

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

FLORIDA NON-PROFIT SERVICES, INC.

a Florida Not-For-Profit Corporation

Petitioner,

vs.

FHFC CASE NO. 2009-024VW

FLORIDA HOUSING FINANCE

CORPORATION

Respondent

PETITION FOR WAIVER OF

RULE 67-48.0072(19), FLORIDA ADMINISTRATIVE CODE

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CLERK OF COURT
JUDICIAL CIRCUIT IN AND FOR
THE NINTH JUDICIAL CIRCUIT
TALLAHASSEE, FLORIDA

FLORIDA NON-PROFIT SERVICES, INC., a Florida Not-For-Profit Corporation ("Petitioner"), pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code ("FAC"), hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver of that portion of Rule 67-48.0072(19), FAC, which requires that contingency reserves total no more than five (5%) percent of hard and soft costs for new construction within the Total Development Cost for application and underwriting purposes. In support, Petitioner states the following:

THE PETITIONER

1. The address, telephone number and facsimile number of the Petitioner is:

Florida Non-Profit Services, Inc.

900 Broad Avenue South; #2C

Naples, FL 34102

Telephone: (239) 434-6001

Facsimile: (239) 434-7318

THE RULE FROM WHICH WAIVER IS SOUGHT

2. Petitioner requests a waiver of that portion of Rule 67-48.0072(19), FAC, which mandates that contingency reserves total no more than five (5%) percent of hard and soft costs for new construction within the Total Development Cost for application and underwriting purposes.

STATUTES IMPLEMENTED BY RULE 67-48.0072(19), FAC

3. The Rules implement, among other sections of the Florida Housing Finance Corporation Act, the Statutes relating to the SAIL program, See §420.507(12), (22) Florida Statutes.

JUSTIFICATION FOR GRANTING WAIVER OF RULE 67-48.0072(19), FAC

4. Petitioner applied for and was awarded an allocation of \$5,000,000 from FHFC in accord with RFP 2007-10. Petitioner has also been awarded a \$2,700,000 grant and a \$300,000 loan from USDA. After a competitive bidding process, a construction contract in the amount of \$3,214,736 was awarded to J.L. Wallace, Inc. of Fort Myers, Florida. As required by the Credit Underwriter, a Preconstruction Plan and Cost Review ("PCR") was prepared by Consultech & Associates, Inc. ("Consultech") of Tampa, Florida. One of Consultech's recommendations is to increase the project's hard cost contingency from 5% to 10% of the construction contract. The reason for said recommendation is that the square footage cost of the J.L. Wallace, Inc. contract is well below the average historic cost range for this type of construction. Consultech's explanation for this situation is that:

"The local and national construction industry is experiencing an overall decrease in material costs and a slight decrease in labor costs due to current economic conditions; the subject project includes a high ratio of larger (two and three-bedroom, two-bath) units than the comparables which can equate to some of the lower per square foot costs."

Since eight bids were received, and two were within \$15,000 of each other, it is likely that Consultech's explanation is correct. However, to provide an additional contingency reserve, Consultech has suggested the increase in the hard cost contingency from 5% to 10%. This recommendation is endorsed by Seltzer Management Group, Inc., the Credit Underwriter.

5. Petitioner believes that a waiver/variance of this rule will serve the purposes of the statute, which is implemented by the rule. The Florida Housing Finance Corporation Act (Section 420.501, et seq) was passed in order to encourage private and public investment in persons of low income. The creation of the SAIL program was to provide a subordinated mortgage loan to affordable rental developments that serve low-income persons and families. Waiver and/or variance of the rule will allow Florida Non-Profit Services, Inc. to provide affordable rental opportunities to farmworking families in Collier County, Florida.

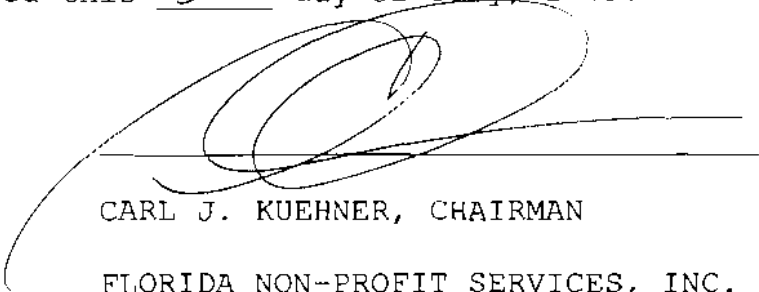
ACTION REQUESTED

6. For the reasons set forth herein, Petitioner respectfully requests the Corporation to grant the requested waiver of the portion of Rule 67-48.0072(19), FAC which limits the contingency

reserve to no more than 5 percent (5%) of hard and soft costs for new construction.

7. 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(5) Florida Statutes.

Respectfully submitted this 3rd day of July, 2009.



CARL J. KUEHNER, CHAIRMAN

FLORIDA NON-PROFIT SERVICES, INC.

900 Broad Avenue South; #2C

Naples, Florida 34102

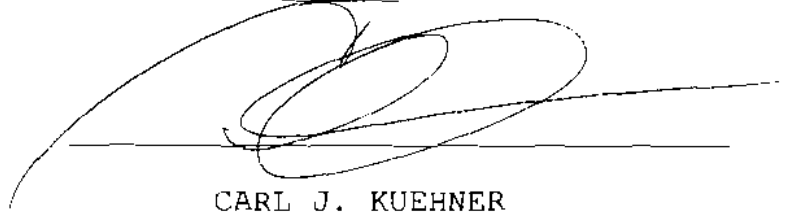
Telephone: (239) 434-6001

Facsimile: (239) 434-7318

CERTIFICATE OF SERVICE

The Petition is being served by e-transmission and overnight delivery for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures

Committee, Room 120, 600 Calhoun Street, The Holland Building,
Tallahassee, Florida 32399-1300, on July 3, 2009.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by 'J. Kuehner', written over a horizontal line.

CARL J. KUEHNER