

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING  
FINANCE CORPORATION

CASE NO. \_\_\_\_\_

HAMPTON POINT LIMITED PARTNERSHIP

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION

Respondent.  
\_\_\_\_\_ /

**PETITION FOR WAIVER OF RULE 67-21.008(1)(g), F.A.C.**

Hampton Point Limited Partnership ("Petitioner", "Partnership") hereby petitions Florida Housing Finance Corporation ("Corporation") for a variance from Rule 67-21.008(1)(g), Florida Administrative Code. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code.

**The Petitioner**

1. The name, address, telephone number and facsimile number of the Petitioner are:

Hampton Point Limited Partnership  
247 N. Westmonte Drive  
Altamonte Springs, Florida 32714  
(407) 772-0200 telephone  
(407) 772-0220 facsimile

2. The name, address, telephone number and facsimile number of Petitioner's attorneys and/or qualified representatives are:

None

**The Rule from which Waiver and/or Variance is Sought and Action Requested**

3. Petitioner requests a waiver and/or variance from Rule 67-21.008(1)(g), Florida Administrative Code, which provides:

Require the submission to Florida Housing of an annual audited financial statement for the Development, and for the Applicant if revenue from multiple projects is being pledged.

Also incorporated by reference is that requirement included within Section 4 of the General Conditions of the Florida Housing Finance Corporation Loan Commitment dated August 25, 2003, between the Partnership as Borrower and the Florida Affordable Housing Guarantee Program and the United States Department of Housing and Urban Development (“HUD”) Risk Sharing Program as Credit Enhancer, which provides, in part:

The Borrower, the Servicer and Florida Housing shall execute a Financial Monitoring Agreement under which the Borrower shall provide among other things, at its expense to the Trustee, the Servicer and Florida Housing certified annual audited financial statement of the Property. The annual financial statements shall be prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior years (except as otherwise specified in such report) and delivered within 120 days after the end of each fiscal year of the Borrower (commencing with the year ending 2003) and prepared by an independent certified public accounting firm selected by the Borrower.

#### **Statute Implemented by the Rule**

4. The statute that the Rule is implementing is section 420.5092, Florida Statutes.

#### **Petitioner Requests a Waiver and/or Variance of the Rule Set Forth Above for the**

#### **Following Reasons**

5. (a) Hampton Point Limited Partnership was formed as a sole purpose entity for the development, construction and ownership of Hampton Point Apartments (“Development”), a 284-unit multifamily apartment community located in Port Charlotte, Charlotte County, Florida.

- (b) As of December 31, 2003, the Development was under construction and had no occupancy.

- (c) As of December 31, 2003, income for the Development was very limited, consisting of only interest earning income.

(d) Therefore, in consideration of the very limited income and expenses, it is a financial burden to require the Partnership to incur the expense of having an audited financial statement prepared.

(e) Petitioner therefore seeks a waiver and/or variance of the Rule requiring that an audited financial statement be provided for the Partnership for the year-ending December 31, 2003.

**Waiver and/or Variance will Serve the Underlying Purpose of the Statute**

6. Petitioner believes that a waiver and/or variance of the Rule will serve the purpose of the underlying statute by providing Florida Housing Finance Corporation with a year-end 2004 audited financial statement.

**Type of Waiver and/or Variance**

7. Petitioner requests a permanent waiver and/or variance of the Rule as set forth above.

A copy of this Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300.

Dated this 28<sup>th</sup> of June, 2004.

PETITIONER  
HAMPTON POINT LIMITED PARTNERSHIP  
By: Picerne Hampton Point, LLC, its general  
partner

By: 

Robert M. Picerne, Manager