

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Florida Low Income  
Housing Associates, Inc.

FHFC Case No. : 2003-064

**ORDER GRANTING PETITION FOR WAIVER  
OF RULE 67-50.005(6), 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 February, 27, 2004, pursuant to a Petition for Waiver of Rule 67-50.005(6), F.A.C., (the "Petition"), filed by Florida Low Income Housing Associates, Inc. ("Petitioner") on December 22, 2003. Notice of the Petition was published in Volume 30, Number 01, 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.

3. Rule 67-50.005(6), Florida Administrative Code provides in pertinent part:

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

\_\_\_\_\_/DATE: \_\_\_\_\_

“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.

4. Exhibit 21 of the Application Package, Verification of Availability of

Infrastructure Roads, states in pertinent part:

The undersigned local government representative confirms the following:

1. Existing paved roads provide access to the proposed Development or paved roads will be constructed as part of the proposed Development.

5. Petitioner is the developer of Marion County Scattered Sites III, a 50 single-family detached homes development, which is being funded with \$1,000,000 in HOME Purchase Assistance Only loan funds awarded by Florida Housing in the 2002 application cycle.

6. Petitioner now seeks a waiver of the above Rule, in that Petitioner requests that the requirement that all the roads within the Marion County Scattered Sites III Application be paved, be waived. Petitioner asserts that not all the roads owned and maintained by Marion County are paved.

7. As grounds for granting this waiver, Petitioner states that income eligible families have qualified for participation in the HOME program and have obtained permanent financing by local lenders subject to HOME Down Payment assistance. Additionally, Petitioner has purchased the building lots, paid for all pre-construction expenses and will suffer sever financial loss by not being able to proceed on fifteen building sites if the waiver is not granted.

8. The purpose of the underlying statute will be served by granting this waiver, in that granting this waiver request will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

9. Moreover, not granting this waiver will result in a substantial hardship to Petitioner, in that loss of the HOME loan subsidy will cause the development to be economically infeasible for potential low income home buyers in Marion County.

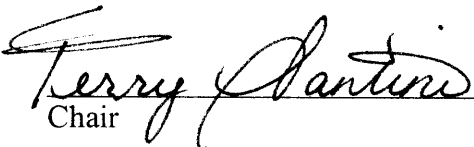
10. Lastly, application of this Rule to Petitioner in these circumstances may violate the principles of fairness, as Petitioner demonstrated that there are rural areas where the roads are owned and maintained by local governments but are not paved and these rural areas are still acceptable to the U.S. Department of Housing and Urban Development, the Veterans Administration, and U.S .Department of Agriculture-Rural Development to provide financial assistance for those homeowners who live in these rural areas.

**IT IS THEREFORE ORDERED:**

The Petition for Waiver of Rule 67-50.005(6), Florida Administrative Code, Exhibit 21, Verification of Availability of Infrastructure Roads, is hereby **GRANTED**. Petitioner shall not have to provide paved roads as part of the proposed Development for the fifteen building sites already purchased.

DONE and ORDERED this 27th day of February, 2004.

Florida Housing Finance Corporation

By:   
Chair

**Copies furnished to:**

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Wendell Sammy  
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Florida Low Income Housing Associates, Inc.  
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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.