

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Oaks at Stone Fountain, LP.

Case No. 2008-071VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-
48.004(14)(e), FLORIDA ADMINISTRATIVE CODE (2005)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on August 26, 2008, pursuant to a "Petition for Waiver from Rule 67-48.004(14)(e), Florida Administrative Code (2005)" filed by Oaks at Stone Fountain, LP. ("Petitioner"). On September 6, 2008, the Notice of Petition was published in the Florida Administrative Weekly. To date, Florida Housing has received no comments concerning 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:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2005 Universal Application Cycle, Florida Housing awarded an allocation of housing credits to Oaks at

FILED WITH THE CLERK OF THE
FLORIDA HOUSING FINANCE CORPORATION

Sherry Shee FILED 9-26-08

Stone Fountain, LP., in connection with the Development known as Oaks at Stone Fountain, an 80-unit multifamily rental complex intended to serve the Family demographic in Hillsborough County, Florida.

3. Rule 67-48.004(14)(e), F.A.C. (2005), 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:

...(e) Site for the Development

4. 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.

5. When Petitioner applied for an allocation of Competitive HC to develop the 80-unit Development, the site control documentation filed as part of the Application identified the parcel as approximately 3.98 acres. When

Petitioner submitted its application, it intended to rehabilitate 16 units and construct 64 new units. Subsequently, the Corporation approved a change to allow new construction of the entire 80 units. In order to accommodate the new construction, Petitioner acquired additional property adjacent to the Development site totaling approximately 2.88 acres.

6. Because the inclusion of additional acreage could be considered a “change” of the “site” for the Development, Petitioner requests a waiver of the requirement that the site for the Development remain unchanged.

7. Petitioner is in the process of making application to the Corporation to receive its final allocation of federal low income housing tax credits.

Petitioner has demonstrated that if this waiver is not granted, Petitioner will not be able to satisfy one of the carryover allocation conditions requiring that the site remain unchanged, a condition precedent to receipt of its final allocation of tax credits. Petitioner has further shown that the additional acreage does not impact the location of the Tie-Breaker Measurement Point (“TBMP”) on the Development site. Thus, Petitioner will obtain no unfair advantage should Florida Housing grant its request.

8. Petitioner has shown that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner has further demonstrated that permitting

this change in Development would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rule 67-48.004(14)(e), Florida Administrative Code (2005) is hereby **GRANTED**, to allow Petitioner to change the site of the Oaks at Stone Fountain Development.

DONE and ORDERED this 26th day of September, 2008.

Florida Housing Finance Corporation



By:

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CHAIRPERSON

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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.