 17, page 29 of the current public records of Duval County, Florida, however, reserving unto the City of Jacksonville a summative, perpetual, unobstructed easement over, under, upon and across the above described lands for the purpose of erecting, installing and maintaining any and all public utilities, as defined in Section 177.031(7)(b) Florida Statutes (1989).

APPROVED
CITY ENGINEERS OFFICE
TOPG/SURVEY BRANCH
[Signature] 11/14/06

EXHIBIT "A"

ORDINANCE 95-1032-593

CERTIFICATE OF AUTHENTICATION

ENACTED BY THE COUNCIL

November 14, 1995

[Signature]
LUCK TRAVIE
COUNCIL PRESIDENT

ATTEST:

[Signature]
REVERLY S. WOMEN, CMC
SECRETARY TO THE COUNCIL

APPROVED: NOV 21 1995
[Signature]
JOHN DELANEY, MAYOR



CERTIFICATE

I HEREBY CERTIFY that the above and foregoing are a

true and correct copy of Ordinance 95-1032-593 enacted by the Council of the City of Jacksonville, Florida, and a true and correct copy of a Certificate of Authentication relating thereto, which Ordinance became law at the time and in the manner set forth in the Certificate of Authentication and effective at the time set forth in said Ordinance.

WITNESS MY HAND and the Seal of the City of Jacksonville, Florida, this 14th day of November, 1995.



ATTEST:
[Signature]
REVERLY S. WOMEN
SECRETARY OF THE COUNCIL

**Brief Statement of Explanation regarding
Application No. 2009-121CH**

In an attempt to Cure the Mayfair Village Apartments Application (2009-121CH), the Applicant submitted a document entitled "Declaration of Frank W. Jones, Jr". Page 2, Section 7 of that document reads as follows:

"Based upon my thorough examination of the Mayfair Village site and the documents described in paragraph 5, I hereby affirm that Mayfair Village Road is not a public street. The City of Jacksonville has abandoned its rights to Mayfair Village Road as a public street and ceded it to the private owners of the Mayfair Village site. Mayfair Village Road is thus privately owned and maintained, effectively constituting the "driveway" into the Mayfair Village site."

The Applicant did not provide any documentation from the City of Jacksonville to verify that Mayfair Village Road is no longer a public street.

Attached as Exhibit A is a copy of Ordinance 95-1032-593 from the City of Jacksonville entitled *"An Ordinance Closing and Abandoning a Portion of Mayfair Village Road and Palm Street as Described Herein. Subject to Easement Reservation; Providing an Effective Date"*

The Applicant is correct in saying that Mayfair Village Road has been closed. The Ordinance closes the portion of Mayfair Village Road which divides the Applicant's site into two tracts. However, the Ordinance also reserves a "perpetual, unobstructed easement for all public utilities...over, under, through and across the property described in Exhibit A". The Legal Description attached to the Ordinance further describes the easement as "All of that portion of Mayfair Village Road (a 50 foot right of way) as shown on the plat of Mayfair Village recorded in Plat Book 21, page 56 of the current public records of Duval County Florida..."

The Applicant also submitted in their Cure an unsigned, hand-drawn sketch depicting Mayfair Village Road physically ending inside the boundary of the site, photos of the site, and in the Declaration of Frank W. Jones, Jr., he stated that "the pavement of Mayfair Village road physically ends inside the eastern boundary of the Mayfair Village site. The property on both

sides of Mayfair Village Road remains physically connected inside the Mayfair Village site via a piece of land bounded by the end of the pavement on Mayfair Village Road and the eastern boundary of the Mayfair Village site.”

According to the Florida Housing Finance Corporation Charter 67-48, Part 67-48.002(106), a scattered site is one in which “... (ii) any part of which is divided by a street or easement...” If an easement legally divides the property, it does not matter what physically exists on top of it.

Attached as Exhibit B is an affidavit from Charles E. Rossi, P.L.S. confirming the location of the easement described in the City Ordinance and evidencing that the City’s easement fully and completely bisects the Applicant’s site into two divided tracts of land.

It is clear by the documentation presented that the Applicant’s site meets the definition of a Scattered Site. As a result, the Applicant has not properly cured the following items noted in the NOPSE Scoring Summary Report: 2S, 11S, 7T, 9T – 18T, 1A – 6A, and 1P – 6P. Therefore, the Applicant should fail threshold.

We respectfully submit that based upon the above facts, Application 2009-121CH must be rejected. In event this NOAD is not upheld by you, we reserve the right to cross-appeal this application in any Department of Administration Hearing or other appropriate legal forum.

1 Introduced by the Council President at the request of the Mayor:

2 Book 8233 Pg 1647

3 DROINANCE 95-1032- 593

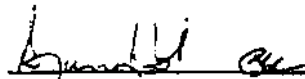
4
5 AN ORDINANCE CLOSING AND ABANDONING A PORTION
6 OF MAYFAIR VILLAGE ROAD AND PALM STREET AS
7 DESCRIBED HEREIN. SUBJECT TO BASEMENT
8 RESERVATION; PROVIDING AN EFFECTIVE DATE.

9
10 BE IT ORDAINED by the Council of the City of Jacksonville:

11 Section 1. That portion of Mayfair Village Road and Palm Street as describe in
12 Exhibit A, attached hereto and made a part hereof, is hereby closed, vacated and abandoned as
13 a public road, street, alley, right-of-way or thoroughfare, provided however, that there is hereby
14 reserved unto the City of Jacksonville a perpetual, unobstructed easement for all public utilities,
15 as defined in Section 177.031(7)(b), Florida Statutes (1989), over, under, through and across
16 the property described in Exhibit A.

17 Section 2. This ordinance shall become effective upon signature by the Mayor and
18 or upon becoming effective without the Mayor's signature.

19 Form Approved:

20
21 

22 Assistant General Counsel

23 (SSE:jt:10/04/95)

24
25
26 (mayfair.ca)

bk: 8233
pg: 1647 - 1649
Doc# 95E42876
Filed & Recorded
12/07/95
01:35:13 P.M.
HENRY W. COOK
CLERK, CIRCUIT COURT
DUVAL COUNTY, FL
REC. # 13.00

RETURN TO:
REAL ESTATE DIVISION
ROOM 203, CITY HALL

PREPARED BY Jack Floyd
AS AGENT FOR CITY OF JACKSONVILLE

LEGAL DESCRIPTION

All of that portion of Mayfair Village Road (a 50 foot right of way) as shown on the plat of Mayfair Village recorded in Plat Book 21, page 16 of the current public records of Duval County, Florida, together with all of that portion of Palm Street (as the same is shown on the plat of St. Nicholas, Schumacher and Hadden Subdivision recorded in Plat Book 1, page 21 of the former public records of Duval County, Florida), lying between the southwesterly prolongation of the Easterly right of way line of Marlton Avenue (as closed by Ordinance 20-198) and the southerly prolongation of the west boundary line of Lot 5, Block 1, Mayfair Place, according to the plat thereof recorded in Plat Book 17, page 29 of the current public records of Duval County, Florida, however, reserving unto the City of Jacksonville a consecutive, perpetual, unobstructed easement over, under, upon and across the above described lands for the purpose of erecting, installing and maintaining any and all public utilities, as defined in Section 177.031(7)(b) Florida Statutes (1993).

APPROVED
CITY ENGINEERS OFFICE
TOPO/SURVEY BRANCH
[Signature] 10/4/95

EXHIBIT "A"

ORDINANCE 95-1032-592

CERTIFICATE OF AUTHENTICATION

ENACTED BY THE COUNCIL

November 14, 1995

[Signature]
DICK TRAVITZ
COUNCIL PRESIDENT

ATTEST:

[Signature]
BEVERLY S. BOMEN, CMC
SECRETARY TO THE COUNCIL

NOV 21 1995

APPROVED: *[Signature]*
JOHN DELANEY, MAYOR



CERTIFICATE

I HEREBY CERTIFY that the above and foregoing are a

true and correct copy of Ordinance *[illegible]* enacted by the Council of the City of Jacksonville, Florida, and a true and correct copy of a Certificate of Authentication relating thereto, which Ordinance became law at the time and in the manner set forth in the Certificate of Authentication and effective at the time set forth in said Ordinance.

WITNESS MY HAND and the Seal of the City of Jacksonville, Florida, this *[illegible]* day of *[illegible]*, 19*[illegible]*.



ATTEST:
[Signature]
BEVERLY S. BOMEN
SECRETARY OF THE COUNCIL

SURVEYOR'S AFFIDAVIT

Exhibit B

STATE OF FLORIDA


} ss

COUNTY OF BROWARD

BEFORE ME, the undersigned authority, personally appeared Charles E. Rossi, P.L.S. (the "Affiant") who, first being duly sworn on oath, deposes and says:

1. That the Affiant is a duly registered Professional Surveyor and Mapper, licensed under the Laws of the State of Florida, bearing registration number LS 4798;
2. That the Affiant is currently a Professional Surveyor and Mapper at Sun-Tech Engineering, Inc., a firm duly licensed to provide Surveying and Mapping Services in the State of Florida, bearing Certificate of Authorization number LB 7019, whose office is located at 1800 West Oakland Park Boulevard, Fort Lauderdale, Florida;
3. That the Affiant has reviewed the record Plat entitled "MAYFAIR VILLAGE" as recorded in Plat Book 21, page 56 of the Public Records of Duval County, Florida;
4. That the Affiant has reviewed that certain document, being Ordinance 95-1032-583 entitled "AN ORDINANCE CLOSING AND ABANDONING A PORTION OF MAYFAIR VILLAGE ROAD AND PALM STREET AS DESCRIBED HEREIN, SUBJECT TO EASEMENT RESERVATION; PROVIDING AN EFFECTIVE DATE", as recorded in Official Records Book 8233, page 1847 of the Public Records of Duval County, Florida;
5. That in regard to Mayfair Village Road (only) and with reference to the aforementioned Ordinance 95-1032-583, we find that the easement reserved unto the City of Jacksonville for the purposes of erecting, installing and maintaining any and all public utilities as described therein lies over, under, upon and across the entirety of Mayfair Village Road as depicted on the aforementioned record Plat;
6. That the Affiant has caused to be prepared a Sketch depicting the extent of said easement which is attached hereto as Exhibit "A";
7. That the easement over and across Mayfair Village Road as depicted in Exhibit "A" and described in the aforementioned Ordinance 95-1032-583 is without gaps, gores or overlaps, and runs continuously from the southerly extent to the easterly extent of the aforementioned Record Plat;
8. That in observance of the aforementioned Record Plat, the area shown as Mayfair Village Road lies between and entirely separates Tracts "A" and "B", and that Tracts "A" and "B" are separate and share no coincident or common boundary.
9. That the Affiant further states that he is familiar with the nature of an oath, and with the penalties as provided by the laws of the State of Florida for falsely swearing to statements made in an instrument of this nature.

FURTHER AFFIANT SAYETH NAUGHT

By: 
 Charles E. Rossi, P.L.S.
 Professional Surveyor and Mapper
 Florida Registration No. 4798

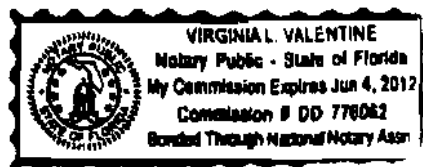
STATE OF FLORIDA

} ss

COUNTY OF BROWARD

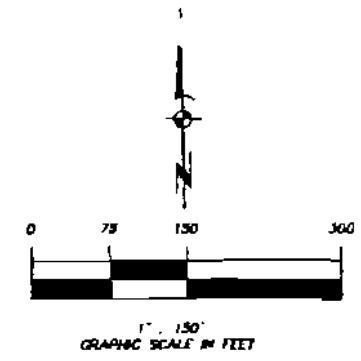
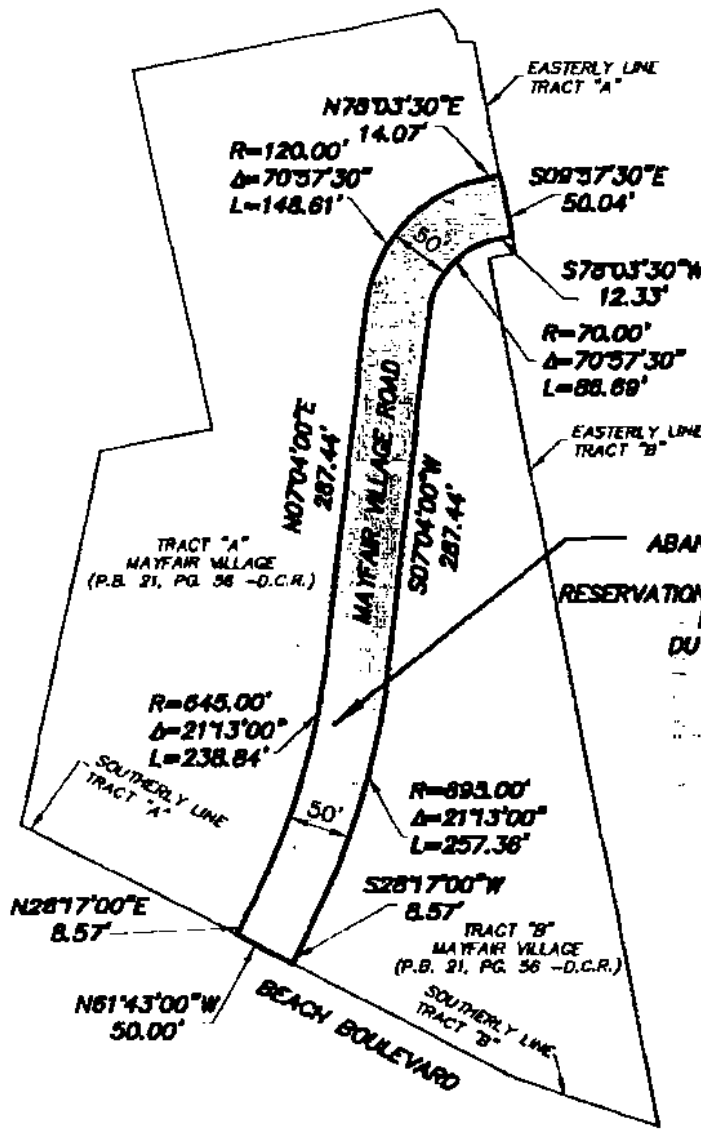
The foregoing instrument was sworn and subscribed to before me this 9th day of November, 2009, by Charles E. Rossi, P.L.S., who is personally known to me and did not take an oath.

