

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CLEARLAKE CROSSINGS, LLC

FHFC Case No. : 2004-056VW

**ORDER GRANTING PETITION FOR VARIANCE
FROM RULES 67-48.002(111), 67-48.004(14)(l) and 67-48.012(2)(g), FLORIDA
ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on March 4, 2005, pursuant to a Petition for Variance from Rules 67-48.002(111), 67-48.004(14)(l) and 67-48.012(2)(g), F.A.C., (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 21, 2004, from Clearlake Crossings, LLC ("Petitioner"). On January 7, 2005, the Notice of the Petition was published in Volume 31, Number 1, of the Florida Administrative Weekly. Florida Housing did not receive any 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. During the 2004 Universal Application Cycle Petitioner was awarded an allocation of State Apartment Incentive Loan ("SAIL") funds for the construction of Clearlake Crossings, a 198-unit apartment development intended to serve the Family demographic to be located in Brevard County, Florida (the "Development").
3. While Petitioner's Application was pending before Florida Housing, Hurricanes Frances and Jeanne struck Brevard County. The hurricane resulted in increased demand for

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HOUSING FINANCE CORPORATION

 /DATE: 3/7/05

housing, especially affordable housing, which caused dramatic increases in the costs of labor and materials and the cost of construction generally.

4. Because of the resulting significant increases in costs to develop much needed affordable housing in Brevard County, Petitioner is seeking relief from certain Florida Housing rules that limit the amount of subsidy that would be available for the Development. Specifically, Petitioner requests a variance from Rule 67-48.012(2)(g), Florida Administrative Code, which provides in pertinent part:

The minimum combined debt service coverage shall be 1.10 ..., including the SAIL mortgage and all other superior mortgages.

5. Petitioner also seeks to increase the amount of SAIL funds awarded to Petitioner for the Development.

6. 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.

7. The purpose of the underlying statute is to encourage development of affordable housing. Petitioner has adequately demonstrated that due to the significant increases in the costs of development in Brevard County as a result of Hurricanes Frances and Jeanne the application of the debt service coverage requirements to the Development imposes a substantial hardship on the Petitioner.

8. Florida Housing has an opportunity to facilitate the construction of much needed affordable housing in an area that has suffered a significant loss of housing stock due to Hurricanes Frances and Jeanne. It is clear that the viability of this Development is questionable without some financial relief being granted.

9. Granting the relief requested by Petitioner serves the purpose of the underlying statutes. Waiving the debt service coverage requirements enhances the financial viability of the Development thus increasing the likelihood of successful completion of the Development which will provide much needed affordable housing in an area that has suffered significant losses of housing stock this year due to Hurricanes Frances and Jeanne.

10. Further, it is appropriate to waive the limitations imposed by Rule 67-48.004(14)(l) and by Rule 67-48.002(111) in Part V.A.1. of the 2004 Application Instructions in the primary hurricane strike counties by allowing SAIL financing in those counties to employ the maximum SAIL funding limits authorized for the 2005 Universal Cycle.

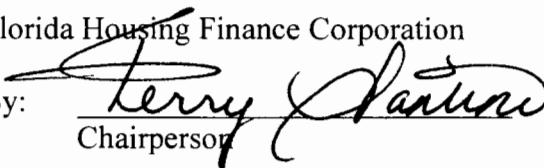
IT IS THEREFORE ORDERED:

The Petition for Variance from Rule 67-48.012(2)(g), Florida Administrative Code, is hereby **GRANTED** to the extent that the SAIL loan to the Development not be required to meet any specific debt service coverage requirements, provided that the amount of developer fee that can be paid out at conversion/stabilization be capped at 20% of the total developer fee; and that Rule 67-48.002(111) and Rule 67-48.004(14)(l), Florida Administrative Code, are hereby waived to the extent necessary to allow Petitioner to request additional funding in the amount of the difference between the 2004 SAIL request limits pursuant to Part V.A.1. of the Universal Application Instructions and the 2005 SAIL request limits. All other relief, if any, requested in the Petition is hereby Denied.

DONE and ORDERED this 4th day of March, 2005.

Florida Housing Finance Corporation

By:


Chairperson

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 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.