

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Creative Choice Homes XXXII, Ltd.

Case No. 2007-045VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(e),
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 September 21, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(e), F.A.C." (the "Petition"), filed by Creative Choice Homes XXXII, Ltd. ("Petitioner") on August 22, 2007. Notice of the Petition was published in Volume 33, Number 35, 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 2003 Universal Cycle, Creative Choice Homes XXXII, Ltd. ("Petitioner") applied for Housing Credits ("HC") to finance the construction of Manatee Springs (the "Development") located in Levy County, Florida.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

D. Green

/DATE: 10-29-07

3. Rule 67-48.004(14)(e), F.A.C. (2006), 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...

Those items are as follows:

(e) Site for the Development;

4. In addition to the construction of the buildings and amenities, Petitioner constructed a lift station which was required by the approved plans for the Development. Now, the City of Chiefland is requiring that Petitioner dedicate the portion of the Development site (a 20 foot by 25 foot area) containing the lift station (the "Lift Station Site") to the City. However, the City will not accept a deed for the Lift Station Site while it is subject to the Extended Use Agreement ("EUA").

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

Variations 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.

6. Petitioner has demonstrated that neither the location of the Development nor its Tie-Breaker Measurement Point ("TBMP") will be changed. Thus, Petitioner will obtain no unfair advantage over other applicants. Moreover, the City of Chiefland provides

utility services to the Development and requires that Petitioner convey the Lift Station Site in connection with those services.

7. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting to convey a Lift Station (a 20 foot by 25 foot area) as required by the City of Chiefland in connection with the Development's utility service, would cause substantial hardship to Petitioner and violate the principles of fairness. 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)(e), F.A.C." is hereby **GRANTED** to permit Petitioner to convey the Lift Station Site, a 20 foot by 25 foot area, to the City of Chiefland. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 21st day of September, 2007.

Florida Housing Finance Corporation



By:

Lynn 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.