By: 
 Virginia L. Valentine
 Notary Public for the State of Florida



NOTES

1. Measurements shown hereon are expressed in feet and decimal parts thereof.
2. Sun-Tech Engineering, Inc. reserves the right to utilize any and all information obtained in the preparation of this Survey, including this Sketch for any other purposes.
3. Some features shown hereon may be drawn "out of scale" for the purposes of clarity. Written dimensions take precedence over scaled measurements.
4. Sources of information used in the preparation of this Sketch are as follows:
 - A. Plat of MAYFAIR VILLAGE, recorded in Plat Book 21, Page 56 of the Public Records of Duval County, Florida.
 - B. Official Record Book 8233, Page 1647, Public Records of Duval County, Florida.
5. The purpose of this sketch is to depict the area that is the subject of the attached Surveyor's Affidavit and is provided as an aid in its depiction. This sketch is not a survey. Uses inconsistent with its intended purpose are prohibited.
6. Bearings shown hereon are based on the record plat entitled MAYFAIR VILLAGE.



SUBJECT PROPERTY
ABANDONED MAYFAIR VILLAGE ROAD
AND
RESERVATION OF CITY OF JACKSONVILLE EASEMENT
PER O.R.B. 8233, PG. 1647,
DUVAL COUNTY PUBLIC RECORDS

KEY TO ABBREVIATIONS

O.R.B.	OFFICIAL RECORDS BOOK
D.C.R.	DUVAL COUNTY RECORDS
P.B.	PLAT BOOK
PG.	PAGE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
RAW	RIGHT OF WAY
R	RADIUS
Δ	CENTRAL ANGLE
L	ARC LENGTH
P.L.S.	PROFESSIONAL SURVEYOR AND MAPPER
CHK.	CHECK
LB	LICENSED BUSINESS
NO.	NUMBER



Sun-Tech Engineering, Inc.
 Engineering - Surveying - Planning
 Certificate of Authorization Number LB 7018

1600 West Oakland Park Boulevard Phone (954) 777-3123
 Ft. Lauderdale, FL 33311 Fax (954) 777-3114

EXHIBIT "A"
 TO SURVEYOR'S AFFIDAVIT

3302sk.dwg
 J.E.B. No.
09-3302

EXHIBIT "B"

Michael G. Maida, P.A.

Attorney at Law

Post Office Box 12093, 32317-2093
1709 Hermitage Blvd., Suite 201
Tallahassee, FL 32308
www.maidalawpa.com

Michael G. Maida
Civil Circuit Mediator

TELEPHONE (850)423-8124
TELECOPIER (850)681-0879

May 15, 2008

Debra Dozier Blinderman, Deputy Development Officer
Florida Housing Finance Corporation
227 N. Bronough Street Suite 5000
Tallahassee, FL 32301

RE: Notice of Possible Scoring Error
Applicant: Lakeshore Phase II, Ltd.
Application Number: 2008-079BS
Application Name: Mangonia Villas

Dear Ms. Blinderman:

Pursuant to Rule 67-48.004(4), Gardens at Driftwood, Ltd. (Application Number 2008-176BS) submits the following Notice of Possible Scoring Error and provides the following Brief Statement of Explanation regarding the deficiencies contained in the Application submitted by Lakeshore Phase II, Ltd., Application Number 2008-079BS:

PART III: Development
Section A: General Development Information
Subsection 2: Location of Development Site

As a Threshold item, an applicant is required to properly identify the location of the Development Site. Within its application, the Applicant identified the address of the Development Site as "5555 Lake Shore Drive, Mangonia Park, Florida 33407." (See attached Exhibit "A"). The address listed by the Applicant is incorrect and therefore the Application must be rejected as a result of having failed threshold. The incorrect address is also disclosed on Exhibits 26, 28, 29, 30, 31, 32, 47, 48, 49 and 50.

Pursuant to Rule 67-48.002(2), F.A.C.,

'Address' means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If address has not yet been assigned, include, at a

minimum, street name and closest designated intersection, city, state and zip code (emphasis added).

The correct city for this location is West Palm Beach and not Mangonia Park. As evidenced in Exhibit B attached, the official United States Postal Service (USPS) website states that "Mangonia Park" is "Not Acceptable" for use in zip code 33407. In fact, when entering the Applicant's address, the official USPS website corrects the misstated address to "5555 Lakeshore Dr West Palm Beach FL 33407". (See attached Exhibit B.)

The street name identified by the Applicant, "Lake Shore Drive," is also incorrect. Although the United States Postal Service recognizes Lake Shore Drive as a street in West Palm Beach, this street is in a totally different zip code - 33403. (See attached composite Exhibit "C").

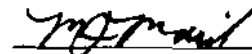
Given the multiple deficiencies in the address listed by the Applicant, the "address" is invalid and the application must be rejected as it has failed to achieve threshold.

PART III: Development
Section A: General Development Information
Subsection 2(b): Scattered Sites

Part III of the Application requires the Applicant to disclose whether or not the Development will consist of "Scattered Sites." Pursuant to Section 67-48.002 (98) F.A.C., scattered sites means "a Development consisting of real property in the same county . . . any part of which is divided by a street or easement ('divided parts')."

Within its Application, the Applicant stated that the Development would not consist of scattered sites. However, a review of the plat where the Development is located reveals that it is a scattered site. The Applicant's Purchase and Sale Agreement identifies the Development parcel as "Lots 1-through 12, inclusive, Plat of Oxford Village, according to the map or plat thereof as recorded in Plat Book 36, Page 176 Public Records of Palm Beach County, Florida" (See attached Exhibit D). The attached Plat of Oxford Village identifies the same parcel (See Exhibit E). The Plat conclusively demonstrates that that the Development site is divided by an easement and roadway that has been dedicated to the public. In light of the foregoing, the Applicant should have disclosed that the Development consisted of Scattered Sites. As a result of its failure to do so, the Application must be rejected as a result of failing to achieve threshold.

Attached to this petition is an executed Notice of Possible Scoring Error Request for Review form.



Michael G. Maida,
Michael G. Maida, P.A.
Florida Bar No. 0435945
Attorney for Petitioner
Gardens at Driftwood, Ltd.

b. Provide the Service Provider's or principal of Service Provider's Prior Experience Chart behind a tab labeled "Exhibit 18".

8. Guarantor(s) Information (MMRB Applicants only):

Provide the Guarantor Information Chart behind a tab labeled "Exhibit 19".

Part III. Proposed Development

A. General Development Information

1. Name of Development:

Mangonia Villas

2. Location of Development Site:

a. Address of Development Site:

Street: 5555 Lake Shore Drive

City: Mangonia Park

State: FL

Zip Code: 33407

b. Will the Development consist of Scattered Sites?

Yes No

If "Yes", for each of the sites, provide the Address, total number of units, and a latitude and longitude coordinate behind a tab labeled "Exhibit 20".

c. Does the location of the proposed Development qualify as an Urban In-Fill Development, as defined in Rule Chapters 67-21 and 67-48, F.A.C.?

Yes No

If "Yes", to qualify as an Urban In-Fill Development for purposes of this Application, provide a properly completed and executed Local Government Verification of Qualification as Urban In-Fill Development form behind a tab labeled "Exhibit 21".

d. Is the proposed Development being revitalized utilizing HOPE VI funding?

Yes No

If "Yes", to qualify as a Hope VI Development for purposes of this Application, provide the required documentation behind a tab labeled "Exhibit 21".

e. County:

Palm Beach - Large (E)

All Applicants must answer "Yes" or "No" to question (1) below. All HOME Applicants must also answer question (2) below.

(1) Is proposed Development located in the Florida Keys Area?

Yes No

(2) HOME Applications Only -

Will the proposed HOME Development be located in either Alachua County or Leon County?

Yes No

If "Yes", complete either (a) or (b) below, as applicable:

(a) Alachua County Developments - Is the Development located within Alachua County, but outside the boundaries of incorporated Gainesville?

Yes No

If "Yes", provide the required letter from Alachua County behind a tab labeled "Exhibit 22".

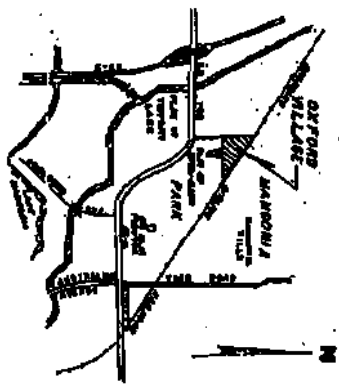
(b) Leon County Developments - Is the Development located within Leon County but outside the boundaries of incorporated Tallahassee?

Yes No



PLAT OF OXFORD VILLAGE

IN SECTION 5, TOWNSHIP 45 SOUTH, RANGE 45 EAST
PALM BEACH COUNTY, FLORIDA
MANONIA PARK



176

EXHIBIT

THE STATE OF FLORIDA, COUNTY OF PALM BEACH, BEING THE PLACE WHEREIN SAID PLAT OF OXFORD VILLAGE IS TO BE MADE, I, THE CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT SAID PLAT HAS BEEN FILED FOR RECORD IN THE OFFICE OF THE CLERK OF SAID COUNTY, AND THAT SAID PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE, AT PALM BEACH, FLORIDA, THIS 15th DAY OF MARCH, 1944.

W. J. [Signature]

THE STATE OF FLORIDA, COUNTY OF PALM BEACH, BEING THE PLACE WHEREIN SAID PLAT OF OXFORD VILLAGE IS TO BE MADE, I, THE CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT SAID PLAT HAS BEEN FILED FOR RECORD IN THE OFFICE OF THE CLERK OF SAID COUNTY, AND THAT SAID PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE, AT PALM BEACH, FLORIDA, THIS 15th DAY OF MARCH, 1944.

W. J. [Signature]

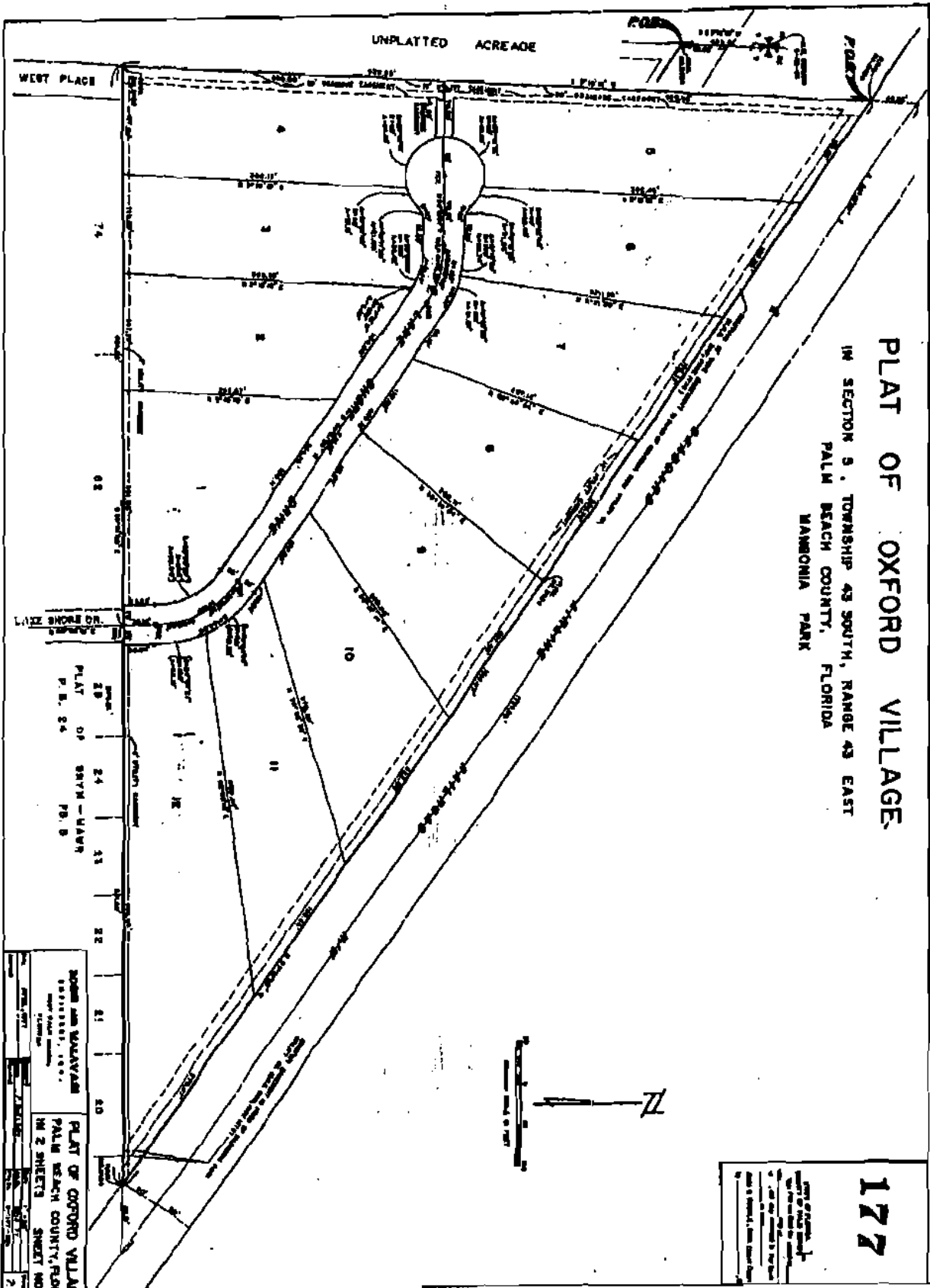
THE STATE OF FLORIDA, COUNTY OF PALM BEACH, BEING THE PLACE WHEREIN SAID PLAT OF OXFORD VILLAGE IS TO BE MADE, I, THE CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT SAID PLAT HAS BEEN FILED FOR RECORD IN THE OFFICE OF THE CLERK OF SAID COUNTY, AND THAT SAID PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE, AT PALM BEACH, FLORIDA, THIS 15th DAY OF MARCH, 1944.

