

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: JOHNSON LAKES ESCAMBIA
LIMITED PARTNERSHIP

FHFC Case No.: 2009-009VW
Application No.: 2005-313HR

**ORDER GRANTING PETITION FOR VARIANCE
FROM RULES 67-48.004(1)(a) and 67-48.027(2)(m)
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on April 24, 2009, pursuant to a "Petition for Variance of Rules 67-48.004(1)(a) and 67-48.027(2)(m), Florida Administrative Code (2008)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on March 24, 2009, from Johnson Lakes Escambia Limited Partnership, a Florida limited partnership ("Petitioner"). On April 3, 2009, the Notice of the Petition was published in Volume 35, Number 13, 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:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 2005 Rental Recovery Loan Program (“RRLP”) Application (the “RRLP Application”), Florida Housing awarded an allocation of RRLP funds to Petitioner (under application #2005-313HR). Petitioner applied for RRLP funds to finance, in part, a Development known as Johnson Lakes Apartments, a 160-unit development in Pensacola, Escambia County, Florida (the “Development”).

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

(2) 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.

4. R. 67-48.004(1)(a), Fla. Admin. Code states, in pertinent part:

(1)

(a) The Universal Application Package or UA1016 (Rev. 3-08) is adopted and incorporated herein by reference and consists of the forms and instructions...which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC Program(s).

5. R. 67-48.027(2)(m), Fla. Admin. Code states, in pertinent part:

(2)

(m) After bonds are issued to the Development, make Application to the Corporation as required in Rules 67-48.004 and 67-48.0072, F.A.C. Applicant shall submit its Application completed in accordance with the Universal Application Package instructions for receipt by the Corporation no later than July 1 of the year the Development is placed in service; and

6. Petitioner requests a variance from the above rules to allow Petitioner to avoid having to modify the features and amenities of the Development to conform to the 2008 Application. Unlike the requirements found in the RRLP Application where Petitioner was required to commit to eleven (11) features specific to Elderly housing, the 2008 Application contained thirteen (13) mandatory features. The two additional amenities were required for 100% of new construction and rehab/substantial rehab units when applying for funds under the 2008 Application in the competitive cycle. Petitioner, however, was not applying for Corporation funding, but instead for an allocation of low-income, non-competitive housing tax credits.

7. Denying this variance will likely result in Petitioner incurring substantial expenses and disrupting current tenancies.

8. Since approval will not affect Application scoring, Petitioner derives no unfair advantage over other applicants.

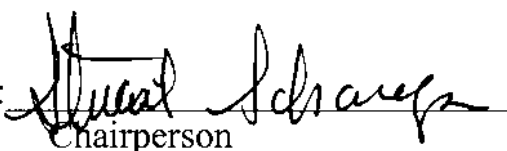
9. The Board finds that strict application of the above Rules under these circumstances will give rise to substantial hardship or otherwise violate the principles of fairness. Under the circumstances described in the Petition, granting these requests furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The variance from R. 67-48.004(1)(a) and R. 67-48.027(2)(m), Fla. Admin. Code furthers this purpose.

IT IS THEREFORE ORDERED:

Petitioner's request for variance from R. 67-48.004(1)(a) and R. 67-48.027(2)(m), Fla. Admin. Code is hereby GRANTED to allow Petitioner to avoid having to modify the features and amenities of the Development to conform to the 2008 Application.

DONE and ORDERED this 24th day of April, 2009.

Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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

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

Maureen McCarthy Daughton
Broad and Cassel
215 S. Monroe Street, Suite 400
Tallahassee, FL 32301

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 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.