

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

FLORIDA LOW INCOME HOUSING ASSOCIATES, INC.

Petitioner.

vs.

FHFC CASE NO. 2008-037VW

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

**PETITION FOR WAIVER/VARIANCE OF
RULE 9I-28.007. FLORIDA ADMINISTRATIVE CODE**

Petitioner hereby petitions by and through its undersigned 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 9I-28.007, 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, FL 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 9I-28.007, 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 9I-36.006 F.A.C. shall be Forgiven in an amount equal to the amount of interest Due pursuant to the 9I-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 Sail Loan 90S-002 in the amount of \$425,242.00 in connection with the financing of Atlantic Pines (the "Project") a commercial Fishing family project located on Big Pine Key, Florida. The term of the loan commenced on June 26, 1992 that matured on June 26, 2007.
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 years, 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 principle balance or the loan will amortize.

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

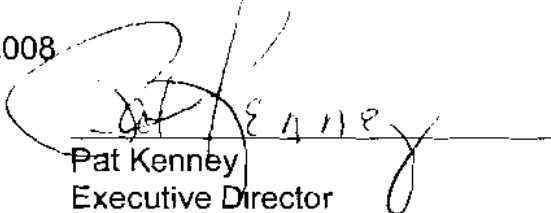
9. A waiver and/or variance of the Rule will serve the purpose of the underlying statute which is implemented by the Rule. The Florida Legislature created a goal for Florida Housing Finance to develop housing for commercial fishing families with no less that 10% of the SAIL funds each year, and by authorizing 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 9I-28.007, F.A.C., 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 (6), Florida Statutes.

Dated the 23rd day of May, 2008

A handwritten signature in black ink, appearing to read 'PAT KENNEY', is written over a horizontal line. The signature is stylized and somewhat cursive.

Pat Kenney
Executive Director
Florida Low Income Housing Associates, Inc.
701 White Blvd
Inverness, Florida 34453
(352)726-1113
(352)726-1130