W. J. [Signature]



RECORDED AND INDEXED
PLAT OF OXFORD VILLAGE
PALM BEACH COUNTY, FLORIDA
SHEET NO. 1



PLAT OF OXFORD VILLAGE
 IN SECTION 9, TOWNSHIP 43 SOUTH, RANGE 43 EAST
 PALM BEACH COUNTY, FLORIDA
 MANOMIA PARK

PLAT OF 8874 - 1/4 AC
 P.B. 24

8874 - 1/4 AC
 PLAT OF OXFORD VILLAGE
 PALM BEACH COUNTY, FLA
 IN 2 SHEETS SHEET NO. 2

177

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-07908

Development Name: Mangonia Villas

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
09 - 24 - 2008	66	Y	0
Preliminary	60	N	0
NOPSE	60	N	0
Final	66	Y	0
Final-Ranking	66	Y	0

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	9	9	9
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	12
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	9
4B	III	B	3	Green Building	5	5	5	5	5
Set-Aside Commitments									
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	3	3
6S	III	E	3.	Affordability Period	5	5	5	5	5
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	8	0	0	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	8	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	0	0	6	6
8S	III	F	4.	Programs for All Applicants	8	8	8	8	8
Local Government Support									
9S	IV		A.	Contributions	5	5	5	5	5
10S	IV		B.	Incentives	4	4	4	4	4

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-07983

Development Name: Mangonia Villas

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Revised as Result
7S	The Applicant did not qualify for the Elderly Demographic and is therefore ineligible to select Qualified Resident Programs for Elderly Developments.	Preliminary	Final

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Revised as Result of
1T	III	D	1.	Demographic Commitment	The Applicant selected the Elderly demographic but failed to provide a market analysis that demonstrates a local need for low-income Elderly housing.	Preliminary	Final
2T	V	A	3.	Designation	The Applicant failed to qualify for the Elderly Demographic and is therefore ineligible to select the Elderly Designation.	Preliminary	Final
3T	III	C	2.	Site Control	The Purchase and Sale Contract provided does not reflect the Applicant as the buyer and no assignment was provided.	Preliminary	Final
4T	III	C	2.	Site Control	Neither the Purchase and Sale Contract nor the amendments thereto reflect a closing date that does not expire before October 31, 2008.	Preliminary	Final
5T	III	C	5.	Environmental Site Assessment	The Applicant failed to provide the required Verification of Environmental Safety - Phase I Environmental Site Assessment form and, if applicable, the Verification of Environmental Safety - Phase II Environmental Site Assessment form.	Preliminary	Final
6T	III	C	2.	Site Control	Both Amendment No. 2 and Amendment No. 3 to the Purchase and Sale Contract refer to an Amendment No. 1 dated April 11, 2006, but Amendment No. 1 was not provided.	Preliminary	Final
7T	V	D		Equity Commitment	The Applicant provided an equity commitment reflecting an anticipated Housing Credit allocation amount of \$8,441,798 over a 10 year period. However, because the Applicant only applied for an annual allocation of \$844,179 or \$8,441,790 over a 10 year period, the equity commitment was not considered a firm source of financing.	NOPSE	Final
8T	V	B		Construction Financing Shortfall	The Applicant has a construction financing shortfall of \$3,493,483.	NOPSE	Final
9T	V	B		Permanent Financing Shortfall	The Applicant has a permanent financing shortfall of \$3,493,483.	NOPSE	Final
10T	III	C	2.	Site Control	Paragraph 9(c) of the Purchase and Sale Agreement states "It is further understood and agreed by Seller and Purchaser that Purchaser's development of the premises shall be for only residential dwelling units for sale to third party owners." This provision is inconsistent with the multifamily Development proposed in this Application.	NOPSE	Final
11T	III	A	2.b.	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see 2008 MMRB § 7-45.002(98), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application and failed to provide the	NOPSE	Final

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2005-07986

Development Name: Mangonia Villas

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
					required information for each site.		
12T	III	B	2.	Optional Features and Amenities	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 87-48.002(98), F.A.C.). The Applicant failed to answer the question at Part III.B.2. of the Application relative to Scattered Sites.	NOPSE	Final

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	0	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	0	0	0	0
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
8P	III	A	10.b.	Proximity to Development on PHFC Development Proximity List	3.75	0	0	0	0

Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:

Item #	Reason(s)	Created As Result of	Rescinded as Result of
1P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
1P	The Applicant did not provide the required sketch.	Preliminary	Final
1P	In an attempt to cure Item 1P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor Certification form is not on the parcel with the greatest number of units.	Final	
3P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
3P	The Applicant did not provide the required sketch.	Preliminary	Final
3P	Per page 17 of the 2008 Universal Application Instructions, Applicants that select the Elderly Demographic Commitment at Part III.D, but fail to qualify for the Elderly Demographic Commitment will only be eligible for the proximity points that the Development would qualify for as a non-Elderly Development. As a non-Elderly Development, the Applicant is not qualified to choose Medical Facility and has therefore received zero points for this service.	Preliminary	Final
3P	In an attempt to cure Item 3P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor	Final	

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File #: 2008-07985

Development Name: Mangonia Villas

Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:

Item #	Reason(s)	Created As Result of	Rescinded as Result of
3P	Certification form is not on the parcel with the greatest number of units.		
5P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
5P	In an attempt to cure Item 5P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor Certification form is not on the parcel with the greatest number of units.	Final	
6P	The Applicant did not submit the Surveyor Certification form.	Preliminary	Final
6P	In an attempt to cure Item 6P, the Applicant provided sketches of its service and a Surveyor Certification form indicating that the site consists of Scattered Sites; however, the cure is deficient. When a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located on the site with the most units. Information provided by the Applicant as a cure to Item 11T indicates that the Tie-Breaker Measurement Point submitted on the Surveyor Certification form is not on the parcel with the greatest number of units.	Final	

EXHIBIT "C"





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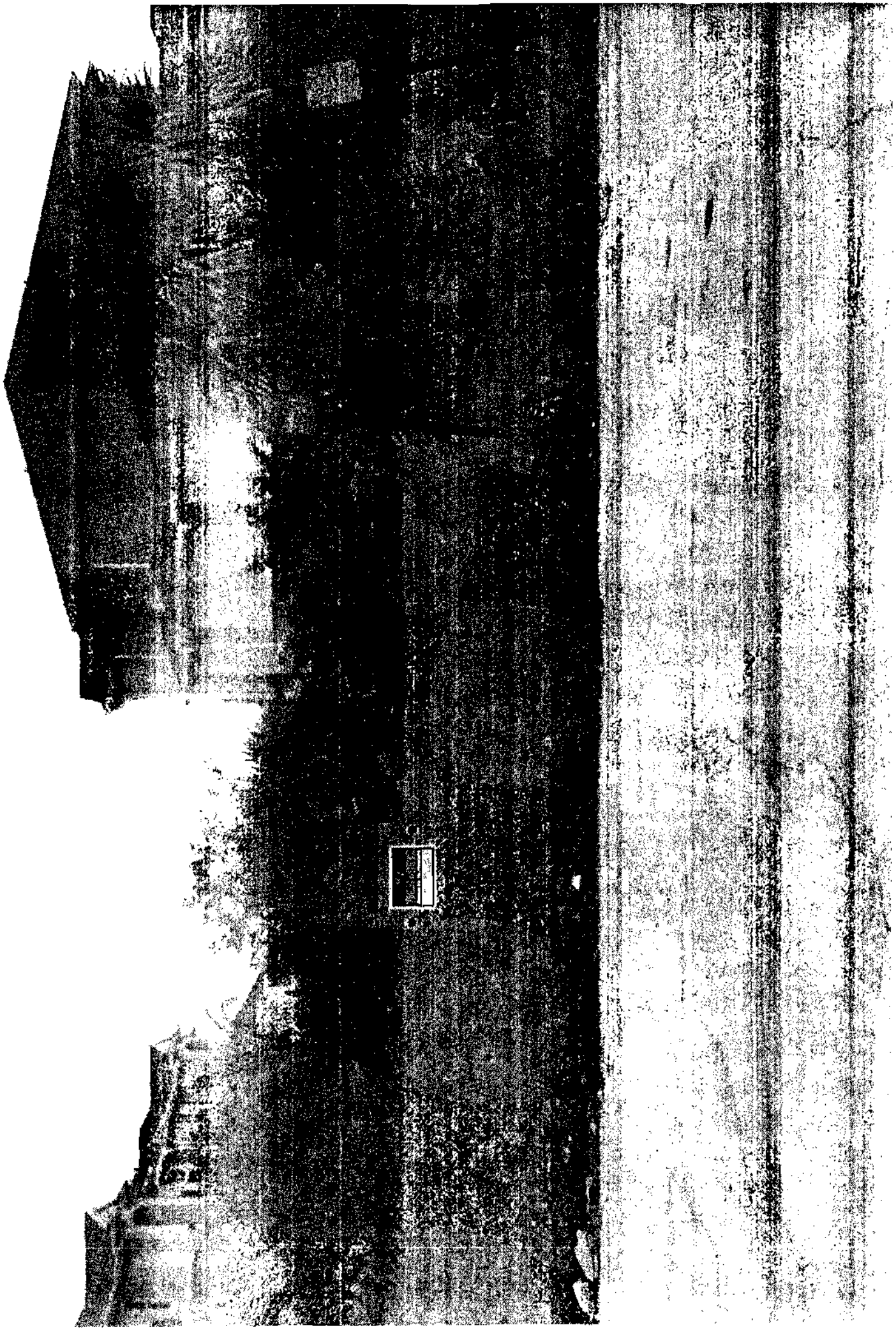
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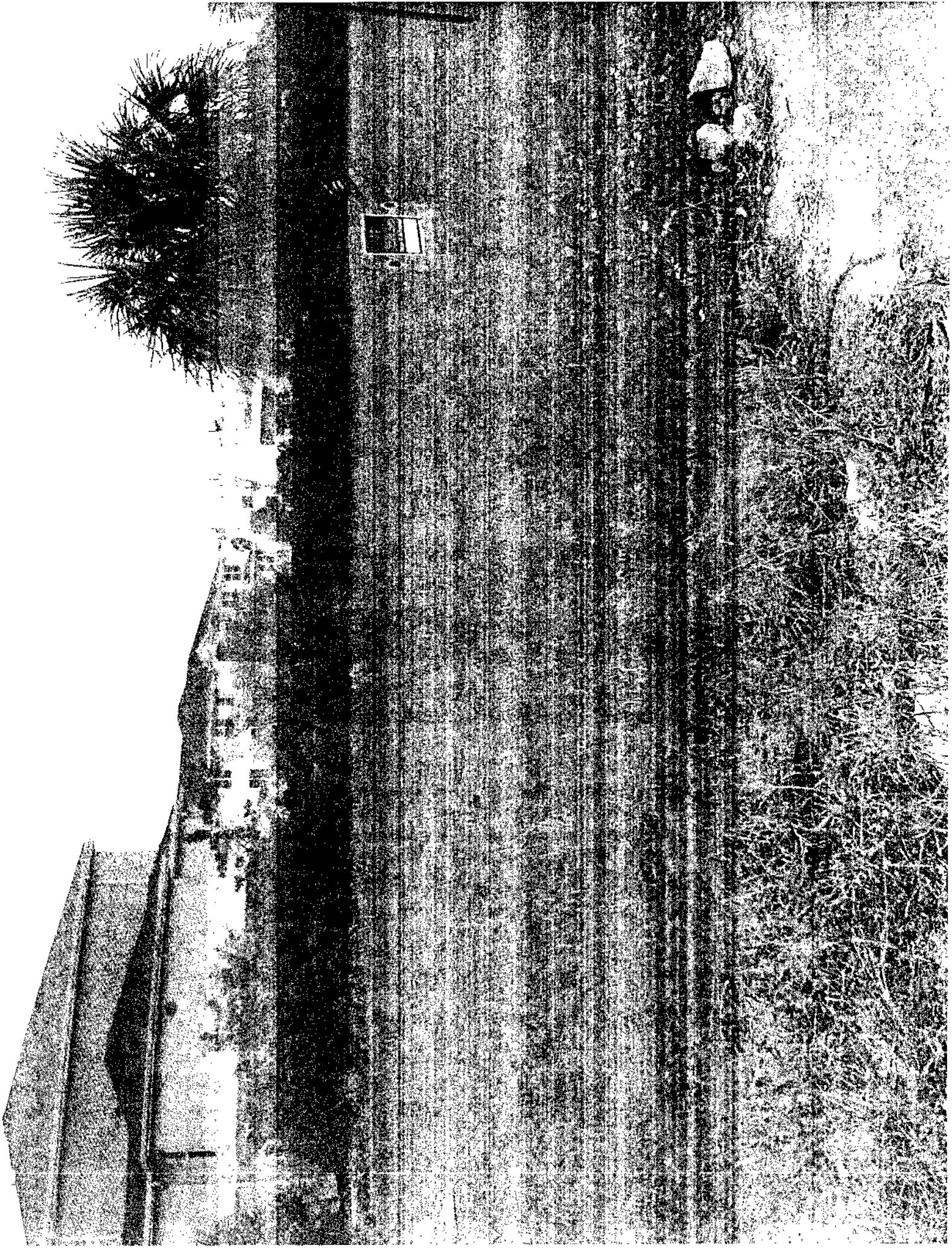




EXHIBIT "D"

Brief Statement of Explanation regarding Application No. 2008 – 112C

Provide a separate brief statement for each NOPSE

Part III.A.2.b

Part III.A.2.b of the Universal application asks “Will the development consist of scattered sites?” The applicant responded “No”. Upon review of the development’s site address, 2003 West 17th Court, Riviera Beach, Florida, 33404, stated in Part III.A.2.a, and the legal description provided in the Ground Lease Agreement dated March 31, 2008 submitted in Exhibit 27, **it is clear that this site falls under the definition of a scattered site**, as described on page 18 of the Florida Housing Finance Corporation Rule 67-48.002 (98), and further interpreted in Q&A #30 and #38 **because West 17th Court and West 17th Street run through the proposed site.**

Rule Chapter 67-48.002 (98) - “Scattered Sites” for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous (“non-contiguous parts”) or (ii) any part of which is divided by a street or easement (“divided parts”) and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.”

