

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

ELMWOOD TERRACE
LIMITED PARTNERSHIP,

Appellant,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Appellee.

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

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

FILED
2011 NOV -8 A 11:57
DIVISION OF
ADMINISTRATIVE
HEARINGS

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.