

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CREATIVE CHOICE HOMES  
XXIX, LTD.

FHFC Case No.: 2010-002VW  
Application No.: 2003-023CS

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**ORDER GRANTING WAIVER OF PART III.D.1.f.  
OF THE UNIVERSAL APPLICATION INSTRUCTIONS  
INCORPORATED BY REFERENCE INTO  
RULE 67-48.002(111) (2003), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on December 10, 2010, pursuant to “Amended Petition for Variance From or Waiver From Universal Application (2003 Cycle) Section III.D.1.F.” (the “Amended Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Amended Petition on November 22, 2010, from Creative Choice Homes XXIX, Ltd. (“Petitioner”). On January 22, 2010, Florida Housing received a “Petition for Variance From or Waiver From Universal Application (2003 Cycle) Section III.D.1.F.,” (the “Petition”) from Petitioner. On February 2, 2010, Florida Housing published the Notice of the Petition in Volume 36, Number 05, of the Florida Administrative

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

DeLach Harell / DATE: 12/13/2010

Weekly.<sup>1</sup> 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 2003 Universal Cycle, Florida Housing awarded an allocation of \$825,000 in housing credits under the Low-Income Housing Tax Credits program and \$860,000 in State Apartment Incentive Loan funds to Creative Choice Homes XXIX, Ltd. (“Petitioner”) to construct a 112-unit elderly rental apartment complex, known as Mariner’s Landing Apartments, located in Lee County, Florida (the “Development”).

3. Petitioner requests a waiver of Part III.D.1.f. of the Universal Application Instructions incorporated by reference in Rule 67-48.002(111) (2003) and the requirement that 15% of all units in the Development be equipped with roll-in showers.

4. Rule 67-48.002(111), Florida Administrative Code (2003), states in pertinent part:

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<sup>1</sup> As the Amended Petition was substantially similar to the Petition and requested the same relief, it was not necessary to notice the Amended Petition in the FAW.

(111) “Universal Application Package” or “UA1016 (Rev. 4-03)” means the forms and instructions, obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME and/or HC Program(s). The Universal Application Package is adopted and incorporated herein by reference, effective on the date of the latest amendment to this rule chapter.

The 2003 Universal Application Instructions, Specific Instructions, Part III. D.1.f. provide:

Roll-In Showers will be provided in 15% of NC (new construction) and 10% of SR (substantial rehabilitation) units. 5% of this requirement may be met with walk-in type shower stalls with permanently affixed seat.

5. 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.

6. The Board finds that a waiver of the above Rules is necessary and that denial thereof would create a substantial hardship for Petitioner. Petitioner completed construction on the Development in 2006 and the units are currently occupied. Due to a miscalculation, there are 12 roll-in shower units and six walk-in shower stalls with permanently affixed seats, instead of the required 16 roll-in shower units and one walk-in shower stall with a permanently affixed seat.

Petitioner demonstrated that the miscalculation was not intentional or committed in bath faith.

7. Petitioner further demonstrated that it would create a substantial hardship to reconfigure the bathrooms in order to comply with Florida Housing's requirements. Petitioner's architect, Robert P. Snow, determined that installation of roll-in showers is not readily feasible given the configuration of the units. Petitioner would have to redesign, demolish and reconstruct the units at great expense, and Petitioner would have to relocate the residents currently occupying the units with a potential loss of revenue. The granting of a waiver of the aforementioned rules 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 to low-income persons and households.

8. The granting of a waiver of the aforementioned rules 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 to low-income persons and households.

**IT IS THEREFORE ORDERED:**

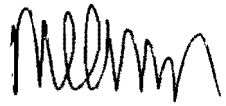
The Petition for Waiver of Part III.D.1.f. of the Universal Application Instructions incorporated by reference in Rule 67-48.002(111) (2003), Florida

Administrative Code, is hereby **GRANTED** specifically to waive the requirement that 15% of all units in the Development have roll- in showers. Petitioner has satisfied this requirement with its currently constructed mix of roll-in showers and walk-in showers with permanently affixed seats.

DONE and ORDERED this 10th day of December, 2010.



Florida Housing Finance Corporation

By:   
Chairperson

**Copies furnished to:**

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Akerman Senterferfitt  
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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.**