- Q&A 30 - “Q: Under the definition of Scattered Sites, if a proposed Development consists of two parcels that are divided by a roadway would this constitute a Development consisting of Scattered Sites? A: Yes.”
- Q&A 38 - “Q: If an alley runs through the proposed Development site, would this constitute a Scattered Site? A: Yes, if the alley constitutes a street or easement.”

The proposed development site clearly consists of *real property in the same county, parts of which are divided by streets, West 17th Court and West 17th Street*. Furthermore, it is readily apparent from the proximity of the divided parts of the real property that the non-contiguous

parts or the divided parts of the real property are part of a common or related scheme of development— as evidenced by Exhibit 1 and the accompanying exhibits.

The Applicant's documentation provided to evidence site control references the "Leased Premises" as that certain real property situated in Palm Beach County and legally described on Exhibit A. The legal description on Exhibit A includes the Property Control Number: 56-43-42-31-01-000-0010. The map on the Palm Beach County appraiser's website reveals that this 17.10 +/- acres parcel includes public right of ways - **West 17th Court** and **West 17th Street**. Further investigation of the Plat of Westside Estates (Riviera Beach Housing Authority) also evidences existing public right of ways dividing the property. Pursuant to the surveyed plat, "The interior streets (West 17th Court and W. 17th St.) as shown, are hereby dedicated to the City of Riviera Beach for the perpetual use of the public for proper purposes."

We have submitted a third party surveyor's affidavit and certification confirming that the proposed development address is located on the legal description, the legal description and property control number referenced and the Plat of Westside Estates are the same site, the measurements detailed in the Plat are correct, the public right of ways shown on the Plat and on the Palm Beach appraiser's map currently exist and were in existence as of the Application Deadline, April 7, 2008 and that the proposed Development is a Scattered Site Development.

In summary, Florida Housing must consider this site a Scattered Site Development. As such, the application fails threshold for the following reasons:

- 1) As a Scattered Site Development, the applicant should have checked "Yes" in response to Part III.A.2.b. The applicant selected "No."
- 2) The applicant did not follow the instructions with regard to scattered sites for Exhibit 20.
- 3) With respect to Exhibits 21, 23, 26, 27, 28, 29, 30, 31, 32, 45, 47, 48, 49 and 50 the Application fails threshold because the Applicant did not follow the directions for Scattered Sites prescribed in Q&A #29: On the verification/certification forms that require the "Development Location", if

the proposed Development will consist of Scattered Sites should the Applicant include a separate verification/certification form for each of the Scattered Sites or include all of the site addresses on each verification/certification form? A: If the Development will be comprised of Scattered Sites the Applicant must demonstrate that the required information is in place for each of the sites. This can be accomplished by (i) listing all of the site addresses on each verification /certification form, or (ii) providing a separate verification/certification form for each of the Scattered Sites, or (iii) attaching a list showing the address of each of the Scattered Sites behind each of the verification/certification forms.

Based on these points, the application fails threshold and should be rejected.

Affidavit and Certification of Kenneth Jackson

Before me, the undersigned authority, personally appeared Kenneth Jackson, who, being duly sworn, states that he personally knows the following facts and that the same are true and accurate.

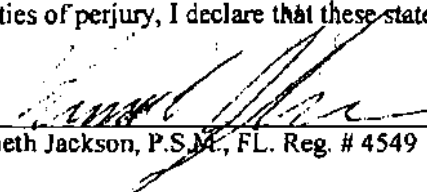
My name is Kenneth C. Jackson. I am licensed by the State of Florida as a Professional Surveyor and Mapper. My license number is LS 4549. I am the Vice President of Sea Diversified. I am submitting this Affidavit and Certification on behalf of Las Palmas I, Ltd. (the "Applicant") and am not related to the Applicant or any Principals or Financial Beneficiaries of the Applicant.

On May 14, 2008, representatives of Sea Diversified, Inc. visited the location described on the legal description attached as Exhibit A and determined that the proposed development site is a Scattered Site as defined on page 18 of the Florida Housing Finance Corporation Rule Chapter 67-48.002 (98).

On May 14, 2008, I Kenneth C. Jackson with Sea Diversified, Inc. went to 2003 West 17th Court, Riviera Beach, Florida, 33404, to determine if the development location address was located on the legal description attached, to confirm the legal description and property control number referenced and the Plat of Westside Estates (Plat Book 31, page 81 of the public records of Palm Beach County, Florida) attached as Exhibit B are the same site, to confirm that the public right of ways shown on the Plat and on the Palm Beach appraiser's map attached as Exhibit C currently exist.

I confirm all of the above. The Plat covers the entire site described in the legal description. The site described in the legal description is divided by West 17th Court and West 17th Street and these streets are dedicated public rights of way.

Under penalties of perjury, I declare that these statements are true and correct.


Kenneth Jackson, P.S.M., FL. Reg. # 4549

5/14/2008
Dated

STATE OF FLORIDA
COUNTY OF Palm Beach

Sworn to and subscribed before me this 14 day of May, 2008 by Kenneth Jackson, who

is personally known to me or has produced _____ as

identification.

WITNESS my hand and official seal, this 14 day of May, 2008.



Notary Public ~~NOTARY PUBLIC STATE OF FLORIDA~~ Terese Martinez
Commission # DD376724
State of _____ Expire: DEC. 05, 2008
My commission expires _____

EXHIBIT "A"

LEGAL DESCRIPTION

A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, City of Riviera Beach, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the North one quarter corner of said Section 31; Thence, run South 2° 32' 43" West, along the North-South one quarter Section line and along the Easterly right of way line of the Central and South Florida Flood Control District Canal No C-17, a distance of 611.98 feet; Thence run South 87° 57' 28" East, parallel with the North line of said Section 31, a distance of 1218.32 feet to the Easterly right of way line of Congress Avenue extension; thence run North 2° 42' 28" East, along the said Easterly right of way line of Congress Avenue extension, a distance of 612.00 feet to the North line of said Section 31; Thence run North 87° 57' 28" West, along the North section line of said Section 31, a distance of 1218.05 feet to the POINT OF BEGINNING.

The above described parcel of land contains 744.865 square feet or 17.10 Acre Parcel.

Property Control Number(s): 56-43-42-31-01-000-0010

EXHIBIT C



Property Information

Location Address: 2003 W 17TH CT

Municipality: RIVIERA BEACH

Parcel Control Number: 56-43-42-31-01-000-0010

Subdivision: WESTSIDE ESTATES AS IN

Official Records Book: 20543 Page: 1551 Sale Date: Mar-2006

Legal Description: WESTSIDE ESTATES ALL OF PL LYG W OF CONGRESS AVE (LESS W 17TH ST R/W) & 50 FT ABND W 17TH COURT LYG WITHIN

[View Map](#)

[Calculate Portability](#)

Owner Information

Name: RIVIERA BEACH HOUSING AUTHORITY

Mailing Address: 2014 17TH CT
RIVIERA BEACH FL 33404 5002

[All Owners](#)

Sales Information

Sales Date	Book/Page	Price	Sale Type	Owner
Mar-2006	20543/1551	\$10	WARRANTY DEED	RIVIERA BEACH HOUSING AUTHORITY
Jun-2005	18814/0327	\$10	QUIT CLAIM	RIVIERA BEACH HOUSING AUTHORITY
May-2005	18643/1968	\$10	QUIT CLAIM	RIVIERA BEACH HOUSING AUTHORITY

[All Sales](#)

Exemptions

Full: Municipal Government: \$942,741 Year of Exemption: 2007

Total: \$942,741

Appraisals

Tax Year:	2007	2006	2005
Improvement Value:	\$817,741	\$3,670,119	\$0
Land Value:	\$125,000	\$385,000	\$0
Total Market Value:	\$942,741	\$4,055,119	\$3,500,000

Use Code: 0300 Description: MULTIFAMILY

* In residential properties may indicate living area.

Property Information

Number of Units: 50

*Total Square Feet: 148494

Acres: 15.3689

Assessed and Taxable Values

Tax Year:	2007	2006	2005
Assessed Value:	\$942,741	\$4,055,119	\$3,500,000
Exemption Amount:	\$942,741	\$4,055,119	\$3,500,000
Taxable Value:	\$0	\$0	\$0

[Structure Detail](#)

Tax Values

Tax Year:	2007	2006	2005
Ad Valorem:	\$0	\$0	\$0
Non Ad Valorem:	\$0	\$0	\$0
Total Tax:	\$0	\$0	\$0

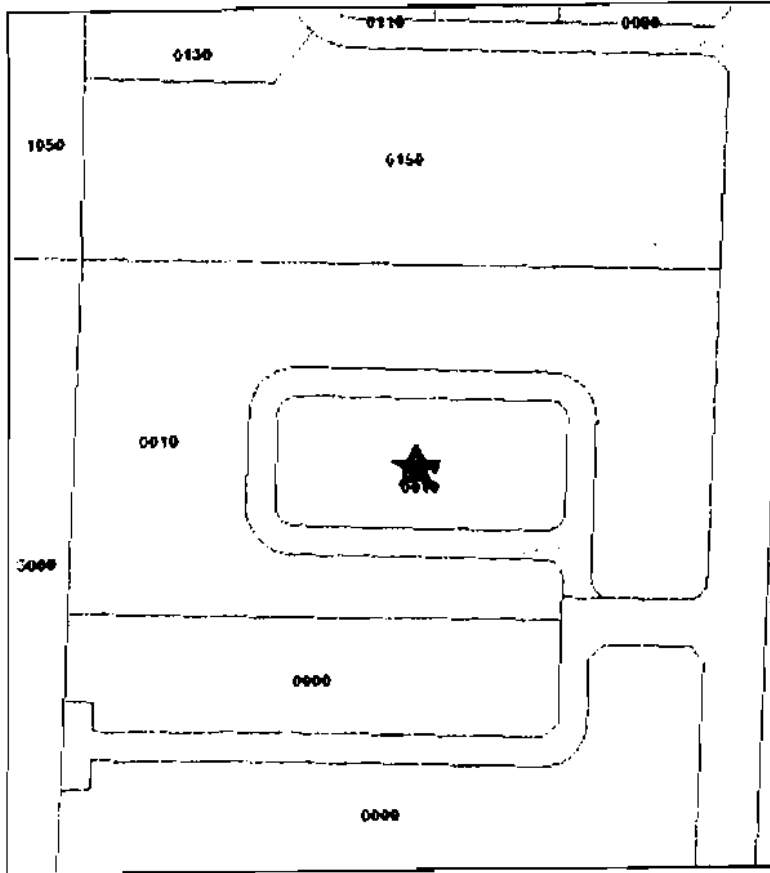
[Tax Calculator](#)
[Details](#)
[Calculate Additional Homestead](#)

[Tax Collector WebSite](#)

NOTE: Lower the top and bottom margins to 0.25 on File->Page Setup menu option in the browser to print the detail on one page.



Gary R. Nikolits, CFA
 Palm Beach County Property Appraiser
 Property Mapping System



Search Parcel Details

Owner Information
 PCN: 56434231010000010
 Return to PAPA
 Name: RIVIERA BEACH HOUSING AUTHORITY
 Location: 2003 W 17TH CT
 Mailing: 2014 17TH CT
 RIVIERA BEACH, FL 33404
 5002



Appraisal Value
 Market Value: \$942,741
 Assessed Value: \$942,741
 Exempt Amnt: \$942,741
 Taxable: \$0

Tax Value
 Ad Valorem: Not Available
 Non ad valorem: \$0.00
 Total: Not Available

Sales Information

Sales Date	Price
Mar-2006	\$10
Jun-2005	\$10
May-2005	\$10
May-2005	\$10
Jun-1999	\$100

Legend

-  Parcel Boundary
-  Lot number

Palm Beach County Property Map

Map Scale 1:3893

Map produced on 5/14/2008 from PAPA
<http://www.pbcgov.com/papa>



Nikhil Gaudar
Vice President, Florida Region

May 15, 2008

Debra Dozier Blinderman, Deputy Development Officer
Florida Housing Finance Corporation
227 N. Bronough Street Suite 5000
Tallahassee, FL 32301

RE: Notice of Possible Scoring Error
Applicant: Emerald Palms Redevelopment, LLC
Application Number: 2008-112C
Application Name: Emerald Palms

Dear Ms. Blinderman:

Pursuant to Rule 67-48.004(4), Magnolia Landing Apartments, Ltd. (Application Number 2008-177C) submits the following Notice of Possible Scoring Error and provides the following Brief Statement of Explanation regarding the deficiencies contained in the Application submitted by Emerald Palms Redevelopment, LLC, Application Number 2008-112C:

PART III – PROPOSED DEVELOPMENT
Section C – Ability to Proceed

(2) Evidence of Site Control

Exhibit 9, submitted by the Applicant, states that Emerald Palm Revitalization, Inc. is the co-managing member of the Applicant, Emerald Palms Redevelopment, LLC. Exhibit 9 states that Emerald Palm Revitalization, Inc. has "No Directors or Shareholders" (See attached Exhibit "A").

