

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Village Carver Development, LLC.

FHFC Case No.: 2011-005VW

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**ORDER GRANTING PETITION FOR WAIVER OF PART III.B. OF
THE 2006 UNIVERSAL APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on May 16, 2011, pursuant to a “Petition for Waiver of Part III.B. of the 2006 Universal Application Instructions” (the “Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on February 21, 2011, from Village Carver Development, LLC (“the Petitioner”). On March 4, 2011, the Notice of the Petition was published in Volume 37, Number 09, 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:

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

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrel / DATE: *5/20/11*

2. During the 2006 Universal Cycle, Village Carver Development (“Petitioner”) submitted an Application for an allocation of competitive low income housing tax credits to assist in the construction of Village Carver Phase I (the “Development”), a 112 unit apartment complex in Miami-Dade County, Florida.

3. Petitioner’s Application was successful, and Petitioner was subsequently awarded \$2,435,000 in low income housing tax credits.

4. Petitioner is currently out of compliance with the conditions agreed to in its 2006 Application.

5. Rule 67-48.004(1)(a), Fla. Admin. Code (2006) provides:

The Universal Application Package or UA 1016 (Rev. 1-06) is adopted and incorporated herein by reference and consists of the forms and instruction...

Part III.B. of the 2006 Universal Application Instructions provides, in pertinent part:

B. *Construction Features and Amenities*

1. *Required for All Developments*

b. *All Units in All Developments Except SRO:*

Bathtub with shower in at least one bathroom in at Least 90% of the new construction non-Elderly units.

6. Petitioner requests a waiver of the above provision to allow them to remain in compliance despite the fact that only eighty-five percent

(85%) of the units in the Development currently feature bathtubs with showers. The units in question instead feature disabled-access showers.

7. 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.

8. The Board finds that it would be at great cost to the developer to replace the disabled accessible showers with bathtubs with showers, and to find housing for the displaced residents, some of whom are disabled, for the time period in which it takes to renovate the units.

9. Based on these circumstances, the Board finds that strict application of the aforementioned provision of the 2006 Universal Cycle Instructions would cause substantial hardship to Petitioner and violate the principles of fairness.

10. The Board further finds that permitting this change in Development design would result in more units accessible to disabled persons, which would in turn serve the underlying purposes of Chapter 420, Part V, Florida Statutes.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.B. of the Universal Application Instructions is hereby **GRANTED**, to permit the Petitioner to maintain showers with bathtubs in 85% of the new construction non-Elderly units.

DONE and ORDERED this 16th day of May, 2011.



Florida Housing Finance Corporation

By: _____

Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
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NOTICE OF RIGHT TO JUDICIAL REVIEW

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.