

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: RELIANCE-ANDREWS ASSOCIATES, LTD.

FHFC Case No.: 2006-034VW
Application No. 2005-116C

**ORDER GRANTING VARIANCE TO RULE 67-48.002(83),
FLORIDA ADMINISTRATIVE CODE (2005) AND PARAGRAPH 11 OF THE 2005
QUALIFIED ALLOCATION PLAN**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on July 28, 2006, pursuant to an "Amended Petition for Waiver of the Qualified Allocation Plan's requirement for Returning Housing Credit Allocation and for an Immediate Allocation of 2007 Housing Credits" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Amended Petition on July 7, 2006, from Reliance-Andrews Associates, Ltd., ("Petitioner"). On July 7, 2006, Florida Housing published the Notice of the original Petition in Volume 32, Number 27, of the Florida Administrative Weekly.¹ Florida Housing received no comments regarding the Petition or the 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 2005 Universal Cycle, Florida Housing awarded an allocation of \$2,368,500 in Housing Credits to Reliance-Andrews Associates, Ltd. ("Petitioner"), to finance

¹ As Petitioner did not change the rule or QAP provision from which they request relief in its Amended Petition, republication of notice regarding the Amended Petition in the Florida Administrative Weekly was deemed unnecessary.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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the development of Flagler Point, a 167 unit high rise apartment building for low-income elderly residents.

3. Rule 67-48.025, Fla. Admin. Code (2005) requires that Florida Housing's allocation of Housing Credits "shall be done in accordance with the Corporation's Qualified Allocation Plan."

4. Rule 67-48.002(83), Fla. Admin. Code (2005) defines the Qualified Allocation Plan as follows:

QAP" of "Qualified Allocation Plan" means, with respect to the HC program, the 2005 Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon approval by the Governor of the state of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits.

5. The 2005 QAP provides, in pertinent part:

[W]here a development has not been placed in service by the date required or it is apparent that a development will not be placed in service by the date required [December 31, 2007], such failure is due to circumstances beyond the Applicant's control, and the Applicant has returned its housing credit allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of credits returned, and may allocate such housing credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service provided [certain] conditions have been met.

6. Petitioner requests a waiver of the above QAP provision (as incorporated by reference into Chapter 67-48. Fla. Admin. Code) to permit the return of its allocated tax credits at this time instead of within the last quarter of 2007, and to permit the immediate reallocation of 2007 Housing Credits in exchange for its 2005 allocation.

7. Petitioner cites substantial hardship and circumstances beyond its control to justify the granting of this waiver, including the effects of Hurricane Wilma (October 24, 2005) on Broward County, which was declared as major disaster area. Petitioner states that due to the

emergency matters occupying the local government at the time, Petitioner was unable to attend meetings or otherwise conduct business with the local government necessary to the advancement of the Development, resulting in a significant construction delay beyond the Petitioner's control, as well as significantly increased construction costs, both of which have called into question Petitioner's ability to complete the project before December 31, 2007. Petitioner states that a denial of its requested variance would result in its tax credit syndicator being unwilling to provide equity financing for the Development.

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 Board finds that a *variance* from the above Rule is necessary and that denial thereof would create a substantial hardship for Petitioner or would violate the principles of fairness, in that Petitioner may lose syndicator equity financing for its allocation of Housing Credits, and thus its ability to construct the Development, due to circumstances beyond its control.

10. For practical reasons, Florida Housing cannot "immediately" allocate 2007 Housing Credits to Petitioner, as the Internal Revenue Service has not yet issued allocation authority regarding 2007 Housing Credits. Therefore Florida Housing will instead provide to Petitioner a binding commitment for 2007 Housing Credits, in an amount not to exceed Petitioner's 2005 allocation.

11. The granting of a variance 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

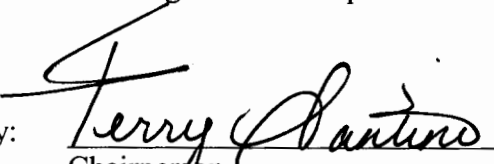
facilitating the availability of decent, safe and sanitary housing in the State of Florida to low-income households and elderly persons.

IT IS THEREFORE ORDERED:

The relief requested in the “Amended Petition for Waiver of the Qualified Allocation Plan’s requirement for Returning Housing Credit Allocation and for an Immediate Allocation of 2007 Housing Credits” is hereby **GRANTED**, in the form of a variance from the requirements of the 2005 QAP, as follows: Petitioner shall be permitted to immediately return its 2005 Housing Credit allocation, and to immediately receive an binding commitment for an allocation of 2007 Housing Credits in an amount not to exceed its 2005 allocation. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 28th day of July, 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



Brian J. McDonough, Esquire
Mimi L. Sall, Esquire
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street
Miami, Florida 33130

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 FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.