

PETITION FOR WAIVER

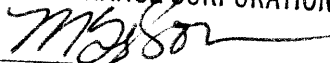
PETITIONER
Homes and Land Realty, Inc.
5420 Atlantic View Drive
St. Augustine, FL 32080
(904) 377-0539
(904) 819-0039 fax

RESPONDENT
Florida Housing Finance Corporation
227 North Bronough Street, Ste 5000
Tallahassee, FL 32301
(850) 488-4197
(850) 488-9809 fax

IN RE: HH03-048
Countywide Housing Assistance Program, Phase I

- A. Wherefore, the Petitioner, Homes and Land Realty, Inc., by and through its undersigned President and pursuant to Section 120.542 Florida Statutes and Rule Chapter 28-104 Florida Administrative Code (F.A.C.) hereby files its Petition for Variance from or Waiver of Rule 67-50.005(6), for Countywide Housing Assistance Program, Phase I Development (the Development) as set forth below.
- i. Whereas, the Petitioner was awarded funding on July 30, 2004 from the 2003 Supplemental Application for Countywide Housing Assistance Program, Phase I a scattered site development located in St. Johns County, Florida.
 - ii. Whereas, the Petitioner's authorized representative is as follows: Cameron Jacobs, President, Homes and Land Realty, Inc., 5420 Atlantic View Drive, St. Augustine, Florida 32080. Telephone number (904) 377-0539, facsimile number (904) 819-0039.
 - iii. The applicable Rule which is the subject of this Petition is Florida Housing Finance Corporation Homeownership Loan Program Rule Chapter 67-50.005(6), which states, "Application", "means the completed forms from the Application Package together with all exhibits submitted to the Corporation in order to apply for either HAP or HOME Loan funds, in accordance with this Rule Chapter and the Application Package instructions, which is adopted and incorporated herein by reference."
 - iv. Petitioner requests the waiver of the Application Exhibit 23 requiring that the Applicant must demonstrate that a Phase I Environmental Site Assessment (ESA) has been performed in accordance with ASTM Practice #E1527-00 by providing a properly completed and executed the Verification of Environmental Safety – Phase I Site Assessment Form, Exhibit 23, behind a tab labeled "Exhibit 23".
 - v. Whereas, the Petitioner is requesting a waiver for the relief of the Phase I ESA requirement. The Phase I ESA typically used for multifamily developments or single family subdivisions. The Phase I ESA identifies environmental issues with parcels of undeveloped land. The lots being utilized for this development are scattered sites within established neighborhoods, with existing roads, utilities, schools, shopping churches, parks, fire and police protection etc. Normally an appraisal report will point out any obvious environmental problems. The Phase I ESA is not a requirement to receive funds from the Department of Housing and Urban Development.
 - vi. Whereas, the Petitioner has received notification from Respondent assigned underwriters lot specifics must be submitted prior to October 1, 2004. At this time Petitioner has not identified all lots applied for in above mentioned application. As such, Petitioner is unable to provide specific size, location, safety measures and

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HOUSING FINANCE CORPORATION

 /DATE: 8/10/04

inspection information of lots to Respondent. As Petitioner acquires lots, these lots will be reviewed and approved by the local government entity for any known environmental issues, infrastructure availability, and any prior historical zoning information. Local governments do not issue permits for construction on known land containing environmental problems.

- vii. Whereas, the application of the Rule will cause Petitioner to suffer substantial hardship in the following manner:
 - (a) The estimates of cost for a Phase I ESA are \$1,500 to \$2,000 per lot, per estimates provided by three local environmental contractors. This cost would ultimately be passed through to the homebuyer, but is currently requested to be paid by the Petitioner prior to receiving funds from Florida Housing Finance Corporation.
 - (b) If the Phase I ESA is required but not completed, the loss of the subsidy for Countywide Housing Assistance Program, Phase I will make it not economically feasible for the potential home buyers; this in turn will cause a serious economic hardship for Homes and Land Realty, Inc. and St. Johns County.
 - viii. Whereas, the waiver of the Rule will serve the purposes of the underlying statute as Countywide Housing Assistance Program, Phase I will be providing safe and affordable housing to the citizens of Florida if the Development is permitted to continue.
 - ix. Wherefore, the Petitioner, Home and Land Realty, Inc., respectfully requests that the Florida Housing Finance Corporation enter an order granting Petitioner a waiver of the requirement to submit the Phase I ESA thereby permitting development and construction of 35 much needed affordable single family homes in St. Johns County, Florida.
 - x. Whereas, this requested shall be permanent
- B. Wherefore, the Petitioner, Homes and Land Realty, Inc., by and through its undersigned President and pursuant to Section 120.542 Florida Statutes and Rule Chapter 28-104 Florida Administrative Code (F.A.C.) hereby files its Petition for Variance from or Waiver of Rule 67-50.005(6), for Countywide Housing Assistance Program, Phase I Development (the Development) as set forth below.
- i. Whereas, the Petitioner was awarded funding on July 30, 2004 from the 2003 Supplemental Application for Countywide Housing Assistance Program, Phase I a scattered site development located in St. Johns County, Florida.
 - ii. Whereas, the Petitioner's authorized representative is as follows: Cameron Jacobs, President, Homes and Land Realty, Inc., 5420 Atlantic view Drive, St. Augustine, Florida 32080. Telephone number (904) 377-0539, facsimile number (904) 819-0039.
 - iii. The applicable Rule which is the subject of this Petition is Florida Housing Finance Corporation Homeownership Loan Program Rule Chapter 67-50.005(6), which states, "Application", "means the completed forms from the Application Package together with all exhibits submitted to the Corporation in order to apply for either HAP or HOME Loan funds, in accordance with this Rule Chapter and the Application Package instructions, which is adopted and incorporated herein by reference."

- iv. Petitioner requests the waiver of the Rule and Application, Exhibit 21 Verification of Availability of Infrastructure for Roads, stating "Existing paved roads provide access to the proposed development or paved roads will be constructed as part of the proposed development."
- v. Whereas, the Petitioner is requesting a waiver for the relief of this requirement and be granted to allow the eligibility and use of lots for new home construction which are located on a publicly maintained road, as there are lots within the scope of the application which are located on public roads which are not paved.
- vi. Petitioner asserts that application of the Rule would result in a violation of the principle of fairness in that in many rural neighborhoods throughout the State there are developed subdivisions in which unpaved roads are owned and maintained by local government. Local conditions and customs make unpaved roads acceptable for HUD, VA, USDA – Rural Development and local bank financing.
- vii. Whereas, the application of the Rule will cause Petitioner to suffer substantial hardship in the following manner:
 - (a) The costs associated with paving roads in rural areas could potential cause an economic hardship for the Petitioner and the local government. The costs would in turn be passed on to the potential homebuyer thus increasing the home purchase price and possibly making it impossible for those to purchase.
 - (b) Petitioner would suffer severe financial consequences should it be unable to proceed with the development of Countywide Housing Assistance Program, Phase I.
- viii. Whereas, the waiver of the Rule will serve the purposes of the underlying statute as Countywide Housing Assistance Program, Phase I will be providing safe and affordable housing to the citizens of Florida if the Development is permitted to continue.
- ix. Wherefore, the Petitioner, Home and Land Realty, Inc... respectfully requests that the Florida Housing Finance Corporation enter an order granting Petitioner a waiver of the requirement to construct new homes on paved roads thereby permitting development and construction of 35 much needed affordable single family homes in St. Johns County , Florida.
- x. Whereas, this requested shall be permanent

Respectfully submitted this 9th day of August, 2004



Cameron Jacobs
President
Home and Land Realty, Inc.