

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

FLORIDA LOW INCOME HOUSING ASSOCIATES, INC.

Petitioner.

vs.

FHFC CASE NO. 2008-013 VW

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

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FLORIDA HOUSING FINANCE CORPORATION

**PETITION FOR WAIVER/VARIANCE OF  
RULE 91-35.006 (6). FLORIDA ADMINISTRATIVE CODE**

Petitioner hereby petitions by and through its undersigned and pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code ("F.A.C."), hereby petitions the Florida Housing Corporation ("Florida Housing") for a waiver and/or variance of Rule 91-35,006 (6), Florida Administrative Code.

**PETITIONER**

1. The name, address, telephone number and facsimile number of the Petitioner are:

Florida Low Income Housing Associates, Inc.  
701 White Blvd.  
Inverness, Florida 34453  
1-352-726-1113  
1-352-726-1130 (fax)

**THE RULE FROM WHICH WAIVER OR VARIANCE IS SOUGHT**

2. The Petitioner seeks a waiver and/or variance from Rule 91-35-006 (6), Florida Administrative Code, which provides:

"(6) If, in its application, the Applicant agrees to a very low Income set-aside for a term longer than required by law, the deferred SAIL interest due pursuant to 91-35.006 F.A.C. shall be forgiven in an amount equal to the amount of interest due pursuant to 91-36.006 F.A.C. multiplied by .05 multiplied by the number of years, not to exceed 15, that the very low income set-aside was extended beyond that required by law."

**THE PETITIONER REQUESTS A VARIANCE AND/OR WAIVER OF THE  
RULE SET FORTH ABOVE FOR THE FOLLOWING REASONS**

3. Petitioner was awarded two SAIL loans (905-002 and SL93-01) totaling \$612,882.00 in connection with the financing of Atlantic Pines (the "Project") a commercial Fishing family project located on Big Pine Key, Florida. The terms of the loans commenced on June 26, 1992 and January 29, 1993 and matured on June 26, 2007 and January 29, 2008 respectively.
4. While the Petitioner has successfully operated the Project since its inception, the Project does not generate sufficient cash flow to pay the deferred interest due under the SAIL loan.
5. The Petitioner desires to continue operating the Project and has been negotiating with the Respondent to forgive all deferred interest regarding the SAIL loan and to re-amortize the outstanding balance of the SAIL loan over a term of 30 year, at an interest rate of 0%.
6. The repayment of the unforgiven deferred interest would create a substantial hardship in that this development serves commercial fishing families and cannot generate sufficient income to pay the interest due.
7. The Florida Legislature has recognized the hardship caused by requiring commercial fishing family developments to pay this amount of interest and revised the SAIL statute to reduce the interest rate on commercial fishing family developments from 9% to 0% to 3%. Likewise, the Respondent has revised its rules to allow for 0% to 3% interest rates for commercial fishing family developments.
8. A waiver and/or variance of the rule will allow the Petitioner to continue to operate the Project, and will facilitate a new loan structure wherein the principal balance of the loan will amortize.

**A WAIVER AND/OR VARIANCE WILL SERVE THE UNDERLYING  
PURPOSE OF THE STATUTE**

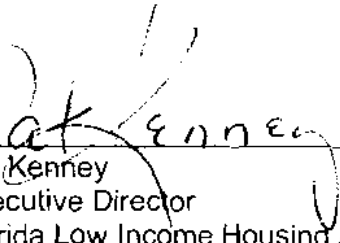
9. A waiver and/or variance of the Rule will serve the purposes of the underlying statute which is implemented by the Rule. The Florida Legislature created a goal for Florida Housing to develop housing for commercial fishing families with no less than 10% of the SAIL funds each year, and by authorizing lower interest payments for these loans. Section 420.5087 (3) (c), and Section 420.507 (22) (a) (2), F.S. The statute also authorizes Florida Housing to renegotiate any mortgage loan with a borrower in default, to waive any default or consent to the modification of the terms of any mortgage loan. Section 420.507 (17), Florida Statutes. For the reasons set forth herein, Petitioner respectfully requests Florida Housing to grant the requested variance of Rule 91-35.006 (6), to provide forgiveness of all outstanding SAIL interest.

**TYPE OF WAIVER/VARIANCE**

10. The variance would be permanent as to the Petitioner.

A copy of the Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300, as required by Section 120.542 (5), Florida Statutes.

Dated the 5<sup>th</sup> day of May, 2008

  
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Pat Kenney  
Executive Director  
Florida Low Income Housing Associates, Inc.  
701 White Blvd  
Inverness, Florida 34453  
(352) 726-1113  
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