The Ground Lease, provided by the Applicant as Evidence of Site Control in Exhibit 27, was signed by "Philip O. Goombs", as "Executive Director" of Emerald Palm Revitalization, Inc (See attached Exhibit "B"). However, the Applicant represented that Emerald Palm Revitalization, Inc. has no directors, therefore, the Ground Lease is invalid and the Applicant failed to demonstrate Evidence of Site Control. Based upon the following, the Application must be rejected as a result of failing to achieve threshold:

| Page 2

PART III: Development
Section A: General Development Information
Subsection 2(b): Scattered Sites

Part III of the Application requires the Applicant to disclose whether or not the Development will consist of "Scattered Sites." Pursuant to Section 67-48.002 (98) F.A.C., scattered sites means "a Development consisting of real property in the same county . . . any part of which is divided by a street or easement ('divided parts')."

Within its Application, the Applicant stated that the Development would not consist of scattered sites. However, a review of a Title Search Report shows that the Development is encumbered by an easement which divides the property. (See attached Exhibit "C"). The subject easement is in favor of Florida Power and Light Company and was recorded in O.R. Book 2500, Page 115, of the Public Records of Palm Beach County, Florida. (See attached Exhibit "D"). The twelve-foot wide easement conclusively demonstrates that that the Development site is divided. In light of the foregoing, the Applicant should have disclosed that the Development consisted of Scattered Sites. As a result of its failure to do so, the Application must be rejected as a result of failing to achieve threshold.

PART IV - LOCAL GOVERNMENT SUPPORT
Section A - Contributions - MMRB, SAIL, HC, and HOME Applications

1.(a)(3) Local Government Verification of Contribution - Loan Form Exhibit 45

In Part IV.A. 2.a. The Applicant claims a Loan from Palm Beach County and incorrectly values such Loan in the amount of \$200,000. To demonstrate this Loan, Applicant submitted the same Local Government Verification of Contribution - Loan Form behind Exhibit 45 and Exhibit 58 (See attached Exhibit "E"). Applicant listed it's Local Government Contribution as a \$200,000 loan at 0% for 32 years, which states that it is "forgivable" at the end of the term, although no conditions were stated. Such conditions could vary widely, including it being only forgiven at the sole discretion of the then County Commission if the property is donated to a qualified non-profit. It is clear that no conditions for forgiving this loan were given, and the County retained the right to later specify whatever conditions it desires.

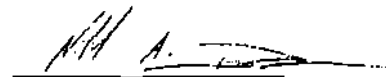
The Application Instructions state "A Loan with a forgiveness provision requiring approval of the Local Government will be treated as a loan, rather than a grant, for scoring purposes. The 'Loan' verification form should be used." Further the Application Instructions state, "All loans and fec deferrals must be present valued to determine the value of these contributions." That NPV calculation would have indicated a Local Government Value of \$173,421 (\$200,000 paid in 32 years at the discount rate).

The proposed Development is in Palm Beach County and the minimum Local Government requirement for the full 5 points is \$200,000. As the actual NPV of the Loan is \$173,421, the maximum of 5 points should not be awarded for this Local Government Contribution.

| Page 3

Based upon the foregoing, the Applicant has failed to demonstrate a Local Government Contribution and the Application should be awarded points on a pro-rata basis.

Attached to this petition is an executed Notice of Possible Scoring Error Request for Review form.



Nick A. Inamdar
Vice President

Part III.2.(b)

EXHIBIT "C"

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

The information contained in this title search is being furnished by Attorneys' Title Insurance Fund, Inc. If this report is to be used by a title insurance agent for evaluation and determination of insurability by the agent prior to the issuance of title insurance, then the agent shall have liability for such work.

Provided For: Greenspoon Marder, PA

Agent's File Reference: Riviera Beach Housing Auth

After an examination of this search the Agent must:

- A. Evaluate all instruments, plats and documents contained in the report.*
- B. Include in the Commitment under Schedule B, any additional requirements and/or exceptions you find necessary from your analysis of the surveys, prior title evidence or other relevant information from the transaction.*
- C. Verify the status of corporations and limited partnerships and other business entities with the appropriate governmental agency or other authority.*
- D. Determine whether the property has legal access.*
- E. Determine if any unpaid municipal taxes or assessments exist, which are not recorded in the Official Records Books of the county.*
- F. Determine whether any portion of the property is submerged or artificially filled, if the property borders a body of water, and if riparian or littoral rights exist.*
- G. The information provided herein does not include a search of federal liens and judgment liens filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:
 - (a) Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and*
 - (b) Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)**

Prepared this 15th day of May, 2008.

Attorneys' Title Insurance Fund, Inc.

Prepared by: William C. Snyder
Phone Number: 1-800-515-0155

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

Effective Date of Fund approved base title information: December 19, 1975

Effective Date of Search: April 30, 2008 at 11:00 PM

Apparent Title Vested in:

Riviera Beach Housing Authority, a public body corporate and politic created pursuant to the laws of the State of Florida

Description of real property to be insured/foreclosed situated in Palm Beach County, Florida.

See Exhibit A attached.

Muniments of Title, including bankruptcy, foreclosure, quiet title, probate, guardianship and incompetency proceedings, if any, recorded in the Official Records Books of the county:

1. Warranty Deed from Wiggs and Maale Construction Co., Inc., a Florida corporation as successor in merger with Floyd J. Voight, Inc. to Voight Investment Company, Trustee, recorded December 19, 1975, in O.R. Book 2489, Page 1650, Public Records of Palm Beach County, Florida.
2. Quit Claim Deed from Greta Cromwell, Inc., a Florida corporation to Riviera Beach Housing Authority, recorded June 10, 1999, in O.R. Book 11164, Page 353, Public Records of Palm Beach County, Florida.
3. Quit Claim Deed from Timothy Funk to Riviera Beach Housing Authority, recorded May 26, 2005, in O.R. Book 18643, Page 1860, Public Records of Palm Beach County, Florida.
4. Quit Claim Deed from John P. Little, III to Riviera Beach Housing Authority, recorded May 26, 2005, in O.R. Book 18643, Page 1968, Public Records of Palm Beach County, Florida.
5. Quit Claim Deed from Stephanie R. Williams to Riviera Beach Housing Authority, recorded June 7, 2005, in O.R. Book 18705, Page 114, Public Records of Palm Beach County, Florida.
6. Quit Claim Deed from Voight Investment Company, a dissolved Florida corporation to Riviera Beach Housing Authority, recorded June 27, 2005, in O.R. Book 18814, Page 327, Public Records of Palm Beach County, Florida.
7. Special Warranty Deed from Riviera Beach Housing Corporation, Inc., a Florida not-for-profit corporation to Riviera Beach Housing Authority, recorded June 29, 2006, in O.R. Book 20543, Page 1551, Public Records of Palm Beach County, Florida.
8. Declaration of Trust recorded in O.R. Book 20543, Page 1554, Public Records of Palm Beach County, Florida.

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

Mortgages, Assignments and Modifications:

None

Other Property Liens:

1. Taxes for the year 2008, which are not yet due and payable.

Restrictions/Easements:

1. Subject to rights of tenants under unrecorded leases, if any.
2. Subject to the Ordinance No. 2802 of the City of Riviera Beach, Florida vacating and abandoning the Right-of-Way known as West 17th Court as recorded in O.R. Book 18430, Page 789, Public Records of Palm Beach County, Florida.
3. Restrictions, conditions, reservations, easements, and other matters contained on the Plat of Plat of Westside Estates, as recorded in Plat Book 31, Page(s) 81, Public Records of Palm Beach County, Florida.
4. Permit-Buried Lines to Southern Bell Telephone and Telegraph Company recorded in O.R. Book 2447, Page 1943, Public Records of Palm Beach County, Florida.
5. Right of Way Easement Agreement recorded in O.R. Book 2734, Page 1058, Public Records of Palm Beach County, Florida.
6. Grant of Utility Easement recorded in O.R. Book 4809, Page 212, Public Records of Palm Beach County, Florida.
7. Easement to Florida Power and Light Company recorded in O.R. Book 2500, Page 115, Public Records of Palm Beach County, Florida.
8. Ordinance No. 1101 recorded in O.R. Book 2642, Page 1945, Public Records of Palm Beach County, Florida.
9. Grant of Landscape and Utility Easement recorded in O.R. Book 5425, Page 485, Public Records of Palm Beach County, Florida.
10. Easement to Florida Power and Light Company recorded in O.R. Book 5458, Page 1122, Public Records of Palm Beach County, Florida.
11. Covenants, conditions and restrictions recorded April 30, 1997, in O.R. Book 9768, Page 1618, as affected by Release of Restrictions recorded in O.R. Book 21551, Page 938, Public Records of Palm Beach County, Florida.

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

12. Covenants, conditions and restrictions recorded December 18, 2001, in O.R. Book 13210, Page 1839, Public Records of Palm Beach County, Florida.
13. Covenants, conditions and restrictions recorded March 24, 2003, in O.R. Book 14962, Page 879, Public Records of Palm Beach County, Florida.
14. Lease Agreement recorded in O.R. Book 2584, Page 29, Public Records of Palm Beach County, Florida. Appears to be terminated by its terms.
15. Deed to the City of Riviera Beach recorded in O.R. Book 2396, Page 16, Public Records of Palm Beach County, Florida.
16. Resolution of the Riviera Beach Housing Authority recorded in O.R. Book 20543, Page 1533, Public Records of Palm Beach County, Florida.
17. Subject to the Right-of-Way of Congress Avenue as now laid out and in use.
18. Riparian and littoral rights are not insured.

Other Encumbrances:

None

REAL PROPERTY TAX INFORMATION ATTACHED

Proposed Purchaser/Mortgagor:

N/A

The name of the proposed purchaser/mortgagor was searched for the past twenty years for unsatisfied judgments and tax liens (state, federal and other liens for the recovery of money) and personal names were checked for unrestored incompetency and for guardianship proceedings. The following matters appeared of record and copies are attached for evaluation by the agent:

N/A

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

STANDARD EXCEPTIONS

Unless satisfactory evidence is presented to the agent eliminating the need for standard exceptions, the following should be made a part of any commitment or policy.

1. *Taxes for the year of the effective date of this policy and taxes or special assessments which are not shown as existing liens by the public records.*
2. *Rights or claims of parties in possession not shown by the public records.*
3. *Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.*
4. *Easements or claims of easements not shown by the public records.*
5. *Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.*
6. *Any owner policy issued pursuant hereto will contain under Schedule B the following exception: Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*
7. *Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:
 - (a) *Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and*
 - (b) *Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)**
8. *Any lien provided by County Ordinance or by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.*

This report does not cover matters filed in the Federal District Courts of Florida EXCEPT FOR BANKRUPTCY PROCEEDINGS filed prior to October 7, 1984, when the property lies in either DADE, DUVAL, HILLSBOROUGH, LEON OR ORANGE COUNTY.

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

In foreclosure proceedings, title should be examined between the effective date of this report and the recording of the lis pendens to assure that all necessary and proper parties are joined. Consideration should be given to joining as defendants any persons in possession, other than the record owner, and any parties, other than those named herein, known to the plaintiff or the plaintiff's attorney and having or claiming an interest in the property.

Prior to issuance of any policy of title insurance underwritten by the Company, the agent must obtain and evaluate a title search for the period between the effective date of this Title Search Report and the recording date(s) of the instrument(s) on which the policy is based.

If this product is not used for the purpose of issuing a Fund policy, then the maximum liability for incorrect information is \$1,000.

Note: The Fund Agent is responsible for obtaining underwriting approval on any commitment prepared from this product in the amount of \$3,000,000.00 or more.

TITLE SEARCH REPORT

Fund File Number: 06-2008-4531

EXHIBIT A

A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, City of Riviera Beach, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the North one quarter corner of said Section 31, thence run South 2 degrees 32' 43" West, along the North-South one quarter Section line and along the Easterly right of way line of the Central and Southern Florida Flood Control District Canal No. C-17, a distance of 611.98 feet; thence, run South 87 degrees 57' 28" East, parallel with the North line of said Section 31, a distance of 1216.32 feet to the Easterly right of way line of Congress Avenue extension; thence run North 2 degrees 42' 26" East, along the said Easterly right of way line of Congress Avenue extension, a distance of 612.00 feet to the North line of said Section 31; thence, run North 87 degrees 57' 28" West, along the North section line of said Section 31, a distance of 1218.05 feet to the Point of Beginning.

Also known as:

All of the Plat Westside Estates, according to the map or plat thereof as recorded in Plat Book 31, Page(s) 81. Public Records of Palm Beach County, Florida

Part III.2.(b)

EXHIBIT "D"

EXHIBIT "D"

BEST COPY

PREPARED BY:

Mr. J. D. Hardy
Florida Power & Light Company
Drawer "D"
West Palm Beach, Florida 33402

EASEMENT

DATE November 24, 1975

SEC 31 TWP 42S RGE 47E


7352

In consideration of the payment to me/us by Florida Power & Light Company of \$1.00 and other good and valuable consideration which I/we have received, I/we and those holding through me/us, grant and give to Florida Power & Light Company and its successors and assigns an easement for the construction, operation and maintenance of electric utility facilities (including wires, poles, guys, cables, conduits, transformer enclosures, and appurtenant equipment) to be installed from time to time, with the right to reconstruct, improve, add to, change the size of or remove such facilities or any of them; to permit the attachment of conduits, wires or cables of any other Company or person; also, to cut, trim and keep clear all trees, brush and undergrowth or other obstructions that might endanger or interfere with said facilities, on, over, upon, under, and across my/our property described as follows:

An easement more particularly described as a 12 foot wide strip, centerline of said easement represented by wide broken lines, and a 10 foot wide strip, centerline of said easement represented by narrow broken lines drawn on Florida Power & Light Company Exhibit "A" attached hereto and made a part thereof. A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, Palm Beach County, Florida, shown hereon as Westside Estates, being more particularly described as follows: Beginning at the North one quarter corner of said Section 31, thence run South 2° 32' 49" West, along the North-South one quarter section line and along the Easterly right of way line of the Central and Southern Florida Flood Control District Canal No. C-17, a distance of 611.98 feet; thence, run South 87° 57' 28" East, parallel with the North line of said section 31, a distance of 1216.32 feet to the Easterly right of way line of Congress Avenue Extension; thence, run North 2° 42' 26" East, along the said Easterly right of way line of Congress Avenue Extension, a distance of 612.00 feet to the North line of said Section 31; thence, run North 87° 57' 28" West, along the North Section line of said Section 31, a distance of 1218.65 feet to the point of Beginning.

