

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

RST FRUITLAND HOUSING, LP,

Petitioner,

v.

DOAH CASE NO.: 10-0896
FHFC CASE NO.: 2009-055GA

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation, following proceedings conducted pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and Rule 28-106, Fla. Admin. Code, for consideration and final agency action on June 18, 2010. On November 13, 2009, RST Fruitland Housing, LP (“RST”) timely filed its Petition for Administrative Hearing with Respondent, Florida Housing Finance Corporation (“Florida Housing”). On February 10, 2010, RST filed an Amended Petition (“Petition”) which challenged Florida Housing’s decision rescinding Tax Credit Exchange Program funding allocated to RST under RFP 2009-04 for development an affordable housing project to be known as “Plata Lago.” This action was based upon Florida Housing’s finding that the submarket in which the development was to be built did not

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HOUSING FINANCE CORPORATION

meet requirement contained in R. 67-48.0072(10), Fla. Admin. Code, that the existing developments in the proposed development's submarket have a minimum 90 per cent average occupancy rate.

Upon finding that the allegations in the Petition included disputed issues of material fact, Florida Housing forwarded the Petition to the Division of Administrative Hearings (DOAH) on January 22, 2009.

A formal hearing was held in this case on April 27, 2010, in Tallahassee, Florida, before the Honorable Robert S. Cohen, Administrative Law Judge (the "ALJ"). RST and Florida Housing timely filed Proposed Recommended Orders.

After consideration of the evidence, arguments, testimony presented at hearing and the Proposed Recommended Orders, on June 9, 2010, the ALJ issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as "Exhibit A." The ALJ recommended that Florida Housing enter a Final Order rescinding funding to the Plata Lago development for failing to pass the occupancy standard set forth in Florida Administrative Code Chapter 67-48.

RULING ON THE RECOMMENDED ORDER

The aforementioned Exceptions having been rejected, the Board finds that the findings of fact and conclusions of law of the Recommended Order are supported by competent substantial evidence.

ORDER

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

1. The Findings of Fact of the Recommended Order are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.


2. The Conclusions of Law of the Recommended Order are adopted as Florida Housing's conclusions of law and incorporated by reference as though fully set forth in this Order.

3. The Petition for Administrative Hearing filed in this matter by Petitioner, RST Fruitland LP, is hereby **DISMISSED** and all relief requested therein is **DENIED**.

DONE and ORDERED this 18th day of June, 2010.



FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chair

Copies to:

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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 MARTIN LUTHER KING, JR., BLVD., 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.