

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CARRFOUR SUPPORTIVE
HOUSING, INC.

FHFC Case No.: 2005-047VW

ORDER GRANTING WAIVER FROM RULE 9I-28.006(7), F.A.C. (1991)

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on December 9, 2005, pursuant to a Petition for Waiver/Variance from Rule 9I-28.006(7), F.A.C. (1991) ("Petition"), filed by Carrfour Supportive Housing, Inc., ("Petitioner") on November 4, 2005. On November 18, 2005, the Notice of the Petition was published in Volume 31, Number 46, 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.
2. During the 1990-1991 State Apartment Incentive Loan (SAIL) Cycle III, Florida Housing awarded SAIL funds to Homestead Apartment Associates, Ltd., for the development of Riverwalk I ("Development"). Petitioner has executed a purchase and sale agreement to purchase the Development.
3. In its original application for the Development, Homestead Apartment Associates, Ltd., committed to extend the low income set-aside to 15 years. Pursuant to the Rule in

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Mason

DATE:

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existence at the time 9I-28.006(7), F.A.C. (1991), the interest accrued and deferred on the SAIL loan, in the original principal amount of \$843,000 in excess of the 3% base interest is not eligible for forgiveness.

4. 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.

5. Petitioner is requesting a variance of Rule 9I-28.006, F.A.C. (1991). The applicable rule is summarized as follows, in pertinent part:

(7) If, in their application, the Applicant agrees to a very low income set-aside for a term longer than that required by law, the deferred SAIL interest due pursuant to 9I-28.006(6)(h), shall be forgiven in an amount equal to the amount of interest due pursuant to 9I-28.006(6)(h) multiplied by .05 multiplied by the number of years, not to exceed 15, that the very low income set-aside was extended beyond that required by law.

6. Specifically, Petitioner requests that the Board grant a waiver and variance of the above rule that the very low income set-aside must be extended beyond that required by law in the original SAIL loan application in order to be eligible for forgiveness of SAIL loan interest in excess of the base interest.

7. As grounds for its request, Petitioner states that it is a non-profit corporation devoted exclusively to the development and preservation of affordable housing and it is committed to the extension of the very low-income set-aside for the Development at least an additional fifteen years. Additionally, Petitioner has applied for and is seeking Florida Housing's approval of the sale of Riverwalk I (and Riverwalk II) to limited liability companies wholly owned by it, and allow it to assume the SAIL loans on Riverwalk I and II.

8. The granting of this waiver request would serve the purpose of the underlying statute, in that the statutory goal to develop and provide affordable rental housing in Miami-Dade County will be facilitated by permitting Petitioner to operate the Development.

9. Not granting this waiver would result in a substantial hardship and a violation of the principles of fairness to Petitioner in that Petitioner will not be able to acquire Riverwalk I and Riverwalk II from the current owners. Moreover, Petitioner will not be able finance the acquisition of such properties. Unless Petitioner is able to acquire Riverwalk I, the current set-aside restrictions will lapse in 2007, resulting in the loss of affordable housing in Miami-Dade County.

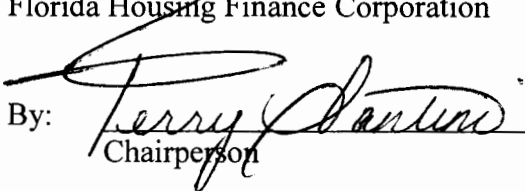
IT IS THEREFORE ORDERED:

The Petitioner's request for a variance from Rule 9I-28.006(7), F.A.C. (1991), is hereby **GRANTED**, to the extent that the very low income set-aside must be extended beyond that required by law; in order to be eligible for forgiveness of SAIL loan interest in excess of the base interest and pursuant to the method of calculation of Rule 9I-28.006(7), F.A.C.(1991), conditioned upon the credit underwriter's approval of Petitioner acquiring Riverwalk I project and assumption of its SAIL loan.

DONE and ORDERED this 9th day of December, 2005.

Florida Housing Finance Corporation

By:


Chairperson

Copies furnished to:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

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 LUTHER KING, JR., BLVD., 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.