

[Signature] / DATE: 6-11-01

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

LAKESMART ASSOCIATES, LTD

Petitioner,

DOAH Case No.:
00-4287RU

vs.

FLORIDA HOUSING FINANCE
CORPORATION

Respondent.

RPK ASSOCIATES, LTD.,

Petitioner,

DOAH Case No.:
00-4408RU

vs.

FLORIDA HOUSING FINANCE
CORPORATION

Respondent.

MEADOW GLEN, LTD. and CORAL
VILLAGE II, LTD.

Intervenors.

FINAL ORDER

This cause came before the Board of Directors ("Board") of the Florida Housing Finance Corporation ("FHFC" or "Respondent") for consideration and final agency action. On October 17, 2000, LAKESMART ASSOCIATES, LTD. ("Lakesmart") filed a Petition Challenging Agency Statements Defined as Rules seeking a determination that certain statements made and applied by FHFC constituted invalid unadopted rules. Petitioner, RPK Associates, Ltd. ("RPK") filed a similar petition on October 26, 2000.

2001-027

An Order granting consolidation of the Lakesmart and RPK cases was entered on November 8, 2000. On November 8, 2000, Intervenor, Meadow Glen, Ltd. ("Meadow Glen") and Coral Village II, Ltd. ("Coral Village") filed their petition for joinder, seeking to join the petition of RPK. On November 9, 2000, an Order was entered granting Intervenor Meadow Glen and Coral Village leave to intervene in the consolidated cases. (Lakesmart, RPK and Intervenor Meadow Glen and Coral Village will collectively hereafter be referred to as "Petitioners"). Prior to the hearing of this matter, the parties stipulated that the matter should proceed as an administrative hearing pursuant to §120.57(1)(e), Fla. Stat., even though the matter was originally filed pursuant to §120.56(4), Fla. Stat. The Administrative Law Judge in the Recommended Order ultimately accepted this stipulation. This matter was heard before John G. Van Laningham, Administrative Law Judge, Division of Administrative Hearings ("DOAH"), on December 11, 2000. Intervenor Meadow Glen and Coral Village filed a Proposed Recommended Order that was adopted by Lakesmart and RPK. FHFC also filed a Proposed Recommended Order.

After consideration of the evidence, arguments, testimony presented at hearing, and the Proposed Recommended Orders, the Administrative Law Judge issued his Recommended Order. A true and correct copy of the Recommended Order is attached hereto as Exhibit "A". The Administrative Law Judge recommended the Corporation enter a Final Order dismissing the petitions of Lakesmart, RPK, and Intervenor Meadow Glen and Coral Village based on the finding that FHFC properly followed its directive in the Qualified Allocation Plan ("QAP") for the 2000 Application cycle.

On February 22, 2001, Lakesmart, RPK and Intervenors jointly timely filed their Exceptions to Recommended Order. On March 1, 2001, FHFC timely filed its Response in Opposition to Exceptions. On March 8, 2001, the Board considered this matter for final action. The vote was tabled at the March 8, 2001, meeting to allow the Board to examine the record of the DOAH hearing. The matter was reconsidered at the April 6, 2001 Board meeting but no final action was taken by the Board at that meeting. On May 10, 2001, the Board took final action on the matter. Each of Petitioners' exceptions are addressed below.

RULING ON PETITIONER'S EXCEPTIONS

The issue in this case involved the interpretation and application of Rule 67-48.032(2), Florida Administrative Code (2000) and paragraph 2 on page 2 of Florida Housing's 2000 QAP for the Housing Credit Program. Petitioners took exception to the findings of fact and conclusions of law made by the Administrative Law Judge alleging that they were in conflict with the alleged stipulations and agreements of the parties and thus the findings of fact and conclusions of law were not based on competent substantial evidence. Paragraph 7 of Petitioners' and Intervenors' Exceptions to Recommended Order outlines the stipulations that Petitioners allege were made between FHFC and the Petitioners before and during trial.

Petitioners' exceptions are set forth in Paragraphs 12 through 20 of Petitioners' and Intervenors' Exceptions to Recommended Order. Petitioners essentially assert that FHFC agreed to be bound by the precedent set by the 1997 interpretation of the non-profit adjustment procedures set forth in the 1997 Rule and QAP. Further, Petitioners assert that there was no competent substantial evidence to support FHFC's intent to

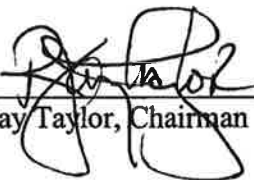
change the 1997 interpretation for the 2000 Rule and QAP. The record is devoid of the stipulation Petitioners allege the parties made. Moreover the Administrative Law Judge found that the language in the QAP was unambiguous. As such, the challenged findings and conclusions are supported by competent substantial evidence. Petitioners' exceptions are denied.

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

1. Petitioner's exceptions are hereby **REJECTED**.
2. The findings of fact of the Recommended Order are adopted in full as the Corporation's findings of fact.
3. The conclusions of law of the Recommended Order are adopted in full as the Corporation's conclusions of law.
4. The Administrative Law Judge's recommendation that a Final Order be entered dismissing the petitions of Petitioner Lakesmart, Petitioner RPK, and Intervenors Meadow Glen and Coral Village is approved and accepted as the appropriate disposition of this case. Accordingly, the petitions of Petitioner Lakesmart, Petitioner RPK and Intervenors Meadow Glen and Coral Village are hereby **DISMISSED**.

DONE and ORDERED this 11th day of June, 2001.

FLORIDA HOUSING FINANCE
CORPORATION

By: 
Jay Taylor, Chairman

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIL L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies to:

Elizabeth G. Arthur, Esq.
Florida Housing Finance Corporation
227 North Bronough Stret, Suite 5000
Tallahassee, Florida 32301

W. Douglas Moody, Jr., Esq.
Graham, Moody & Sox, P.A.
215 South Monroe Street
Tallahassee, Florida 32301

Robert S. Cohen, Esq.
1435 East Piedmont Drive, Suite 201-B
Tallahassee, Florida 32312-2938

Robert B. Turken, Esq.
Bilzin, Sumberg, et al.
2500 First Union Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131-2336

David A. Barret, Esq.
Barrett & Associates
111 South Monroe Street, Suite 3000
Tallahassee, Florida 32302-0930

Michael J. Glazer, Esq.
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302

Maureen McCarthy Daughton, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308