

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Affordable Housing Solutions  
For Florida, Inc. – Baker Manor

FHFC Case No.: 2006-001VW

**ORDER GRANTING PETITION FOR WAIVER FROM RULE 9I-35.006, F.A.C.**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on March 3, 2006, pursuant to “Affordable Housing Solutions for Florida, Inc’s Petition for Waiver from Rule 9I-35.006, Florida Administrative Code (“Petition”), filed by Affordable Housing Solutions for Florida, Inc (“Petitioner”) on January 20, 2006. On February 3, 2006, the Notice of the Petition was published in Volume 33, Number 05, 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 1996-97 SAIL Cycle IX, Florida Housing awarded a \$1,230,000 construction/permanent loan to Petitioner for the development of a 50-unit Family Development in MacClenny, Baker County (“Development”). The SAIL loan closed on December 15, 1997. The Borrower had been delinquent for payment of fees, escrows, replacement reserves and interest as well as delinquent in providing various required financial information from 2000 to 2005.

On May 19, 2004, National Development Foundation, Inc., a Florida not-for-profit corporation (“NDF”), contacted Florida Housing to discuss its plans for the purchase of the Development and assumption of the SAIL loan. On September 8, 2004, NDF submitted a proposal for the workout of past due interest on the SAIL loan contingent upon the purchase of the Development. On September 9, 2004, NDF submitted its revised workout proposal to address viability issues raised by Florida Housing. On April 29, 2005, the Board approved the transfer of ownership from Petitioner to NDF. Petitioner is no longer associated with the Development.

3. 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.

4. Petitioner is requesting a waiver of Rule 9I-35.006, F.A.C. The applicable rule is summarized as follows, in pertinent part:

(5)(a) By April 15 of each year of the SAIL loan term, the borrower shall provide the Agency and its servicer with a certification detailing the information needed to determine the annual payment to be made. The certification shall require submission of audited financial statements, the SAIL available Cash Flow Statement and other documents that may be required by the Agency and/or Servicer. The financial statements are to be prepared in accordance with generally accepted accountings principles for the twelve months ended December 31 and shall include: (i) Balance sheet; (ii) Statement of revenue and expenses which compares budgeted amounts to actual performance; (iii) Statement of changes in fund balances or equity; (iv) Statement of cash flows; and (v) Notes. The Statements should also be accompanied by a certification of the borrower as to the accuracy of such financial statements. The borrower shall furnish to the Agency or servicer, unaudited statements, certified by the borrower’s principal financial or accounting officer, covering such financial matters as the Agency or servicer may reasonably request, including without limitation, monthly statements with respect to mortgaged property. A late fee of one percent (1%) of the outstanding SAIL loan balance will be assessed for failure to submit the required financial certification by April 15 of each year of the SAIL loan term. Failure to submit the required financial certification by April 15 of each year of the SAIL loan term shall constitute an even of default on the SAIL loan.

5. Specifically, Petitioner requests a waiver of the past due reporting requirements.

6. As grounds for its request, Petitioner demonstrated that requiring it to spend considerable sums of money to gather, compile and report information for the past years for a Development that it is no longer associated with would create a substantial hardship, due to its limited resources. Further, Petitioner demonstrated that it no longer has its possession the documents that it would need in order to comply with the requirements of Rule 9I-35.006, Fla. Admin. Code. Waiving past reporting requirements would allow Petitioner to focus its limited resources on managing its existing properties.

7. The granting of the waiver would serve the underlying purpose of the statute as the Development is continued to be used as an affordable housing property pursuant to Section 420.5087, Fla. Stat. The project will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The waiver from Rule 9I-35.006, Fla. Admin. Code, will further this purpose.


**IT IS THEREFORE ORDERED:**

The Petitioner's request for a waiver from Rule 9I-35.006, Florida Administrative Code, is hereby **GRANTED**, contingent upon Petitioner complying with all rules and requirements of Florida Housing's programs.

DONE and ORDERED this 3rd day of ~~February~~<sup>MARCH</sup>, 2006.

Florida Housing Finance Corporation

By:

  
Chairperson

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**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.**