In the presence of:

Josephine M. Stover
(Corporate Seal)

RIVIERA BEACH HOUSING CORPORATION
BY *Patrick M. Gordon*
ATTEST: 

STATE OF FLORIDA AND COUNTY OF Palm Beach

I HEREBY CERTIFY that before me, personally appeared PATRICK M. GORDON

~~XXXXXXXX~~ President ~~XXXX~~ ~~XXXXXXXXXX~~ Riviera Beach Housing Corporation, Inc.

a Corporation ~~incorporated~~ under the Laws of the State of Florida, to me known to be the persons described in and who executed the foregoing instrument, and severally acknowledged the execution thereof to be their free act and deed as such Officers, for the purpose and for the uses therein mentioned; and that they affixed thereto the official seal of said corporation and that said instrument is a true and correct copy of said corporation.

 I attest my hand and official seal in said County and State this 24th day of November 1975

My Commission Expires 9/18 1976 *Josephine M. Stover*
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE

RWO/XXXXXXXX 76B FH 7-450 STRUCT. NO. FORM 3128C Rev. 1/73

STATE OF FLORIDA
DOCUMENTARY
DEPT. OF REVENUE
MIAMI, FLA.
NOV 27 1975
00.30

FLORIDA
DOCUMENTARY
SUR TAX
NOV 27 1975
00.55

BEST COPY

DENOTES 6' OR 12' EASEMENT
DENOTES 4' OR 10' EASEMENT

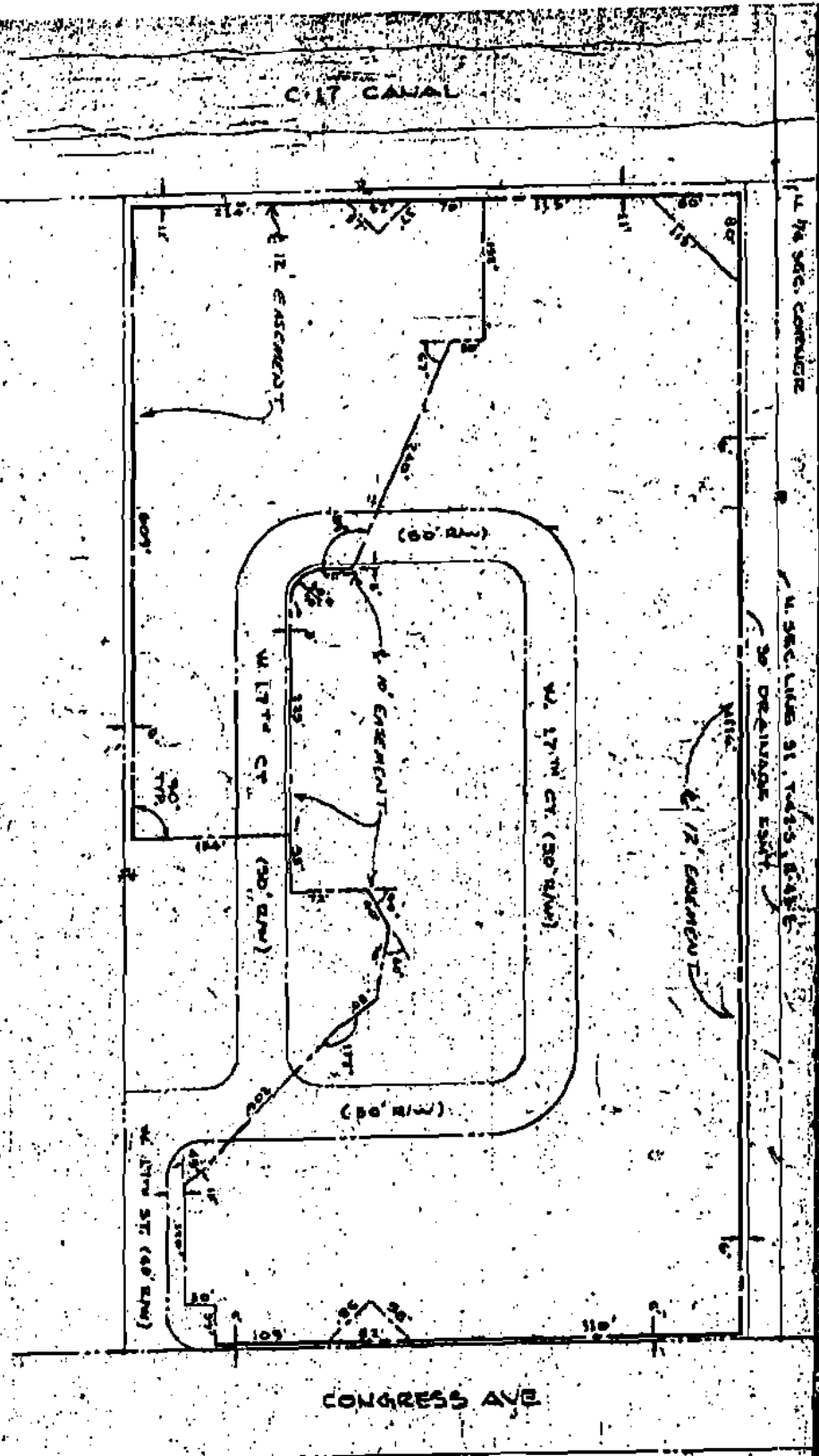


EXHIBIT 'A'
FOR F&I CO. EASEMENTS
WESTSIDE ESTATES
CONGRESS AVE. 1300 E 570
BLUE HORIZON BLVD.

2500 PAGE 116

Surveyed by S. J. Smith &
Associates, Inc.
1000 West 10th St., P.O.
Box 10, Omaha
Nebraska, 68101

2008 MMRB, SAIL & HC Scoring Summary

As of: 06/04/2008

File # 2008-112C

Development Name: Emerald Palms

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
06 - 04 - 2008	66	N	7.5
Preliminary	66	N	7.5
NOPSE	66	N	7.5
Final	0	N	0
Final-Ranking	0	N	0

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	9	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	0	0
4S	III	B	3	Green Building	5	5	5	0	0
Set-Aside Commitments									
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	0	0
6S	III	E	3.	Affordability Period	5	5	5	0	0
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	8	8	8	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	8	0	0	0	0
7S	III	F	3	Programs for Elderly	8	0	0	0	0
8S	III	F	4.	Programs for All Applicants	8	8	8	0	0
Local Government Support									
9S	IV		A.	Contributions	5	5	5	0	0
10S	IV		B.	Incentives	4	4	4	0	0

2008 MMRB, SAIL & HC Scoring Summary

As of: 06/04/2008

File # 2008-112C

Development Name: Emerald Palms

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Reincluded as Result of
1T	III	C	5	Environmental Site Assessment	The Applicant failed to provide the required Verification of Environmental Safety Phase I Environmental Site Assessment form and, if applicable, the Verification of Environmental Safety Phase II Environmental Site Assessment form.	Preliminary	
2T	III	A	2.b.	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(9B), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application and failed to provide the required information for each site.	NOPSE	
3T	III	B	2	Optional Features and Amenities	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(9B), F.A.C.). The Applicant failed to answer the question at Part III.B.2. of the Application.	NOPSE	
4T				Financial Arrears	Pursuant to subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C., NOPSE scoring may include financial obligations for which an Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or the Developer is in arrears to the Corporation or an agent or assignee of the Corporation as of the due date for NOPSE filing (May 15, 2008). As provided in paragraph(s) 67-48.004(13)(d) and/or 67-21.003(13)(d), F.A.C., following the submission of the "Cure," the Corporation shall reject an Application if the Applicant fails to satisfy any arrearages described in subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C. A party to this Application (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) is listed on the May 15, 2008 Past Due Report as being in arrears to the Corporation as a related party (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) of Hidden Grove. The May 15, 2008 Past Due Report is posted to the FHFC Website at http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm . A portion of the arrearage was satisfied prior to issuance of the NOPSE Scoring Summary; however, \$500.00 is still due and owing as of May 15, 2008. Payments and questions should be addressed to the servicer and not to Florida Housing.	NOPSE	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	1.25	1.25	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	1.25	0	0

2008 MMRB, SAIL & HC Scoring Summary

As of: 06/04/2008

File #: 2008-112C

Development Name: Emerald Palms

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	0	0
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	0	0

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C	III	A	10	Proximity	Per page 14 of the Application Instructions, the Application automatically received 7.50 proximity tie breaker points because it involves a Public Housing Authority.	Preliminary	

EXHIBIT "E"

2008 CURE FORM

(Submit a SEPARATE form for EACH reason relative to EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to Application No. 2008- 112C and pertains to:

Part III Section A Subsection 2.6 Exhibit No. 20 (if applicable)

The attached information is submitted in response to the 2008 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2008 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>2</u> T	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____ P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. ____ C	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part ____ Section ____ Subsection ____ Exhibit ____ (if applicable).

**Brief Statement of Explanation regarding Cure for
Application No. 2008 – 112C**

Provide a separate brief statement for each Cure

In Scoring Item 2T, FHFC has determined that the development is a “scattered site”, and that Applicant failed to correctly answer the question at Part III.A.2.b. and failed to provide the requested information for each site in Exhibit 20.

Attached is a revised excerpt to the application indicating the correct answer (“Yes”) to Part III.A.2.b. Also enclosed is Exhibit 20 containing the information required for “scattered sites”.

b. Provide the Service Provider's or principal of Service Provider's Prior Experience Chart behind a tab labeled "Exhibit 18".

8. Guarantor(s) Information (MMRB Applicants only):

Provide the Guarantor Information Chart behind a tab labeled "Exhibit 19".

Part III. Proposed Development

A. General Development Information

1. Name of Development:

Emerald Palms

2. Location of Development Site:

a. Address of Development Site:

Street: see addendum

City: Riviera Beach State: FL Zip Code: 33404

b. Will the Development consist of Scattered Sites?

Yes No

If "Yes", for each of the sites, provide the Address, total number of units, and a latitude and longitude coordinate behind a tab labeled "Exhibit 20".

c. Does the location of the proposed Development qualify as an Urban In-Fill Development, as defined in Rule Chapters 67-21 and 67-48, F.A.C.?

Yes No

If "Yes", to qualify as an Urban In-Fill Development for purposes of this Application, provide a properly completed and executed Local Government Verification of Qualification as Urban In-Fill Development form behind a tab labeled "Exhibit 21".

d. Is the proposed Development being revitalized utilizing HOPE VI funding?

Yes No

If "Yes", to qualify as a Hope VI Development for purposes of this Application, provide the required documentation behind a tab labeled "Exhibit 21".

e. County:

Palm Beach - Large (E)

All Applicants must answer "Yes" or "No" to question (1) below. All HOME Applicants must also answer question (2) below.

(1) Is proposed Development located in the Florida Keys Area?
 Yes No

(2) HOME Applications Only -

Will the proposed HOME Development be located in either Alachua County or Leon County?

Yes No

If "Yes", complete either (a) or (b) below, as applicable:

(a) Alachua County Developments - Is the Development located within Alachua County, but outside the boundaries of incorporated Gainesville?

Yes No

If "Yes", provide the required letter from Alachua County behind a tab labeled "Exhibit 22".

(b) Leon County Developments - Is the Development located within Leon County but outside the boundaries of incorporated Tallahassee?

Yes No

Exhibit 20
Scattered Site Address of the Development Site
Emerald Palms

Tract 1: West of W. 17th Street, west of the intersection of W. 17th Street and Congress Avenue, Riviera Beach, Florida 33404

80 units

Latitude N26°46'41.8"

Longitude W80°05'25.0"

(tie breaker measurement point)

Tract 2: On West 17th Street, west of the intersection of W. 17th Street and Congress Avenue, Riviera Beach, Florida 33404

0 units

Latitude N26°46'41.1"

Longitude W80°05'20.5"

Tract 3: On Congress Avenue, north of the intersection of W. 17th Street and Congress Avenue, Riviera Beach, Florida 33404

60 units

Latitude N26°46'43.4"

Longitude W80°05'27.0"

2008 CURE FORM

(Submit a SEPARATE form for EACH reason relative to
EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2008-112 C** and pertains to:

Part _____ Section _____ Subsection _____ Exhibit No. _____ (if applicable)

The attached information is submitted in response to the 2008 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2008 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Failed Threshold	Item No. _____ T	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. _____ P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. _____ C	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part III Section A Subsection 2.1. Exhibit 20 (if applicable).

Brief Statement of Explanation regarding Cure for Application No. 2008 – 112C

Provide a separate brief statement for each Cure

In Scoring Item 2T, FHFC determined that the development consists of “scattered sites”, because it was divided by an easement and a roadway. The roadway referenced in the NOPSE filed against Applicant (Tracking #115) has been abandoned and vacated by the City of Riviera Beach (see attached Ordinance No. 2802).

In order to more correctly reflect the legal description of the site due to the vacation and abandonment of the aforementioned roadway, Applicant is amending the ground lease in order to reflect inclusion of the vacated roadway in the premises being leased to the Applicant. Also included is an affidavit from a surveyor demonstrating that the former “road” is no more. In fact, the Applicant intends (as part of its development plan) to dig up the pavement of the former road and build over it.

SECTION 4. This Ordinance shall be effective immediately upon adoption and shall not be codified.

PASSED AND APPROVED on First Reading this 3rd day of February 1999.

PASSED AND ADOPTED on Second Reading this 17th day of February 1999.

