

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: OAKS AT SHANNON'S CROSSING
LIMITED PARTNERSHIP

FHFC Case No.: 2005-050VW
Application No.: 2005-124C

**AMENDED ORDER GRANTING WAIVER OF RULES 67-48.004(1)(a),
67-48.004(14) AND (15), FLA. ADMIN. CODE (2005)**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on December 9, 2005, pursuant to a Petition for Waiver of Rules 67-48.004(1)(a), and 67-48.004(14) and (15), Fla. Admin. Code (2005), specifically, a portion of the 2005 Universal Application Instructions incorporated by reference into said rule ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 7, 2005, from Oaks at Shannon's Crossing Limited Partnership, a Florida limited partnership ("Petitioner"). On November 18, 2005, the Notice of the Petition was published in Volume 31, Number 46, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. Petitioner's request for waiver was granted. Petitioner requests an Amended Order which specifically allows Shannon Crossings, LLC, to act as co-developer. After review and consideration of the record, and being otherwise fully advised, the Board of Directors ("Board") of Florida Housing hereby finds as follows:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2005 Universal Cycle, Florida Housing awarded an allocation of \$974,898 in low income housing tax credits to Oaks at Shannon's Crossing Limited Partnership

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE. 6-12-06

(“Petitioner”), to aid in the financing of a 100-unit affordable townhouse development to be located in Okeechobee County, Florida.

3. Rule 67-48.004(1)(a), Florida Administrative Code, defines the “Universal Application Package” and incorporates the 2005 Universal Application Instructions (“Instructions”) by reference. By virtue of the rule above, the Universal Application Instructions are also rules.

4. The particular provisions of the Instructions for which Petitioner requests a waiver state, in pertinent part:

Part II. Applicant and Development Team

A.2a(1) If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.

B.1. The identity of the Developer(s) listed in this Application may not change until the construction or Rehabilitation/Substantial Rehabilitation of the Development is complete.

5. Rule 67-48.004(14), Florida Administrative Code, states in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

* * *

(b) Identity of each Developer, including all co-Developers;

6. Rule 67-48.004(15), Florida Administrative Code, states in pertinent part:

A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if at any time the Board determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

7. Petitioner requests a waiver from the above Rules and incorporated provisions of the Instructions to permit the replacement, prior to completion of construction, of the sole member of its General Partner, RLI Beneficial Holdings 2005, LLC, a for-profit limited liability company, with Shannon Crossings, LLC, a Florida limited liability company wholly owned by Everglades Community Association, Inc., a Florida non-profit 501(c)(3) corporation.

8. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations 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.

9. Petitioner seeks the replacement of the sole member of its General Partner to comply with the requirements of a conditional allocation of funds under the US Rural Development Section 514 program ("RD 514") in association with Federal Home Loan Bank ("FHLB"). The RD 514 program requires Petitioner to replace its for-profit entity with a non-profit entity. This arrangement will permit Petitioner to better serve farmworker tenants by the leveraging of approximately \$3,000,000 in Federal funds and approximately \$500,000 in FHLB funds, among other benefits.

10. Petitioner will not be able to obtain the additional funding without making this change to its ownership structure. Petitioner also plans to include a minimum of 40 units set aside for farmworker housing. Petitioner reports the replacement of the sole member of the General Partner will not adversely impact the Development, as the new entity will act as a co-developer with Applicant, which retains the requisite expertise and experience to successfully complete the Development.

11. Petitioner asserts, and the Board agrees, that the granting of the waiver will serve the purpose of the underlying statute, Chapter 420 Part V, Florida Statutes, by permitting it to target an additional demographic group, and to otherwise better serve the statutory goal of encouraging private and public investment in low-income housing. Petitioner has demonstrated that the change in ownership structure will not adversely impact the Development.

12. Moreover, denying this waiver would create a substantial hardship for Petitioner and may result in unintended consequences, in that Petitioner would be unable to obtain the additional funding for this development.

IT IS THEREFORE ORDERED:

The Petition for Waiver is hereby **GRANTED** for Rules 67-48.004(14) and (15), Florida Administrative Code (2005) to the extent they apply to these circumstances, and the provisions of the 2005 Universal Application Instructions set forth in paragraph 4 above (and incorporated by Rule 67-48.004(1)1(a), Florida Administrative Code (2005)), are waived to the following extent: Petitioner shall be permitted to replace the sole member of its General Partner, RLI Beneficial Holdings 2005, LLC, with Shannon Crossings, LLC, in the manner described above and Shannon Crossings, LLC, shall be permitted to act as co-developer.

DONE and ORDERED this 9th day of June, 2006.

Florida Housing Finance Corporation

By: *Terry Stantino*
Chairman



Copies furnished to:

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Joint Administrative Procedures Committee
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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 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.