

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Eagle Ridge Subdivision, LLC

FHFC Case No.: 2005-057VW

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**ORDER GRANTING AMENDED PETITION FOR WAIVER  
OF RULES 67-50.005(8) and 67-50.060(2), FLORIDA ADMINISTRATIVE CODE, (2002)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on January 20, 2006, pursuant to an Amended Petition for Waiver of Rules 67-50.005(8) and 67-50.060(2), F.A.C., (2002), (the "Petition"), filed by Eagle Ridge Subdivision, LLC. ("Petitioner") on January 3, 2006<sup>1</sup>. On December 30, 2005, Notice of the Petition was published in Volume 31, Number 52, 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 finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
  
2. 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.
  
3. Rule 67-50.060(2), F.A.C., (2002), provides in pertinent part:

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<sup>1</sup> Petitioner filed a Petition for Waiver on December 20, 2005. Its Amended Petition requests substantially the same relief as was requested in its original Petition.

The maximum per-unit subsidy amount of HOME funds that the Corporation may allocate may not exceed twenty five percent 25% of the purchase price.

4. Rule 67-50.005(8), F.A.C., (2002), provides in pertinent part:

“Application Package” means the forms and instructions obtained from the Corporation.

5. Part III A.8 of the Application Instructions (2002), provides in pertinent part:

Complete the chart. All units in the Development must be listed.

Part III A.8 of the Application (2002), contained the chart applicants were required to complete.

The applicants were required to provide the number of bedrooms per unit; number of baths per unit; number of units per bedroom type; approximate square footage per unit; and estimated sales price.

6. Petitioner is the developer of the Eagle Ridge subdivision, a 26-unit scattered-site single family project, located in Collier County, for which Florida Housing awarded \$911,000 in HOME down payment assistance during the 2002 application cycle.

7. Petitioner is requesting a waiver of the requirement that the maximum per-unit subsidy amount of HOME funds may not exceed twenty-five 25% of the purchase price; requests an increase of the subsidy to no limit of the maximum subsidy for families at 50% of the medium income or lower; a change in the mix of units; and establishing the sales price to be the current appraised sales price at the time of completion of the home.

8. As grounds this Petition, Petitioner demonstrated that the cost of construction has been rising rapidly, and due to the recent hurricanes and building supply shortages, the time to complete construction is between 18 and 36 months. Accordingly, the costs at present are substantially greater than the costs at the time of the original application and are anticipated to

increase, thus making it impossible to build and sell the homes for the price submitted in the application.

9. The granting of this waiver request would serve the purpose of the underlying statute, as the Eagle Ridge subdivision will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Collier County, Florida.

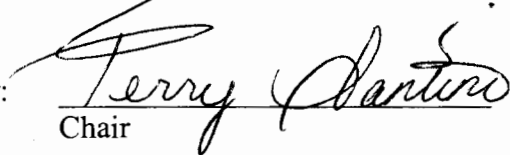
10. Moreover, not granting this waiver will result in a substantial hardship to Petitioner, in that Petitioner will not be able to complete construction without the increase in subsidy, loss of the HOME subsidy will cause the development to be economically infeasible for potential low income home buyers in Collier County and will cause a serious economic hardship for Eagle Ridge and Collier County.

**IT IS THEREFORE ORDERED:**

The Petition for Waiver of Rules 67-50.005(8) and 67-50.060(2), F.A.C., (2002), is hereby **GRANTED** to the extent the requirement that the maximum per-unit subsidy amount of HOME funds may not exceed twenty-five 25% of the purchase price. The maximum per-unit subsidy of HOME funding is limited to the lesser of twenty five percent (25%) of the purchase price of the house or \$70,000, with the exception of Eligible Homebuyers with disabilities and Eligible Homebuyers at fifty percent (50%) AMI or below. For these exceptions assistance shall not exceed thirty five percent (35%) of the purchase price. Petitioner shall be allowed to set the unit mix by a market demand determination and have the final appraised value to dictate the cost of the homes.

DONE and ORDERED this 20th day of January, 2006.

Florida Housing Finance Corporation

By:   
Chair

**Copies furnished to:**

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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 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.**