

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: BHG-79th St., LLC

Case No. 2007-055VW

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**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(e),
FLORIDA ADMINISTRATIVE CODE (2005) TO CHANGE THE SITE OF
THE VILLA PATRICIA DEVELOPMENT**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on October 26, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(e) to Change the Site of the Villa Patricia Development" (the "Petition"), filed by BHG-79th St., LLC ("Petitioner") on September 25, 2007. Notice of the Petition was published in Volume 33, Number 40, 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

A. [Signature] /DATE. 10-29-07

2. During the 2005 Combined Cycle, BHG-79th St., LLC (“Petitioner”) applied for and was awarded Housing Credits (“HC”) to finance the construction of Villa Patricia (the “Development”) located in Miami-Dade County, Florida¹.
3. Rule 67-48.004(14)(e), F.A.C. (2005), 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. The Development at issue herein is phase one of a three-phase project². Petitioner contends that in its original Application, it submitted a legal description which encompassed all phases of the three phase development. Petitioner has requested a waiver of the above rule to allow Petitioner to separate and carve out this project’s legal description from the entire three-phase project.
5. 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 advantage over other applicants. Also, the requested change

¹ Petitioner also applied for subsequent funding after Hurricane Wilma in RFP 2006-04. Petitioner was awarded a preliminary commitment of \$1,800,000.

² BHG 79th St., LLC (2006-053C) and Villa Patricia III, LLC (2006-348CHR) have filed Petitions for waiver of this Rule contemporaneously with this Petition.

would not have impacted the scoring of Petitioner's request for Wilma Go-Zone SAIL RFP Funding.

6. 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.


7. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting to separate and more clearly identify the legal boundaries of its Development, without changing the location of the Development or affecting the scoring of its original application 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) to Change the Site of the Villa Patricia Development" is hereby **GRANTED** to permit Petitioner to change the legal description of its Development for the purpose of separating the legal descriptions and thus more clearly identifying the three phases of the project. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 26th day of October, 2007.

Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.