

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: SOUTHWINDS PARTNERS, L.L.L.P.

FHFC Case No. 2008-107VW  
Application No. 2007-140S

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**ORDER GRANTING PETITION FOR WAIVER OF  
RULE 67-48.004(14)(g), F.A.C.**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on December 12, 2008, pursuant to a "Petition for Waiver from Florida Administrative Code Rule 67-48.004(14)" (the "Petition"), filed by Southwinds Partners, L.L.L.P. ("Petitioner") on November 7, 2008. Notice of the Petition was published in Volume 34, Number 37, 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. During the 2007 Universal Application Cycle, Florida Housing awarded Petitioner an allocation of State Apartment Incentive Loan ("SAIL") to finance, in

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HOUSING FINANCE CORPORATION

Della Harris / DATE: 12-15-08

part, the construction of Southwinds Cove (the “Development”) in Leesburg, Lake County, Florida.

3. Rule 67-48.004(14)(g), Florida Administrative Code (2007), provides in pertinent part:

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 attempt to make changes to these items will not be accepted. Those items are as follows:

(g) Development Type;

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

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.

5. Petitioner requests a waiver of the above rules to permit a change in Development Type from “Garden Apartments” to “Townhouse” with no change in the number of units.

6. As grounds for its request for a waiver, Petitioner states that although the City of Leesburg originally approved the preliminary site plan, the city is now

requiring this change in Development Type. This change has no effect on the score Petitioner received in its original application, and would not give Petitioner an advantage not enjoyed by competing applicants.

7. The Board finds that completion of the Development as originally planned is now unrealistic and that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner has further demonstrated that permitting this change in Development would also serve the underlying purpose of the statute.

**IT IS THEREFORE ORDERED:**

The Petition for Waiver of Rule 67-48.004(14)(g), F.A.C., is hereby **GRANTED**, to allow Petitioner to change the Development Type from “Garden Apartments” to “Townhouse”.

DONE and ORDERED this 12th day of December, 2008.

Florida Housing Finance Corporation

By:

*Lynne M. Stultz*  
Chair



**Copies furnished to:**

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Joint Administrative Procedures Committee  
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## 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.**