STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

NEW SINGELTARY SCATTERED SITES,
LIMITED PARTNERSHIP,

Petitioner,

vs.

FHFC Case No. 2005-027VW
Applic. No. 2004-104C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.
_____/

Petition for Variance From or Waiver of Rule 67-48.004(14)

Petitioner, New Singeltary Scattered Sites, Limited Partnership ("New Singeltary") by and through its undersigned counsel, and pursuant to Sections 420.507, 420.5099, and 120.542, Florida Statutes (2004), and Chapter 28-104, Florida Administrative Code ("F.A.C."), hereby files its Petition for Variance from or Waiver of Rule 67-48.004(14), F.A.C. In support of its Petition, New Singeltary, states as follows:

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

New Singeltary Scattered Sites, Limited Partnership
1307 6th Street West
Bradenton, Florida 34205
941-748-5568
941-748-9058 (Fax)

2. The name, address, and telephone and facsimile numbers of Petitioner's counsel, which shall be used for service purposes during the course of this proceeding, are:

Warren H. Husband
Metz, Hauser, Husband & Daughton, P.A.
P.O. Box 10909
Tallahassee, FL 32302
850-205-9000
850-205-9001 (Fax)

3. The applicable rule that is the subject of this Petition is Rule 67-48.004(14), F.A.C. (the "Rule"). With respect to this Petition, which involves FHFC's allocation of federal low-income housing tax credits, the Rule implements Section 420.5099, Florida Statutes (2004). The Rule provides as follows:

> 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:
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> . . . .
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> (e) Site for the Development;
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> . . . .
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> (j) Total number of units;
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> . . . .
>
> (m) Funding Request (except for Taxable Bonds) amount . . .
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> . . . .

4. New Singeltary is seeking a variance from or waiver of the Rule. The specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for New Singeltary, are as follows:

a. New Singeltary submitted an application in FHFC's 2004 Universal Application Cycle for $600,000 in annual tax credits to finance the development of

Bradenton Village II, which was to consist of 69 affordable rental units on two scattered sites -- 33 townhouse units on one site and 36 units in a single mid-rise building on the second site.

b. Bradenton Village II is part of a complex community revitalization project in downtown Bradenton that has been underway for five years. The area in which this redevelopment is occurring is a "Front Porch Florida Community," as designated by Governor Bush. FHFC has financed two previous phases of this redevelopment project: Bradenton Village (#2000-116C) and New Singeltary (#2002-161C). A subsequent phase (Village Central - #2005-109C) has a pending application for tax credit financing in FHFC's current 2005 Universal Application Cycle.

c. One source of financing for Bradenton Village II was expected to come from up to $1.9 million in "Tax Increment Financing" ("TIF") generated from a special taxing district created for the redevelopment project. In sum, present and future property taxes generated from within the district were to be dedicated as a source of financing to help pay for its redevelopment. While it was anticipated that this property tax stream could be borrowed against to produce immediate capital to fund the redevelopment process, exhaustive efforts have produced no lender willing to do so.

d. As a result of these events, which were entirely outside of New Singeltary's control or reasonable expectation, the available financing for Bradenton Village II has shrunk, necessitating a re-examination of the project.

e. The vast majority of the anticipated $1.9 million in TIF funds was intended to finance the significant infrastructure improvements necessary for the 33

townhouse units. By contrast, the infrastructure requirements for the single 36-unit building are much more modest.

f. After examining and exhausting many different scenarios to deal with the current financing situation, New Singeltary has determined that the best means of providing affordable rental housing as part of the overall redevelopment is to scale back the size of Bradenton Village II – eliminating the proposed 33 townhouse units and moving forward with the single 36-unit building.

g. As such, New Singeltary seeks to reduce the "total number of units" for Bradenton Village II from 69 to 36, to alter the development "site" by eliminating the parcel that was to be used for the townhouse units, and to proportionally reduce its requested annual tax credits from $600,000 to $313,033.38 -- resulting in the return of $286,966.62 in annual tax credits.

5. In light of the considerable time that it takes to develop and construct multi-family rental housing, FHFC's statutes and rules are designed to allow the flexibility necessary to respond to changed circumstances, particularly those that arise through no fault of the Applicant, which might necessitate a modification in a proposed project. FHFC routinely approves such changes when they would not have otherwise affected the scoring of the application, because the Applicant thus derives no unfair advantage over its competitors in an application cycle. Indeed, the specific purpose of Rule 67-48.004(14) is to prevent an Applicant from changing certain key elements in its application after reviewing the applications of its competitors, thereby allowing the applicant to gain a possible competitive advantage.

6. As explained above, the project changes requested by New Singeltary result from unforeseen circumstances outside New Singeltary's control. Further, the outlined changes in Bradenton Village II would have had no impact on the application's scoring, thus providing New Singeltary no advantage over its competitors.

7. FHFC's approval of the requested waiver or variance would serve the purpose of the underlying Florida statute, section 420.5099, as well as the federal low-income housing tax credit program. The purpose of both the statute and the program is to facilitate and stimulate the development of multi-family rental housing that is affordable to families of limited means. If the requested waiver or variance is granted, the tax credits in question will continue to be used to fund a project for which there is a desperate need in the Bradenton community. Without these tax credits, a critical affordable rental project that will enhance the lives of Bradenton citizens will not be able to go forward, threatening the completion of an otherwise enormously successful redevelopment effort in this formerly blighted area of the city.

8. The variance or waiver sought by New Singeltary is permanent in nature.

9. If FHFC has questions or requires additional information, New Singeltary is ready and willing to provide any information deemed necessary for consideration of this Petition.

WHERFORE, New Singeltary Scattered Sites, Limited Partnership, respectfully requests that:

1. FHFC grant the requested waiver or variance with respect to Rule 67-48.004(14) and allow the changes to the Bradenton Village II Development detailed herein; and

2. FHFC grant such further relief as may be deemed appropriate.

Respectfully submitted on this 25th day of July, 2005.

WARREN H. HUSBAND
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Attorney for Petitioner

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida, 32399-1300, on this 25th day of July, 2005.

Attorney