

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Housing and Education Alliance

Case No. 2007-063VW

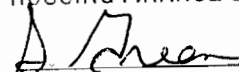
---

**ORDER GRANTING PETITION FOR WAIVER OF RULE  
67-38.0026(4)(a), FLORIDA ADMINISTRATIVE CODE (2005) AND  
SECTION 111(B) OF THE 2005 PLP APPLICATION**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on December 7, 2007, pursuant to a "Petition for Variance and Waiver" (the "Petition"), filed by Housing and Education Alliance ("Petitioner"), a not-for-profit organization and a 501(c)(3) entity, on November 6, 2007. Notice of the Petition was published in Volume 33, Number 46, 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. In 2005, Housing and Education Alliance ("Petitioner") applied for Predevelopment Loan Program ("PLP") funds to finance the land acquisition and

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION



/DATE. 12-10-07

predevelopment activities for the construction of El Capitan Crossing (the “Development”) in Hillsborough County, Florida.

3. Rule 67-38.0026(4)(a) Florida Administrative Code (2005)<sup>1</sup>, provides in pertinent part:

- (4) For Home Ownership Developments
  - (a) The Applicant must commit to sell 100 percent of the completed housing units to persons or households whose incomes do not exceed 80 percent of the area median income, as determined by HUD and adjusted by household size, for the metropolitan statistical area or county in which the individual homes are located.

4. 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.

5. Petitioner requests a variance from the above rules in order to allow it to set-aside 50 percent of the total units to households with incomes not exceeding 80% of Area Median Income and the remaining 50% of the total units to households with incomes not exceeding 120% of Area Median Income. This is consistent with

---

<sup>1</sup> Petitioner also request Variance from the corresponding provision of the 2005 PLP Application Section 111(B)(2005).

the requirements for homeownership Developments in the 2007 revised version of the Rule.

6. Also, Petitioner has restructured the project to provide 44 three-story townhomes instead of the originally planned 36 two-story townhomes.

7. The Board finds that strict application of the above Rule under these circumstances—where the Petitioner is has encountered higher than expected development costs, through no fault of its own, and has increased the number and size of the homes in the Development—would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute.

**IT IS THEREFORE ORDERED:**

The “Petition for Variance and Waiver” is hereby **GRANTED** to permit Petitioner set aside 50 percent of the Development’s total units to households with incomes not exceeding 80% Area Median Income and the remaining units to households with incomes not exceeding 120% Area Median Income.

All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 7th day of December, 2007.

Florida Housing Finance Corporation

By: *Lynn M. Stultz*  
Chair

**Copies furnished to:**

Wellington H. Meffert II  
General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Robert Dearduff  
Special Programs Administrator  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Michael P. Donaldson, Esquire  
Carlton Fields, P.A.  
P.O. Drawer 190  
215 S. Monroe St., Suite 500  
Tallahassee, Florida 32302

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 ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.**