

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: ANDREWS PLACE II, LLC

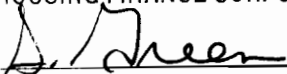
FHFC Case No.: 2006-057VW
Application No.: 2004-068S

**ORDER GRANTING WAIVER OF RULE 67-48.010(6)(a),
FLORIDA ADMINISTRATIVE CODE (2004)**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on December 15, 2006, pursuant to a "Petition for Waiver of SAIL Rule 67-48.010(6)(a)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 9, 2006, from Andrews Place II, LLC ("Petitioner"). On September 29, 2006, Florida Housing published the Notice of the Petition in Volume 32, Number 39, of the Florida Administrative Weekly. On November 9, 2006, Petitioner filed an "Amended Petition for Waiver of SAIL Rule 67-48.010(6)(a)" (the "Amended Petition"). Florida Housing received no comments regarding the Petition or Amended 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 2004 Universal Cycle, Florida Housing awarded an allocation of \$1,000,000 in State Apartment Incentive Loan (SAIL) funds to Andrews Place II, LLC ("Petitioner"), for Application #2004-068S.
3. Rule 67-48.010(6)(a), Fla. Admin. Code (2004) (the "Rule"), states in pertinent part:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 12-18-06

By May 31 of each year of the SAIL loan term, the Applicant shall provide the Corporation with audited financial statements and a certification detailing the information needed to determine the annual payment to be made. However, this certification requirement will be waived until May 31 following the calendar year within which the first unit is occupied. The certification shall require submission of audited financial statements and the SAIL annual reporting form, Cash Flow Reporting Form SR-1, Rev. 12/02, which is incorporated by reference.

...

A late fee of \$500 will be assessed by the Corporation for failure to submit the required audited financial statements and certification by May 31 of each year of the SAIL loan term.

4. Petitioner requests a waiver of the above Rule, in that Petitioner requests that it not be required to submit the audited financial statements due May 31, 2006, and that Florida Housing also waive the \$500 late fee mandated by the Rule.

5. As grounds for this request, Petitioner states that it would suffer substantial hardship if the Rule were strictly applied to Petitioner's circumstances. Petitioner reports that as of the filing of the Petition, only three of the five planned buildings of the Development have been placed in service, all within December, 2005, and that as a result its gross rental receipts were only \$6001.00. Petitioner has obtained a bid for a certified financial audit in the amount of \$8,500.00 or \$2,499 more than Petitioner's gross rental receipts.

6. The waiver requested by Petitioner is for only that period ending May 31, 2006. In lieu of submitting the required audited financial statements, Petitioner asks that it be permitted to submit unaudited statements from a third-party management company. In conjunction with this request, Petitioner also seeks a waiver of the \$500 late fee.

7. The Board finds that to require Petitioner to bear the cost of performing this audit would result in substantial hardship and violate the principles of fairness, as the fee for the audit far exceeds Petitioner's rental receipts. Furthermore, Petitioner's financial partners involved in

this Development either do not require such an audit, or have already agreed to waive the requirement.

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

Variances 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.

9. The granting of a waiver of the aforementioned Rule would serve the purpose of the underlying statute, Chapter 420, Part V, Fla. Stat., in that it would further the goal of facilitating the availability of decent, safe and sanitary housing in the State of Florida.

IT IS THEREFORE ORDERED:

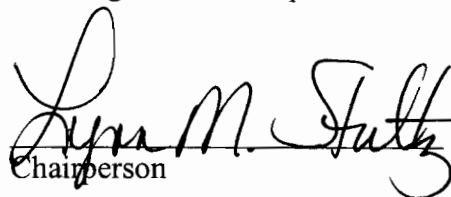
The relief requested in the Petition is hereby **GRANTED**, in that the Corporation will accept the SAIL Cash Flow Reporting Form (SR-1) based on unaudited financial statements prepared by Royal American Management, in lieu of audited financial statements for the reporting period ending May 31, 2006, and in that the Petitioner shall not be required to pay the assessed \$500 late fee.

DONE and ORDERED this 15th day of December, 2006.

Florida Housing Finance Corporation



By:


Chairperson

Copies furnished to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Vicki Robinson
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Harrison Coleman, Esquire
Coleman, Talley, Newbern, Kurrie, Preston & Holland, LLP
7000 Central Parkway NE, Suite 1150
Atlanta, GA 30328

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO PROCEEDINGS 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.