

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Palafox Landing, Ltd.

Case No. 2007-094VW

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**ORDER GRANTING PETITION FOR WAIVER OF RULES 67-48.004(14);  
67-48.004(1)(A); 67-48.002(83), F.A.C. (2006); PART II.A.2.A.(1) OF THE  
2006 UNIVERSAL APPLICATION INSTRUCTIONS; AND SECTION 11  
OF THE 2007 QUALIFIED ALLOCATION PLAN**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on October 26, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14) and Rule 67-48.004(1)(a) and Part II.A.2.A.(1) of the Universal Application Instructions for a Change in the Identity of the Petitioner's Developer and the Petitioner's Ownership Structure; Petition for Waiver of Rule 67-48.002(83) and Section 10[sic] of the 2006[sic] Qualified Allocation Plan" filed by Palafox Landing, Ltd. ("Petitioner") on September 25, 2007. On October 8, 2007, Petitioner filed an Amended Petition to correct citation errors and to clarify the relief requested. Notice of the Petition was published in Volume 33, Number 40, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

BY THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*S. Green*

/DATE. 10-29-07

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

2. During the 2006 Universal Cycle, Palafox Landing, Ltd., (“Petitioner”) applied for and was awarded competitive low-income housing tax credits (“Housing Credits”) to finance the construction of Palafox Landing (the “Development”) located in Escambia County.

3. Rule 67-48.004(1)(a), Florida Administrative Code (2006), provides in pertinent part:

(1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.

(a) The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation’s Website under the 2006 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC Program(s).

4. Rule 67-48.004(14), Florida Administrative Code (2006), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the

Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

...(b) Identity of each Developer, including all co-Developers;

5. Part II.A.2.a.(1), of the 2006 Universal Application Instructions provides in pertinent part:

If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.

6. Section 11 of the 2007 Qualified Allocation Plan, provides in pertinent part:

Notwithstanding any other provision of this QAP, where a Development has not been placed in service by the date required or it is apparent that a development will not be placed in service by the date required, such failure is due to circumstances beyond the Applicant's control, and the Applicant has returned its housing credit allocation in the last calendar quarter of the year in which otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of credits returned, and may allocated such housing credits to the Applicant for the year after the year in which otherwise required to be placed in service, provided the following conditions have been met: the sponsor must have provided written notice to the

Corporation via Certified Mail, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant's control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing the delay, that the development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.

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

Variances 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.

8. Petitioner requests a variance or waiver to the above provisions to allow Greater Miami Neighborhoods, Inc. to withdraw as co-Developer of the project and also for its wholly-owned subsidiary, GMN Palafox, Inc., to withdraw as co-General Partner of the Development.
9. The result of the requested change would leave Community Enterprise Investments, Inc. as the sole Developer and CEII Palafox, Inc. as the sole General Partner (a 0.01% interest) of the Applicant entity. Petitioner has demonstrated that Greater Miami Neighborhoods, Inc. and GMN Palafox, Inc.,

its wholly owned subsidiary are experiencing financial and operational difficulties and are in the process of reorganizing and/or winding down its business operations, and therefore is unable to fulfill its obligations to the Development.

10. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. CEII Palafox, Inc. is a qualified non-profit entity, in that 100% of its outstanding stock is owned by Community Enterprise Investments, Inc., a 501(c)(3) tax-exempt organization. Accordingly, Petitioner received no unfair advantage over the other applicants. Without the waiver, Petitioner cannot complete construction of the Development by its placed in service deadline. Permitting this change in Development would also serve the underlying purpose of the statute.

**IT IS THEREFORE ORDERED:**

The Petition for Waiver of Rules 67-48.004(14), 67-48.004(1)(a) F.A.C. (2006), and Part II.A.2.A.(1) of the 2006 Universal Application Instructions, is hereby **GRANTED**, to allow Petitioner to change the ownership and developer structure of the Applicant entity by allowing Greater Miami Neighborhoods, Inc. to withdraw as co-Developer and GMN Palafox, Inc. to withdraw as co-General Partner. Petitioner's request to waive the requirements of Section 11 of the 2007

Qualified Allocation Plan is hereby **GRANTED**, but only to the extent that Petitioner shall be permitted to return its 2006 Housing Credit allocation now, rather than wait to the last calendar quarter of 2008, and to receive an allocation of 2008 Housing Credits rather than a reservation of 2009 Housing Credits. Petitioner's new placed-in-service deadline shall be December 31, 2009.

DONE and ORDERED this 26th day of October, 2007.

Florida Housing Finance Corporation

By: *Lynn M. Stultz*  
Chair



**Copies furnished to:**

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

## **NOTICE OF RIGHTS**

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