

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Pebble Hill Estates Limited Partnership

Case No. 2007-039VW

**AMENDED ORDER GRANTING PETITION FOR WAIVER OF RULE 67-
48.004(14)(e), F.A.C.**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on September 21, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(e), F.A.C." (the "Petition"), filed by Pebble Hill Estates Limited Partnership ("Petitioner") on August 20, 2007. Notice of the Petition was published in Volume 33, Number 35, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. On September 21, 2007, the Board granted Petitioner's requested relief and issued an Order pursuant thereto. Now, Staff has become aware of ambiguities in the original Order which necessitate this amendment. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

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

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Green /DATE. 5-2-08

2. During the 2005 Universal Application Cycle, Florida Housing awarded an allocation of low income housing tax credits to finance Pebble Hill Estates (the “Development”).

3. Rule 67-48.004(14)(e), Florida Administrative Code (2005), provides in pertinent part:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline ... Any attempted changes to these items will not be accepted. Those items are as follows...

(e) Site for the Development;

4. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

5. In its August 20, 2007 Petition, Petitioner requested a variance to the above provision, to reduce the number of acres on which the Development is located, as a portion of the Development been dedicated to the City of Marianna for a conservation easement.

6. As grounds for its requested waiver, Petitioner stated that while in the process of completing the 2007 carryover process, Florida Housing staff requested

that Petitioner certify that the site had not changed. Petitioner stated that the location of the Development, on approximately 33.03 acres, did not change. As part of the Development process however, Petitioner dedicated an easement of approximately 7.25 acres located within the 33.03 acre tract to the City of Marianna. This reduction resulted in a change to the site for the development.

7. The Board found that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner provided a new Surveyor Certification form and sketches with the exact same latitude and longitude coordinate for the Tie-Breaker Measurement Point as on the original form, demonstrating that the Point had not changed. Accordingly, Petitioner received no unfair advantage over the other applicants. The dedication of easement to the City of Marianna did not impact any land use or zoning requirements. Without the waiver, the Development could not proceed as the easement in favor of the City of Marianna was a condition of the development order issued by the City. Permitting this change in Development also served the underlying purpose of the statute.

8. However, since the Board approved Petitioner's requested change and issued an Order pursuant thereto, staff has become aware of ambiguities in the original Order which necessitate this amendment.

9. The site on which the Development is located was approximately 20 +/- acres as described in the original deed vesting the property in Petitioner. Subsequently, a corrective warranty deed was recorded adjusting the parcel and resulting in a 21.03 acre site. Petitioner next acquired additional land from an adjacent tract resulting in a 33.30 acre Development site. The City of Marianna conditioned development approval on the dedication of a 7.25 acre easement in its favor. Said 7.25 acre conservation easement is a portion of the 33.30 acre Development site.

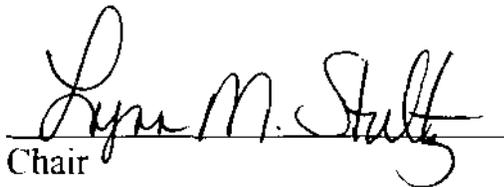
10. This Amended Order is made for the purpose of clarifying that Petitioner's granting of the 7.25 acre parcel was an easement and not a fee simple conveyance. Further, this Amended Order is to clarify that the 7.25 acre easement is a portion of the Development's 33.03 acre tract.

IT IS THEREFORE ORDERED:

The "Petition for Waiver of Rule 67-48.004(14)(e), F.A.C." is hereby **GRANTED**, to allow Petitioner's requested change the Development site reflecting the dedication of an easement in favor of the City of Marianna.

DONE and ORDERED this 2nd day of May, 2008.

Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.