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**BEFORE THE FLORIDA HOUSING FINANCE CORPORATION**

In re: Petition for Waiver of Rule 9I-35.006, Administrative Code ) Application No. 97S-004  
 ) Filed: January 19, 2006  
 ) FHFC Case No. 2006-001VW

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**AFFORDABLE HOUSING SOLUTIONS FOR FLORIDA, INC's  
PETITION FOR WAIVER OF RULE 9I-35.006  
FLORIDA ADMINISTRATIVE CODE**

Pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code ("F.A.C."), Affordable Housing Solutions for Florida, Inc. ("AHSF"), through its undersigned counsel, files this Petition for Waiver of Rule 9I-35.006, F.A.C., Terms and Conditions of Loans, and in support, states the following:

1. The name, address, and telephone number of Petitioner, Affordable Housing Solutions for Florida, Inc., are:

Affordable Housing Solutions for Florida, Inc.  
1108 Kane Concourse, Suite 307  
Bay Harbor Island, FL 33154  
(305) 865-4555

2. The name, address, and telephone number of AHSF's attorney in this matter is:

Jon C. Moyle, Jr.  
Moyle, Flanigan, Katz, Raymond, White & Krasker, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301  
(850) 681-3828

All filings, correspondence, and other documents and communications should be directed to Mr. Moyle at this address and phone number.

3. Affordable Housing Solutions for Florida, Inc. (“AHSF”) is a Florida not-for-profit corporation. AHSF received a SAIL loan from the Florida Housing Finance Corporation (“FHFC”) of One Million Two Hundred Thirty Thousand Dollars (\$1,230,000) evidenced by a promissory note dated December 15, 1997. This loan provided funds for the construction, rehabilitation and permanent financing of Baker Manor Apartments, a 50 unit affordable housing development located in Baker County, Florida.

4. FHFC has previously listed AHSF as being delinquent in providing FHFC with reports and other information as required by FHFC Rule 9I-35.006.

5. Petitioner, AHSF, a Florida not-for-profit corporation in the business of developing and providing affordable housing in Florida, entered into a purchase and sale agreement with National Development Foundation (NDF) to acquire the Baker Manor Apartments, subject to and contingent upon FHFC approval. The Board approved the transfer of the Baker Manor project, and the transaction closed on April 29, 2005. As part of the transaction, the loan due to FHFC was assumed by the new purchaser, NDF. Additionally, FHFC waived any past due reporting requirements by its Order issued on December 3, 2004, in Case No. 2004-041VW.

6. AHSF, an entity no longer involved with the Baker Manor project, seeks a waiver of certain past due reporting requirements.

7. The basis for AHSF’s request for variance and rule waiver is based upon the following: In an effort to provide FHFC with audited financial statements, AHSF contracted with a Mr. Roger Green, who represented that he was a certified public accountant. Mr. Green was hired back in 2000, and was tasked with preparing and providing all reports and keeping of records from 2000 thru February 2004. Mr. Green, on behalf of AHSF, provided FHFC with records and

reports. In March of 2004, FHFC contacted AHSF and questioned whether Mr. Green was indeed a certified public accountant. This was the first time any question arose concerning whether Mr. Green was properly licensed to practice accounting in the state of Florida. Mr. Green, on behalf of AHSF, had previously filed audited financial statements on behalf of the Baker Manor project. Specifically, he filed audited financials in fiscal years 2000, 2001, 2002, and 2003.

8. Shocked by this discovery, AHSF contacted Mr. Green. Mr. Green indicated that he was licensed to practice accounting in Ohio. AHSF requested that Mr. Green return promptly all its files. AHSF also began exploring legal action against Mr. Green. Despite repeated requests that all AHSF records be returned, Mr. Green failed to provide AHSF with complete records.

9. Subsequently, FHFC requested AHSF to cause to be prepared financials by a Florida licensed certified public accountant, rejecting the reports prepared and filed by Mr. Green. AHSF made efforts to comply with FHFC's requests. However, it soon became clear that, without the full cooperation of Mr. Green, recreating such financial statements would be expensive and difficult. Thus, AHSF made a decision to divest itself of the Baker Manor project. AHSF was under the impression that such action would rectify the matter involving Mr. Green, the "CPA" who turned out to be an uncertified accountant.

10. AHSF, a not-for-profit, seeks a waiver of Rule 9I-35.006 due to the facts set forth above. AHSF wishes to continue providing affordable housing to Floridians, and believes that its ability to do so may be jeopardized unless it receives from FHFC a waiver of Rule 9I-35.006.

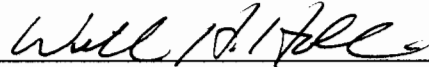
12. Section 120.542, F.S., provides that a waiver to a rule shall be granted when the person subject to the rule demonstrates that application of the rule would

create a substantial hardship or violate principles of fairness, and the purpose of the underlying statute will be achieved by other means. Here, AHSF has demonstrated that requiring it, as the previous owner of the Baker Manor Apartment property, to spend considerable sums of money to gather, compile and report information to FHFC for past years would create a substantial hardship. AHSF, as a Florida not-for-profit corporation, has limited resources that would be better spent working to manage existing properties, rather than preparing stale financial statements for a project that has been transferred.

13. Waiving Rule 9I-35.006 as requested is consistent with and achieves the purpose of Section 420.5087, Florida Statutes, entitled State Apartment Incentive Loan Program, the statute that is implemented by Rule 9I-35.006. Specifically, this statute promotes affordable housing by making state dollars available to finance affordable housing development. Baker Manor continues to be used as an affordable housing property, thus serving the underlying purpose of the SAIL loan statute, section 420.5087. Additionally, allowing AHSF to focus its resources on its existing and future affordable housing projects promotes the purpose of Section 420.5087, Florida Statutes. Thus, the purpose of the underlying statute will be achieved by the granting of AHSF's rule waiver request.

14. AHSF seeks a rule waiver that will apply to the financial statements previously submitted to FHFC being prepared by a CPA not licensed to practice in Florida. Thus, the rule waiver is of the nature of a one-time, permanent request.

Respectfully submitted this 19<sup>th</sup> day of January, 2006.



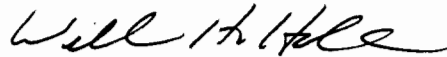
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to those listed below this 19<sup>th</sup> day of January, 2006.

Wellington Meffert  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee FL 32301

Joint Administrative Procedures Committee  
600 S. Calhoun Street  
Room 120 Holland Building  
Tallahassee FL 32399-1300



William H. Hollimon