APPROVED:

Clark K. Williams
CLARK K. WILLIAMS, MAYOR

Marilyn B. Moffitt
MARILYN MOFFITT,
CHAIRPERSON

[MUNICIPAL SEAL]

Lenora Hurley
LENORA HURLEY,
CHAIRPERSON PRO-TEM

Hyacintha Becton
HYACINTHIA BECTON

ATTEST:

Marge Callahan
MARGE CALLAHAN

Carrie E. Ward
CARRIE E. WARD, CM/IAE
CITY CLERK

William H. Burrs
WILLIAM BURRS
COUNCIL MEMBERS

1st Reading

2nd & Final Reading

MOTIONED BY:
SECONDED BY:

W. Burrs
H. Becton

H. Becton
W. Burrs

M. MOFFITT
L. HURLEY
H. BECTON
M. CONFREY
W. BURRS

aye
aye
aye
aye
aye

aye
aye
aye
aye
aye

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

February 3, 1999
Date

Carrie E. Ward
Carrie E. Ward, CMCIAAE, City Clerk

REVIEWED AS TO LEGAL SUFFICIENCY

M. J. ...
CITY ATTORNEY
CITY OF RIVIERA BEACH

c:\17thct.abd.doc
12-23-98

This is a certified copy



CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404
(561) 845-4090 WWW.RIVIERABCH.COM FAX (561) 640-3438

DESK OF
CITY CLERK
CARRIE E. WARD,
MASTER MUNICIPAL CLERK

True Copy

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.
CITY OF RIVIERA BEACH)

I, CARRIE E. WARD, MASTER MUNICIPAL CLERK, CITY CLERK OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA DO HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF Ordinance No. 2802

AS SHOWN IN THE RECORDS OF THE CITY ON FILE IN THE OFFICE OF THE CITY CLERK

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIX THE SEAL OF THE CITY OF RIVIERA BEACH, FLORIDA, THIS THE 29th DAY OF March, 2005.

(SEAL)


CARRIE E. WARD, MMC
CITY CLERK

True Copy

AFFIDAVIT

Before me the undersigned authority personally appeared David P. Lindley who being duly sworn states that he personally knows the following facts and that the same are true and correct.

My name is David P. Lindley I am licensed by the State of Florida as a professional surveyor and mapper. My license number is 5005. I am employed by Caulfield & Wheeler, Inc. I am submitting this Affidavit and Certification on behalf of Emerald Palms Redevelopment, LLC (the "Applicant") and am not related to the Applicant or any principals of any financial beneficiaries of the Applicant. On May 28, 2008, representatives of Caulfield & Wheeler, Inc. visited the location described on the legal description attached as Exhibit "A". We have also reviewed that certain Ordinance No. 2802, recorded in Official Record Book 18430, Page 0789 on April 16, 2005 (the "Ordinance"), attached as Exhibit "B". Finally, I have reviewed the Affidavit and Certification of Kenneth Jackson dated May 14, 2008 attached as Exhibit "C", which was submitted as part of a Notice of Potential Scoring Error filed against the applicant.

I hereby confirm that, after review of the Ordinance and all of the necessary documentation, that the "road" known as West 17th Court has been vacated and abandoned by the City of Riviera Beach, and is no longer a public right of way. The public has no longer any right to use this former "road", and the public has no rights of easement or access thereto. As such, West 17th Court is no longer a dedicated right of way, and does not constitute a "road" or "street" under any common usage of such terms.

Under penalty of perjury, I declare that these statements are true and correct.



David P. Lindley, P.L.S.

Dated: 6/12/08

STATE OF FLORIDA)
)
COUNTY OF Palm Beach)

Sworn to and subscribed before me this 12th day of June,
2008 by David P. Lindley, who is personally known to me ~~or has produced~~
~~_____~~ as identification.

WITNESS my hand and official seal this 12th day of June, 2008.

(NOTARY SEAL)

Joanne L. Derderian
Notary Public, State of Florida
Print Name: _____
Commission No.: _____
My Commission Expires: _____



Exhibit "A"

A Leasehold Estate in and to the following described lands:

Tracts A through X, WESTSIDE ESTATES, according to the Plat thereof, as recorded in Plat Book 31, Pages 81 and 82, TOGETHER WITH the vacated right-of-way for West 17th Court, as recorded in Official Records Book 18430, Page 789, both of the Public Records of Palm Beach County, Florida.

Exhibit B



CFW 20050224009
OR BK 18430 PG 0709
RECORDED 04/16/2005 11:20:02
Palm Beach County, Florida
George E. Cook, CLERK & CONTROLLER
Pgs 0709 - 7024 (4pgs)

ORDINANCE NO. 222

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, FLORIDA, VACATING AND ABANDONING THE RIGHT-OF-WAY KNOWN AS WEST 17TH COURT AS PER THE PLAT OF WESTSIDE ESTATES PLAT BOOK 31, PAGES 81 AND 82, BEGINNING WITH ITS INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF WEST 17TH STREET; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, West 17th Court is a public right-of-way; and

WHEREAS, the City of Riviera Beach has no public purpose for the West 17th Court right-of-way; and

WHEREAS, the City Council held a public hearing and found that the above West 17th Court right-of-way serves no public purpose and should be vacated and abandoned as a public right-of-way.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. That the portion of West 17th Court more particularly described hereinafter be vacated, closed and abandoned and the City of Riviera Beach hereby relinquishes all claim, right, title, and interest in said property for public right-of-way purposes. Said public right-of-way is more particularly described as follows:

All that portion of West 17th Court.

SECTION 2. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 3. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

ORDINANCE NO. 2802
PAGE 2

SECTION 4. This Ordinance shall be effective immediately upon adoption and shall not be codified.

PASSED AND APPROVED on First Reading this 3rd day of February, 1999.

PASSED AND ADOPTED on Second Reading this 17th day of February, 1999.

APPROVED:

Clark K. Williams
CLARK K. WILLIAMS, MAYOR

Marilyn Moffitt
MARLYN MOFFITT,
CHAIRPERSON

[MUNICIPAL SEAL]

Lenora Hurley
LENORA HURLEY,
CHAIRPERSON PRO-TEM

Hyacintha Becton
HYACINTHA BECTON

ATTEST:

Marge Callahan
MARGE CALLAHAN

Carrie E. Ward
CARRIE E. WARD, CM/IAE
CITY CLERK

William H. Burrs
WILLIAM BURRS
COUNCIL MEMBERS

1st Reading

2nd & Final Reading

MOTIONED BY:
SECONDED BY:

W. Burrs

H. Becton

H. Becton

W. Burrs

M. MOFFITT
L. HURLEY
H. BECTON
M. CONFREY
W. BURRS

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

This is Not a certified copy
February 3, 1999
Date

Carrie E. Ward
Carrie E. Ward, CMC/AAE, City Clerk

REVIEWED AS TO LEGAL SUFFICIENCY

[Signature]
CITY ATTORNEY
CITY OF RIVIERA BEACH

c:\17\lclabd.doc
12-23-98



CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404
(561) 848-4000 WWW.RIVIERABEACH.COM FAX (561) 840-2438

DEER OF
CITY CLERK
CARRIE E. WARD,
MASTER MUNICIPAL CLERK

This is a
true and
correct
copy

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.
CITY OF RIVIERA BEACH)

CARRIE E. WARD, MASTER MUNICIPAL CLERK, CITY
CLERK OF THE CITY OF RIVIERA BEACH, PALM BEACH
COUNTY, FLORIDA DO HEREBY CERTIFY THAT THIS IS A TRUE
AND CORRECT COPY
OF Ordinance No. 2802

AS SHOWN IN THE RECORDS OF THE CITY ON FILE IN THE
OFFICE OF THE CITY CLERK.

IN WITNESS WHEREOF, I HAVE HEREBY SET MY
HAND AND AFFIX THE SEAL OF THE CITY OF RIVIERA BEACH,
FLORIDA, THIS 22th DAY OF, March, 2005.

(SEAL)

CARRIE E. WARD, MMC
CITY CLERK

Corrected copy

Exhibit C

Affidavit and Certification of Kenneth Jackson

Before me, the undersigned authority, personally appeared Kenneth Jackson, who, being duly sworn, states that he personally knows the following facts and that the same are true and accurate.

My name is Kenneth C. Jackson. I am licensed by the State of Florida as a Professional Surveyor and Mapper. My license number is LS 4549. I am the Vice President of Sea Diversified. I am submitting this Affidavit and Certification on behalf of Las Palmas I, Ltd. (the "Applicant") and am not related to the Applicant or any Principals or Financial Beneficiaries of the Applicant.

On May 14, 2008, representatives of Sea Diversified, Inc. visited the location described on the legal description attached as Exhibit A and determined that the proposed development site is a Scattered Site as defined on page 18 of the Florida Housing Finance Corporation Rule Chapter 67-48.002 (98).

On May 14, 2008, I Kenneth C. Jackson with Sea Diversified, Inc. went to 2003 West 17th Court, Riviera Beach, Florida, 33404, to determine if the development location address was located on the legal description attached, to confirm the legal description and property control number referenced and the Plat of Westside Estates (Plat Book 31, page 8) of the public records of Palm Beach County, Florida) attached as Exhibit B are the same site, to confirm that the public right of ways shown on the Plat and on the Palm Beach appraiser's map attached as Exhibit C currently exist.

I confirm all of the above. The Plat covers the entire site described in the legal description. The site described in the legal description is divided by West 17th Court and West 17th Street and these streets are dedicated public rights of way.

Under penalties of perjury, I declare that these statements are true and correct.


Kenneth Jackson, P.S.M., FL. Reg. # 4549

5/14/2008
Dated

STATE OF FLORIDA
COUNTY OF Palm Beach

Sworn to and subscribed before me this 14 day of May, 2008 by Kenneth Jackson, who
is personally known to me or has produced _____ as
identification.

WITNESS my hand and official seal, this 14 day of May, 2008.


Notary Public

~~NOTARY PUBLIC STATE OF FLORIDA~~
Teresa Martinez

Commission #00376734

Expires: DEC. 03, 2008

State of _____

My commission expires _____

EXHIBIT "A"

LEGAL DESCRIPTION

A parcel of land in the Northeast one quarter of Section 31, Township 42 South, Range 43 East, City of Riviera Beach, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the North one quarter corner of said Section 31; Thence, run South 2° 32' 43" West, along the North-South one quarter Section line and along the Easterly right of way line of the Central and South Florida Flood Control District Canal No C-17, a distance of 811.88 feet; Thence run South 87° 57' 26" East, parallel with the North line of said Section 31, a distance of 1218.32 feet to the Easterly right of way line of Congress Avenue extension; thence run North 2° 42' 25" East, along the said Easterly right of way line of Congress Avenue extension, a distance of 812.00 feet to the North line of said Section 31; Thence run North 87° 57' 26" West, along the North section line of said Section 31, a distance of 1218.05 feet to the POINT OF BEGINNING.

The above described parcel of land contains 744,865 square feet or 17.10 Acre Parcel.

Property Control Number(s): 56-43-42-31-01-000-0010

EXHIBIT B

PLAT OF
WESTSIDE ESTATES

(PUNERA BEACH RESERVE AUTHORITY)
BEING A PARCEL OF LAND IN THE NE 1/4 SECTION 31, TWP 42 SOUTH, RGE. 43 EAST
PALM BEACH COUNTY, FLORIDA
CITY OF PUNERA BEACH
FEBRUARY 1973

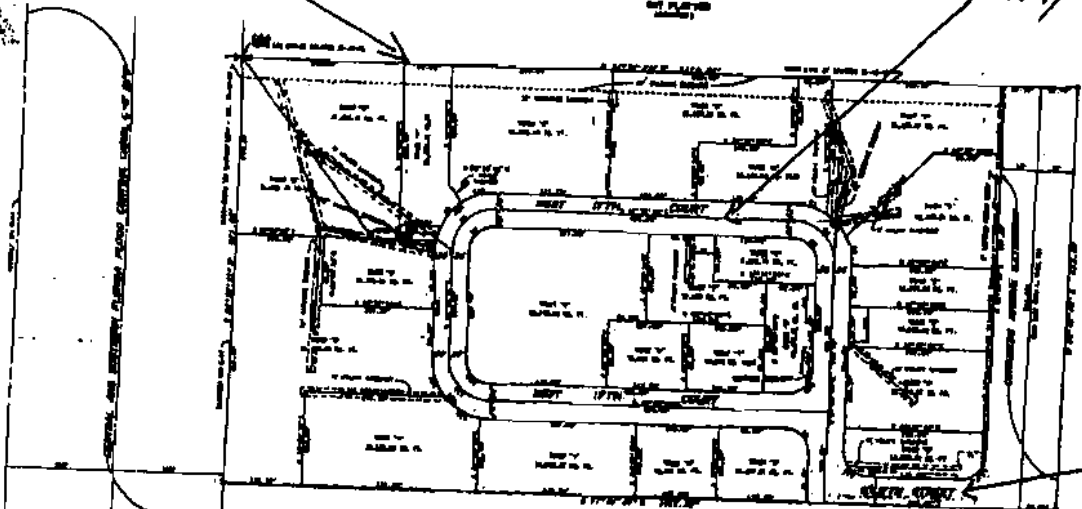
PLAT NO.

82

DATE OF PLAT
DATE OF THIS BOOK
ALL RIGHTS RESERVED BY
PLAT BOOK NO.
PAGE NO.

PROPOSED DEVELOPMENT SITE

DEDICATED PUBLIC
RIGHT OF WAY



DEDICATED PUBLIC
RIGHT OF WAY



LOT NO.	ACRES	OWNER
1		
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LEGEND
 1. BOUNDARIES SHOWN ARE BASED UPON THE RECORDS OF THE COUNTY CLERK OF PALM BEACH COUNTY, FLORIDA.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES.
 3. ALL CORNERS ARE TO BE MARKED WITH IRON PIPES OR STEEL PIPES.
 4. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTERLINE OF THE ROAD OR ALONG THE CENTERLINE OF THE LOT.

DATE	BY	REVISION

**PLAT OF
WESTSIDE ESTATES**

(PALM BEACH RECORDS AUTHORITY)

BEING A PARCEL OF LAND IN THE N.E. 1/4 SECTION 28, TWP 42 SOUTH, R2E 43 EAST
PALM BEACH COUNTY, FLORIDA
CITY OF RIVIERA BEACH
FEBRUARY 1975



THESE LOTS ARE TO BE OFFERED FOR SALE BY THE CITY OF RIVIERA BEACH, FLORIDA, AS A PART OF THE WESTSIDE ESTATES SUBDIVISION. THE LOTS ARE TO BE OFFERED FOR SALE BY THE CITY OF RIVIERA BEACH, FLORIDA, AS A PART OF THE WESTSIDE ESTATES SUBDIVISION. THE LOTS ARE TO BE OFFERED FOR SALE BY THE CITY OF RIVIERA BEACH, FLORIDA, AS A PART OF THE WESTSIDE ESTATES SUBDIVISION.

