

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: FOX HOLLOW ASSOCIATES, LTD.

FHFC Case No. : 2005-059VW

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**ORDER GRANTING VARIANCE FROM  
RULE 67-21.008(1)(b), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on January 20, 2006, pursuant to a Petition for Variance of Rule 67-21.008(1)(b), Florida Administrative Code, (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 27, 2005, from Fox Hollow Associates, Ltd., ("Petitioner"). On January 8, 2006, the Notice of the Petition was published in Volume 32, Number 1, of the Florida Administrative Weekly. Florida Housing did not receive any 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 2005 Supplemental Bond Cycle, Florida Housing awarded an allocation of \$6,635,000 in Multifamily Mortgage Revenue Bond (MMRB) funding to Fox Hollow Associates, Inc. ("Petitioner") to finance the rehabilitation of a 156-unit family apartment development located in Orange County, Florida.
3. Petitioner recently acquired this development from Tompkins/Fox Hollow, Ltd., the previous owner, who received SAIL funding and an award of low income housing tax credits

from Florida Housing in 1990. This transfer of ownership was approved by the Board on December 9, 2005.

4. Rule 67-21.008(1)(b), Florida Administrative Code, states in pertinent part:

(1) Each Mortgage Loan for a Development made by the Corporation shall:

(b) Provide for a fully amortized payment of the Mortgage Loan in full beginning on the earlier of 36 months after closing, or stabilized occupancy, or conversion to permanent financing under the loan documents and ending no later than the expiration of the useful life of the property, and in any event, no later than 45 years from the date of the Mortgage Loan.

5. 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.

6. Petitioner requests a variance from the above Rule to delay the start of the fully amortized payment of the mortgage loan from 36 months to 60 months from the date of closing of the MMRB financing.

7. Petitioner states that this variance is necessary and that denial thereof would create a substantial hardship for Petitioner, in that the viability of the Development will be threatened. Petitioner has filed an application for supplemental MMRB funding and has incurred significant expenses in based on that financing structure and in obtaining the subject real property. Petitioner reports that should this request for a variance be denied, the financing structures on which these transactions are based will no longer be viable and the Petitioner will be unable to acquire and rehabilitate the development as anticipated per its supplemental MMRB application.

8. The granting of this variance would serve the purpose of the underlying statute, as facilitating the rehabilitation of the Fox Hollow Apartments development will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Orange County, Florida.

9. Moreover, not granting this variance will result in a substantial hardship to Petitioner, in that Petitioner may be unable to acquire and rehabilitate the development as anticipated per its supplemental MMRB application.

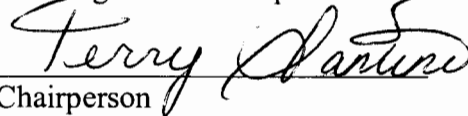
**IT IS THEREFORE ORDERED:**

The Petition for Variance from Rule 67-21.008(1)(b), Florida Administrative Code, is hereby **GRANTED**. Petitioner shall provide for a fully amortized payment of the Mortgage Loan in full beginning on the earlier of **60** months after closing, or stabilized occupancy, or conversion to permanent financing under the loan documents and ending no later than the expiration of the useful life of the property, and in any event, no later than 45 years from the date of the Mortgage Loan. All other relief requested in the Petition, if any, is hereby denied.

DONE and ORDERED this 20<sup>th</sup> day of January, 2006.

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 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 MARTIL 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.**