

BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Florida Low Income Housing
Associates, Inc. (PLP05-069)
Rolling Oaks

FHFC CASE NO. 2005-034VW

**ORDER GRANTING PETITION FOR WAIVER OF
RULE 67-38.014(3), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of the Florida Housing Finance Corporation ("Florida Housing") on December 9, 2005, pursuant to a Petition for Waiver of Rule 67-38.014(3), Florida Administrative Code, (the "Petition"). Florida Housing received the Petition on September 14, 2005. On September 30, 2005, the Notice of the Petition was published in Volume 31, Number 39, of the Florida Administrative Weekly. Florida Housing did not receive any comments in regard to the Petition. After careful review of the record and being otherwise fully advised in the premises, Florida Housing hereby finds:

1. The Board of Directors of Florida Housing have jurisdiction over the subject matter of this case and the parties hereto.

2. 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.

3. Rule 67-38.014(3), Fla. Admin. Code, states in pertinent part:

(3) Disbursements for eligible activities, conducted prior to being awarded predevelopment financing, qualify for reimbursement from PLP funds

1 FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

M. Johnson

DATE:

12/12/05

provided that the eligible Predevelopment activities were performed or completed no earlier than twelve months prior to the submission of the Application. Reimbursement for site acquisition which was completed prior to closing on the PLP loan shall not be allowed as a PLP expense.

4. On May 9, 2005, Florida Low Income Housing Associates, Inc., (“Petitioner”) submitted an application for Predevelopment Loan Program (“PLP”) funds for 40 homeownership units in Citrus County, Florida (“Rolling Oaks”), which provided that 100 percent of the units would be set-aside for persons or households whose income does not exceed 80 percent of the area median income.

5. Petitioner now requests a waiver from the above rule which provides that reimbursement for the site acquisition which was completed prior to closing of the PLP loan shall not be allowed as a PLP expense.

6. As grounds for its waiver, Petitioner, states that after its application for PLP funds was submitted, but prior to its development plan being approved by Florida Housing’s Board of Directors, the real estate market conditions required that Petitioner close on the purchase of the land for Rolling Oaks or lose contractual control over the property. Further, Petitioner demonstrated that the original owner, a local church, was being dissolved and the parent organization was not willing to extend the contract due to the extreme rise in market value of the property.

7. The granting of this waiver request would serve the purpose of the underlying statute, in that the financing for this project will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The waiver of Rule 67-38.014(3), Fla. Admin. Code, will further this purpose.

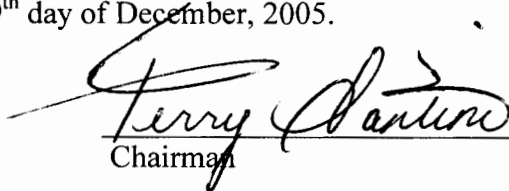
8. Moreover, Petitioner has demonstrated that application of Rule 67-38.014(3), Florida Administrative Code, will create a substantial hardship. The use of

Petitioner's operating funds for the purpose of purchasing Rolling Oaks has created a financial hardship and will continue to create a financial hardship for the continued operation of Petitioner, a non-profit organization.

IT IS THEREFORE ORDERED:

The Petition for Waiver of Rule 67-38.014(3), Florida Administrative Code, is hereby **GRANTED**.

DONE and ORDERED this 9th day of December, 2005.


Chairman

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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 LUTHER KING, JR., BLVD., 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.