

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Rolling Acres Club, L.L.L.P

Case No. 2008-003VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(j),
FLORIDA ADMINISTRATIVE CODE (2007)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on March 14, 2008, pursuant to a "Petition for Waiver from Rule 67-48.004(14)(j), Florida Administrative Code (2007)" filed by Rolling Acres Club, L.L.L.P ("Petitioner") on February 4, 2008. Notice of the Petition was published in Volume 34, Number 07, 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 Cycle, Rolling Acres Club, L.L.L.P, ("Petitioner") applied for and was awarded State Apartment Incentive Loan ("SAIL") funds to finance a portion of the costs to develop Rolling Acres Club – Phase I (the "Development") located in Lake County, Florida.

BY _____ THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Shea /DATE. 3-24-08

3. Rule 67-48.004(14)(j), Florida Administrative Code (2007), provides 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 shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

...(j) Total number of units

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. In Petitioner's original Application, Petitioner indicated that the Development would consist of 88-unit apartment community consisting of 28 two bedroom and 60 three bedroom units. Subsequent reports detailing engineering and design analysis, however, revealed that the Development could support an increase to 104 units consisting of 8 one bedroom, 20 two bedroom and 76 three bedroom units. Therefore, Petitioner requests a waiver of Rule 67-48.004(14)(j), F.A.C. (2007) to allow it to increase the number of units in the Development from 88 to 104.

6. Approving the requested waiver serves the underlying purpose of Section 420.5087, Florida Statute and the SAIL Program by facilitating and stimulating affordable multi-family rental housing. Since Petitioner's endeavor exceeds its current obligation, approving the unit increase furthers Respondent's purpose.

7. Petitioner has demonstrated that failure to grant this Petition will violate principles of fairness in that Petitioner will be precluded from providing additional set aside units without additional burden to Respondent's limited resources. Petitioner has demonstrated that strict application of the above Rules under these circumstances will violate the principles of fairness in that unless the petition is granted, Petitioner will underutilize available land.

8. Since approval will fail to affect application scoring, Petitioner derives no unfair advantage over its competitors in an application cycle. Ultimately, 67-48.004(14) is used to prevent an applicant from changing certain key elements in its application after reviewing its competitors' applications. Such preclusion circumvents the possibility of an applicant gaining a competitive advantage. Under these circumstances, however, approving Petitioner's request fails to provide any such advantage.

9. The Board finds that strict application of the above Rules under these circumstances will violate the principles of fairness. Thus, by strictly applying the above Rules, Petitioner will fail to meet Respondent's purpose of providing

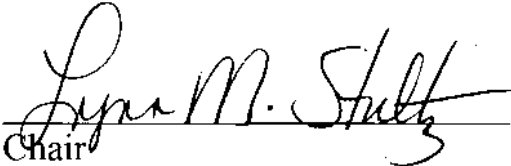
affordable housing, through new construction, in an economical and efficient manner.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rule 67-48.004(14)(j) Florida Administrative Code (2007) is hereby **GRANTED**, to allow Petitioner to increase the number of units in the Development from 88 to 104.

DONE and ORDERED this 14th day of March, 2008.

Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

Wellington H. Meffert II
General Counsel
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

Kerey Carpenter, Esq.
AHG Group, LLC
1551 Sandspur Road
Maitland, Florida 32751

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.