[Signature]
CITY OF RIVIERA BEACH, FLORIDA

[Signature]
CITY OF RIVIERA BEACH, FLORIDA

[Signature]
[Signature]
CITY OF RIVIERA BEACH, FLORIDA

81

PLAT OF WESTSIDE ESTATES
PALM BEACH COUNTY, FLORIDA
FEBRUARY 1975

PLAT OF WESTSIDE ESTATES	
Lot 1	1.00
Lot 2	1.00
Lot 3	1.00
Lot 4	1.00
Lot 5	1.00
Lot 6	1.00
Lot 7	1.00
Lot 8	1.00
Lot 9	1.00
Lot 10	1.00
Lot 11	1.00
Lot 12	1.00
Lot 13	1.00
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Lot 95	1.00
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Lot 98	1.00
Lot 99	1.00
Lot 100	1.00

EXHIBIT 'F'

TRACKING NO.

543

Page 1 of 1 Pages

2008 NOTICE OF ALLEGED DEFICIENCIES (NOAD) SUMMARY FORM

This NOAD Summary Form is being submitted with regard to **Application No. 2008- 112C** and pertains to the revisions/additions made to the Application parts, sections, subsections and exhibits listed below (please list the parts, sections, subsections, and exhibits in the order they appear in the most recent Scoring Summary Report with regard to the Application revisions/additions being challenged):

Part (I, II, III, IV, V)	Section (A, B, C, O, etc.)	Subsection (1, 2, 3, etc. or 1.a, 2.a., etc.)	Exhibit (1, 2, 3, etc.)	Submitted in Response to:				Created by:	
				Reason Score Not Met (Provide Item No. from Application Scoring Summary)	Reason Failed Threshold (Provide Item No. from Application Scoring Summary)	Proximity Scoring (Provide Item No. from Application Scoring Summary)	Additional Comment (Provide Item No. from Application Scoring Summary)	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from Preliminary Scoring	Mark this Column if Item No. indicated in "Submitted in Response to" column(s) resulted from NOPSE scoring and state NOPSE Tracking No., if known
III	A	2.b	20	S	2 T	P	C		X 035
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
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				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		
				S	T	P	C		

SUBMITTED BY APPLICATION NO. 2008-132C IN ACCORDANCE WITH RULES 67-21.003 and/or 67-48.004, F.A.C.

Brief Statement of Explanation regarding
Application 2008 – 112C

Provide a separate brief statement for each NOAD

In response to Item 2T, Applicant filed the attached cure amending its Application to state that it is a scattered site and filing Exhibit 20.

Attached is a copy of City of Riviera Beach Ordinance #2802 vacating West 17th Court on the Applicant's site. Also attached are maps of the site before and after the vacation of the road. As shown on the map as modified for the vacation of the road, the site no longer meets the definition of a scattered site.

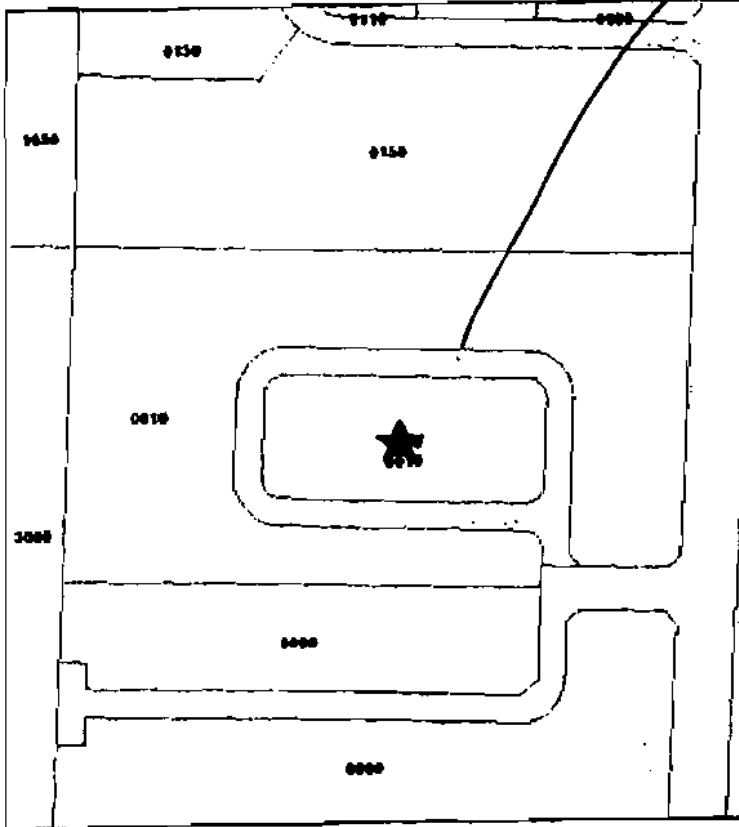
The Application, as modified to state that the development is a scattered site is incorrect, as is Exhibit 20.

Therefore, the Applicant should fail threshold for failure to provide complete and accurate information.



Gary R. Nikolits, CFA
 Palm Beach County Property Appraiser
 Property Mapping System

*This road made it
 a scattered site.*



Search		Parcel Details	
Owner Information			
PCN: 99434231010000010			
Return to PAPA			
Name: RIVIERA BEACH HOUSING AUTHORITY			
Location: 2003 W 17TH CT			
Mailing: 2014 17TH CT RIVIERA BEACH, FL 33404 5002			
Appraisal Value			
Market Value:		\$942,742	
Assessed Value:		\$942,742	
Exempt Amnt:		\$942,742	
Taxable:		\$0	
Tax Value			
Ad Valorem:		Not Available	
Non ad valorem:		\$0.00	
Total:		Not Available	
Sales Information			
Sales Date		Price	
Mar-2006		\$10	
Jun-2005		\$10	
May-2005		\$10	
May-2005		\$10	
Jun-1999		\$100	

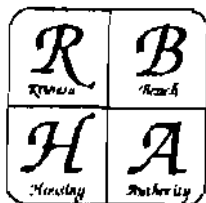
Legend

-  Parcel Boundary
-  Lot number

Palm Beach County Property Map
 Map Scale 1:3893

Map produced on 5/14/2008 from PAPA
<http://www.pbcgov.com/papa>

- Before Road was vacated.



Riviera Beach Housing Authority

2014 West 17th Court
Riviera Beach, FL 33404-5002

Mr. Philip O. Goombs
Executive Director

March 15, 2010

Administration

Phone:
(561) 845-7450

Stephen P. Auger, Executive Director
Florida Housing Finance Corp.
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301

Fax:
(561) 845-9665

**RE: Development Site for Emerald Palms
2003 W. 17th Court, Riviera Beach FL**

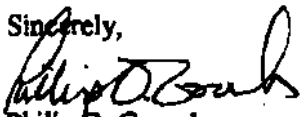
Dear Mr. Auger:

Per your inquiry, the Riviera Beach Housing Authority is the current owner of the Emerald Palms site and was the owner of the site on April 7, 2008, at the time an application for Housing Tax Credits was filed for this property (2008-112C). At that time, there was (and continues to be) a utility easement through the site (which bisects the site) to the benefit of Florida Power and Light.

There were no visible improvements in or any other physical evidence of this easement as of April 7, 2008, nor was such easement visually evident in any way.

Please contact me if additional information is required.

Sincerely,


Philip O. Goombs
Executive Director

cc: Gary J. Cohen, Esq.

EXHIBIT "G"

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-112C

Development Name: Emerald Palms

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points
09 - 24 - 2008	66	Y	7.5
Preliminary	66	N	7.5
NOPSE	66	N	7.5
Final	66	Y	7.5
Final-Ranking	66	Y	7.5

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Features & Amenities									
1S	II	B	2.a.	New Construction	9	9	9	9	9
1S	II	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	II	B	2.c.	All Developments Except SRO	12	12	12	12	12
2S	II	B	2.d.	SRO Developments	12	0	0	0	0
3S	II	B	2.e.	Energy Conservation Features	9	9	9	9	9
4S	III	B	3	Green Building	5	5	5	5	5
Set-Aside Commitments									
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	3	3
6S	III	E	3.	Affordability Period	5	5	5	5	5
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	6	6	6	6
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	0	0	0	0
8S	III	F	4.	Programs for All Applicants	6	6	6	6	6
Local Government Support									
9S	IV		A.	Contributions	5	5	5	5	5
10S	IV		B.	Incentives	4	4	4	4	4

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-112C

Development Name: Emerald Palms

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	5	Environmental Site Assessment	The Applicant failed to provide the required Verification of Environmental Safety Phase I Environmental Site Assessment form and, if applicable, the Verification of Environmental Safety Phase II Environmental Site Assessment form.	Preliminary	Final
2T	III	A	2.b.	Scattered Sites	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application and failed to provide the required information for each site.	NOPSE	Final
3T	III	B	2	Optional Features and Amenities	Based on information provided by a NOPSE, it appears that the Development site is divided by an easement and roadway and thus meets the definition of Scattered Sites (see subsection 67-48.002(98), F.A.C.). The Applicant failed to answer the question at Part III.B.2. of the Application.	NOPSE	Final
4T				Financial Arrears	Pursuant to subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C., NOPSE scoring may include financial obligations for which an Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or the Developer is in arrears to the Corporation or an agent or assignee of the Corporation as of the due date for NOPSE filing (May 15, 2008). As provided in paragraph(s) 67-48.004(13)(c) and/or 67-21.003(13)(d), F.A.C., following the submission of the "Cures," the Corporation shall reject an Application if the Applicant fails to satisfy any arrearages described in subsection(s) 67-48.004(5) and/or 67-21.003(5), F.A.C. A party to this Application (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) is listed on the May 15, 2008 Past Due Report as being in arrears to the Corporation as a related party (the Applicant or Principal, Affiliate or Financial Beneficiary of the Applicant or the Developer) of Hidden Grove. The May 15, 2008 Past Due Report is posted to the FHFC Website at http://www.floridahousing.org/Home/PropertyOwnersManagers/PastDueReports.htm . A portion of the arrearage was satisfied prior to issuance of the NOPSE Scoring Summary; however, \$500.00 is still due and owing as of May 15, 2008. Payments and questions should be addressed to the servicer and not to Florida Housing.	NOPSE	Final

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	1.25	1.25	1.25	1.25
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	1.25	1.25	1.25

2008 MMRB, SAIL & HC Scoring Summary

As of: 09/24/2008

File # 2008-112C

Development Name: Emerald Palms

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	1.25	1.25
6P	III	A	10.b.	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	3.75	3.75

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Revised as Result
1C	III	A	10	Proximity	Per page 14 of the Application Instructions, the Application automatically received 7.50 proximity tie breaker points because it involves a Public Housing Authority.	Preliminary	

EXHIBIT "H"

**Florida Housing Finance Corporation
2009 Universal Cycle Public Meeting Agenda
Jacksonville Hyatt Regency,
225 East Coast Line Drive, Jacksonville, FL 32202
August 8, 2008**

1. 2009 Application Cycle

The Application Period will be reduced from 30 days to 14 days.

2. Scattered Sites

Should the definition of Scattered Sites be revised?

3. Proximity

- a. Should the requirement for sketches be discontinued?
- b. Preservation Developments will be excluded from the Proximity List.

4. Special Needs

Should point incentives be provided for a commitment to set aside a percentage of the ELI units for special needs households?

5. Set-Aside Location A

- a. Should more restrictions be added for Set-Aside Location A areas?
- b. How should Florida Housing target resources where they are needed most and away from soft markets?
- c. How should Florida Housing prevent cannibalizing existing transactions?

6. Preservation Set-Aside

- a. Should the Preservation requirements be revised?
- b. Should the funding source be Bonds/SAIL rather than Competitive HC?

7. HC Non-Profit Set-Aside

The Non-Profit set-aside will be increased from 12% to 15%.

8. Universal Design

Should point incentives be provided for universal design?

9. New Federal Legislation

- a. 30% boost
- b. Increased Bond and LIHTC allocation
- c. 9% Lock-In rate

10. Florida Housing is considering ways to delineate Applications and get more "ready to go" Applications by the Application Deadline. For example:

- a. Include point ranges for Developer experience (number of deals completed);
- b. Require Site Plan Approval, Zoning and Site Control to be in place by Application Deadline;
- c. Draw only one line (at 80%) for A/B Leveraging;
- d. If Total Development Cost changes more than 25% (increase or decrease) in credit underwriting, then the Application with the highest lottery number in the next cycle will be skipped;
- e. Continue new provisions governing returned awards of funding;
- f. Scoring of Ability to Proceed (Site Plan Approval, Site Control, Infrastructure, Zoning and Environmental Safety) and Finance Documents:
 - (1) At preliminary scoring, if pass threshold Applicant is awarded 5 points;
 - (2) At final scoring, if successfully cure and pass threshold Applicant is awarded only 3 points.
- g. Include additional services. Suggestions?

11. Prioritizing Applications

Should Florida Housing allow Applicants to prioritize their Applications (Applications must be same county, same number of units, same HC request amount and same score)?

12. Tentative 2009 Universal Cycle Time Line

13. Other Changes

What other changes should be considered?

EXHIBIT 'T'

Google maps

Address **1716 Mayfair Village Rd**

Address is approximate

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm





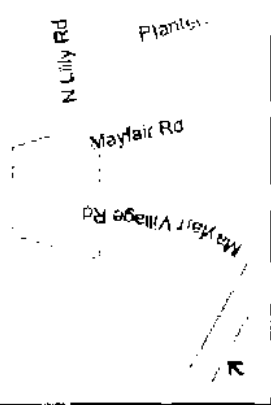




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