

BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION
CASE NO. 2008-038VW

RECEIVED
2008 JUN -2 PM 3:36
FLORIDA HOUSING
FINANCE CORPORATION

HIGHLANDS COUNTY BOARD
OF COUNTY COMMISSIONERS

Petitioner,

vs.

Agency Case No.:
Application No.: CWHIP 06-17
Highlands County Board of County
Commissioners

FLORIDA FINANCE
CORPORATION,

Respondent.

_____ /

PETITION FOR WAIVER FROM FLORIDA
ADMINISTRATIVE CODE RULE 67-58.020(6)

Pursuant to Section 120.542, Florida Statutes, Rule 67-58.020, Florida Administrative Code ("FAC") and Rule 28-104.001 through 28.104.006 Florida Administrative Code ("FAC"), Petitioner, HIGHLANDS COUNTY BOARD OF COUNTY COMMISSIONERS, ("Petitioner") requests the FLORIDA HOUSING FINANCE CORPORATION ("FHFC") to grant a waiver from the provisions of FAC Rule 67-58.020(6) and to grant the relief requested herein. In support of this Petition, Petitioner states as follows:

AGENCY AFFECTED

1. The name and address of the agency affected is Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The agency's file or identification number with respect to this matter is CWHIP 06-17.

PETITIONER

2. The Petitioner is Highlands County Board of County Commissioners, a political subdivision of the State of Florida. The address of the Petitioner is 501 S. Commerce Avenue, Sebring, Florida 33870, telephone number is (863) 402-6795, facsimile number (863) 402-6910. Petitioner's attorney is J. Ross Macbeth, Esq., whose address is 2543 U. S. 27 South, Sebring, Florida 33870, telephone number (863) 385-7600, facsimile number (863) 385-7911.

RULE(S) WITH RESPECT TO WHICH A WAIVER IS SOUGHT

3. The Rule with respect to which a waiver is sought is FAC Rule 67-58.020(6), as in effect for the 2006 CWHIP (Community Workforce Housing Innovation Pilot Program), which provides as follows:

The Applicant has 14 months from the date of the acceptance of the letter of invitation to complete credit underwriting and receive Board approval unless an extension of up to 10 months is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation's Board for consideration. The Corporation shall charge an extension fee of 1 percent of the CWHIP loan amount if the Board approves the extension request.

ACTION REQUESTED

4. Petitioner requests that Florida Housing Finance Corporation grant a waiver of the extension fee of 1 percent of the CWHIP loan amount otherwise required by FAC Rule 67-58.020(6), as in effect with respect to the 2006 CWHIP Program. The provisions of that rule require that the Corporation charge an extension fee of 1 percent of the CWHIP loan amount if the Board approves an extension request. For the reasons outlined below, the assessment of a 1

percent extension fee would cause substantial hardship to the Petitioner and would violate principles of fairness.

FACTS

5. The specific details that demonstrate substantial hardship are as follows:
 - (a) Petitioner has been unable to complete underwriting in the original allotted timeframe due to adverse market conditions directly affecting the financial plan for the project as submitted in CWHIP application. The housing market decline has negatively impacted the construction financing for the project as originally proposed. Those adverse market conditions, which are beyond the control of the Petitioner and the developer, have made it necessary for Petitioner to seek new partners for the project, who would be burdened by imposition of the 1 percent fee. Therefore, assessment of a 1 percent fee would violate principles of fairness as defined by Section 120.542(2), F.S.
 - (b) Assessment of the 1 percent extension fee will impose a substantial hardship, as defined by Section 120.542(2), F.S., on Petitioner and the project. The project is to be constructed by a private-public partnership which is financing all aspects of the proposed project with limited access to additional financing in the predevelopment stage. Assessment of the 1 percent extension fee will adversely affect the financial feasibility of the project which was not expected to generate a profit for Petitioner in any event. The additional cost per home of a \$25,000.00 extension fee is \$500.00 based upon 50 homes being constructed, and current market conditions may not allow recovery of that additional project financing cost.

- (c) Granting a waiver of the 1 percent extension fee will serve the purpose of the underlying statute by preserving the financial feasibility of the project, allowing construction of fifty (50) new needed affordable single-family dwellings as originally proposed.
6. The waiver being sought is permanent in nature.

WHEREFORE, Petition respectfully requests Florida Housing Finance Corporation waive the extension fee of 1 percent of the CWHIP loan amount otherwise required by FAC Rule 67-58.050(6) in the event that the Corporation's Board approves Petitioner's extension request.

Submitted by,



J. Ross Macbeth, Esq., on behalf of the
Highlands County Board of
County Commissioners
2543 U. S. 27 South
Sebring, FL 33870
Florida Bar No. 0186278
Telephone: (863) 385-7600
Facsimile: (863) 385-7911

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and one copy of the foregoing have been filed by U. S. Mail, postage prepaid, to Sherry Green, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1300 and that a copy of the foregoing has been mailed by U. S. Mail, postage prepaid, to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 28th day of May, 2008.



J. Ross Macbeth, Esq.