

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: **HIGHLAND GARDENS DEVELOPMENT, LTD.**

FHFC Case No.: 2008-052VW  
Application No.: 2006-041C

---

**ORDER GRANTING PETITION FOR WAIVER  
OF RULES 67-48.004(14)(e)  
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 26, 2008, pursuant to a "Petition for Waiver of Rule Fla. Admin. Code 67-48.004(14)(e) (2006)." (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 2, 2008, from **HIGHLAND GARDENS DEVELOPMENT, LTD.** ("Petitioner"). On July 18, 2008, the Notice of the Petition was published in Volume 34, Number 29, 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.

FILED IN THE OFFICE OF THE CLERK OF THE  
FLORIDA HOUSING FINANCE CORPORATION

1 Sherry Area /DATE: 9-26-08

2. During the 2006 Combined Universal Cycle, Florida Housing issued its Preliminary Allocation of Housing Credits (“HC”) to Petitioner (under application #2006-041C). Petitioner applied for HC under the Low Income Housing Tax Credit program to finance, in part, a Development known as Highland Gardens, Phase II, a 100-unit apartment building located in Deerfield Beach, Broward County, Florida (the “Development”).

3. Section 120.542(2), Florida Statutes provides in pertinent part:

(2) Variances 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.

4. R. 67-48.004(14)(e) Fla. Admin. Code, states, in pertinent part:

(14) 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... Those items are as follows:

... (e) Site for the Development

5. Petitioner requests a waiver to change only the Development’s description by carving out the right-of-way that was included in Petitioner’s Application.

6. The effect of this change will neither affect the location of the Development nor the Tie-Breaker Measurement Point (“TBMP”) identified in Exhibit 25 to Highland Garden’s Universal Application. Since the TBMP remains unchanged, the 7.5 Proximity Tie-Breaker Points awarded to Highland Gardens will also stay the same. Petitioner’s request neither impacts Petitioner’s Application score nor provides an unfair advantage over other applicants.

7. The Board finds that strict application of the above Rule under these circumstances will violate the principles of fairness. Thus, by strictly applying the above Rule, Petitioner will not meet Respondent’s purpose of providing affordable housing, through new construction, in an economical and efficient manner. Granting this request, however, furthers Florida Housing’s statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The waiver of R. 67-48.004(14)(e) Fla. Admin. Code furthers this purpose.

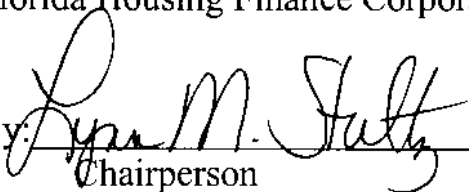
**IT IS THEREFORE ORDERED:**

Petitioner’s request for a waiver of R. 67-48.004(14)(e) of Fla. Admin. Code is hereby **GRANTED** to permit Petitioner to change the legal description of

the Development's site location that will reflect the excluded adjoining road right-of-way. Any other relief requested in the Petition is denied.

DONE and ORDERED this 26th day of September, 2008.

Florida Housing Finance Corporation

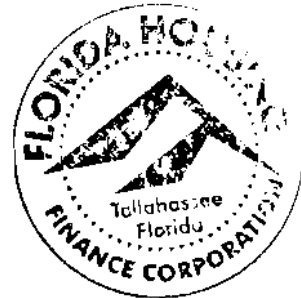
By:   
Chairperson

Copies furnished to:  
Wellington H. Meffert II, Esq.  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Debbie Blinderman  
Deputy Development Officer  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Mimi L. Sall, Esq.  
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.  
Attorneys for Eclipse West Associates, Ltd.  
200 East Las Olas Boulevard, Suite 2100  
Fort Lauderdale, Florida 33301

Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
120 Holland Building  
Tallahassee, Florida 32399-1300



## **NOTICE OF RIGHT TO JUDICIAL REVIEW**

**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.**