

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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In Re: Park Richey Apartments, Ltd.

FLORIDA HOUSING
FINANCE CORPORATION

FHFC Case No. : 2005-022VW

ORDER DISMISSING PETITION FOR WAIVER
OF RULE 28-104, FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on August 25, 2005, pursuant to a Petition for Waiver of Rule 28-104, F.A.C., (the "Petition"), filed by Park Richey Apartments, Ltd. ("Petitioner") on June 24, 2005. Notice of the Petition was published in Volume 31, Number 27, of the Florida Administrative Weekly. Florida Housing received no comments regarding 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. 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.

4. Petitioner is the developer of Regency Palm Apartments, a 200 unit, multifamily apartment complex, which is being funded with \$2,000,000 in SAIL funds from the Florida Housing Cycle XI (1999).

5. Petitioner seeks a waiver of the above Rule. However, Petitioner states that it has been fined \$500 by Florida Housing and that such fine is causing an undue hardship. Petitioner fails to identify what rule Florida Housing used as a basis to impose the fine.

7. All of the rules used by Florida Housing in the administration of its programs are found in Rule Chapter 67, Florida Administrative Code. Florida Housing has no authority to grant waivers or variances from rules found in Rule Chapter 28, Florida Administrative Code, as these rules are part of the Administration Commission's rules that govern uniform procedure.

8. As Petitioner has failed to identify a rule within Florida Housing's jurisdiction, Florida Housing cannot determine whether the purpose of the underlying statute will be or has been achieved by other means by Petitioner; and whether application of the rule would create a substantial hardship or would violate principles of fairness.

IT IS THEREFORE ORDERED:

The Petition for Waiver of Rule 28-104, Florida Administrative Code, is hereby

DISMISSED.

DONE and ORDERED this 25th day of August, 2005.

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

NOTICE OF RIGHTS

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 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.