

FILED

DISTRICT COURT OF APPEAL
FIRST DISTRICT
STATE OF FLORIDA
TALLAHASSEE, FLORIDA 32399-0950

2011 NOV 28 P 1:20

JON S. WHEELER
CLERK OF THE COURT

(850) 488-6151

DIVISION OF
ADMINISTRATIVE
HEARINGS

November 23, 2011

Claudia Llado, Clerk
Division Of Admin. Hearings
1230 Apalachee Parkway
Desoto Bldg.
Tallahassee, FL 32399-3060

RE: Elmwood Terrace
Limited Partnership
Docket No: 1D10-5930
Lower Tribunal Case No.: 10-2799RX

v. Florida Housing Finance
Corporation

Dear Ms. Llado:

I have been directed by the court to issue the attached mandate in the above-styled cause. It is enclosed with a certified copy of this Court's opinion.

Yours truly,

Jon S. Wheeler
Clerk of the Court

JSW/mn
Enclosures

c: (letter and mandate only)
J. Stephen Menton

Wellington H. Meffert, I I, Hugh R. Brown, Deputy
General Counsel General Counsel

M A N D A T E

From
DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

To William F. Quattlebaum, Hearing Officer, Division of Administrative Hearings

WHEREAS, in the certain cause filed in this Court styled:

**ELMWOOD TERRACE LIMITED
PARTNERSHIP**

Case No : 1D10-5930

v.

Lower Tribunal Case No : 10-2799RX

FLORIDA HOUSING FINANCE CORPORATION

The attached opinion was issued on November 7, 2011.

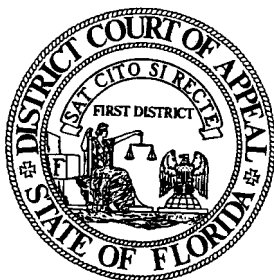
YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable Robert T. Benton, II, Chief Judge

of the District Court of Appeal of Florida, First District,

and the Seal of said Court done at Tallahassee, Florida,

on this 23rd day of November 2011.



Jon S. Wheeler

JON S. WHEELER, Clerk

District Court of Appeal of Florida, First District

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

ELMWOOD TERRACE
LIMITED PARTNERSHIP,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NOS. 1D10-5930 and 1D11-0150

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Appellee.



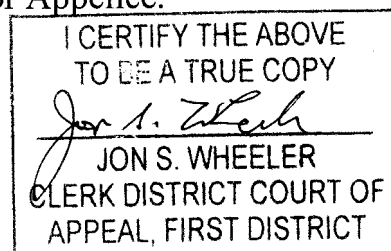
Opinion filed November 7, 2011.

An appeal from the Division of Administrative Hearings.
William F. Quattlebaum, Administrative Law Judge.

J. Stephen Menton of Rutledge, Ecenia & Purnell, P.A., Tallahassee, for Appellant.

Wellington H. Meffert, II, General Counsel, and Hugh R. Brown, Deputy General
Counsel, Florida Housing Finance Corporation, Tallahassee, for Appellee.

PER CURIAM.



We consolidate two cases for appellate review. The first originates from Florida Housing Finance Corporation's (the Corporation) denial of stimulus funds to appellant. The second originates from a challenged rule used for support of the denial.

We uphold the Corporation's denial of stimulus funds to appellant based on the application of the Impact Provision included in Florida Administrative Code Rule 67-48.0072 (2009), without further comment. As for the rule challenge, the administrative law judge (ALJ) upheld the rule based on alternative holdings. We uphold the ALJ's determination that the rule is valid. However, we write to clarify that our affirmance should not be taken as approval of the order's alternative holding that the Impact Provision was not a rule, and therefore, appellant lacked standing.

The Impact Provision was contained in a codified rule of the Florida Administrative Code, and appellant was denied stimulus funds based on the application of the provision. Thus, the provision was a rule, and appellant, who had been substantially affected by the rule's impact, had standing at both the hearing below and on appeal. See Fla. Admin. Code. r. 67-48.0072 (2009); § 120.68(1), Fla. Stat. (2009); see also § 120.52(16), Fla. Stat. (2009) (defining a rule as an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency).

AFFIRMED.

WOLF, LEWIS, and WETHERELL, JJ., CONCUR.