

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: OLD ORCHARD VILLAGE ASSOCIATES,
LTD.

FHFC Case No. : 2006-056VW
FHFC App. No.: 2006A-234B

**ORDER GRANTING VARIANCE FROM
RULE 67-21.003(1)-(3), (13) & 67-21.006(2)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on October 20, 2006, pursuant to a "Petition for Waiver or Variance from Rules 67-21.003(1)-(3), (13) & 67-21.006(2)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 18, 2006, from Old Orchard Village Associates, Ltd.. ("Petitioner"). On September 29, 2006, the Notice of the Petition was published in Volume 32, Number 39, 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 2006 Supplemental Multifamily Mortgage Revenue Bonds ("MMRB") Application Cycle, Petitioner was awarded an allocation of bond funds in the amount of \$6,000,000 for the construction of Old Orchard Village, a 50-unit apartment development intended to serve the Family demographic to be located in Hardee County, Florida (the "Development").
3. Rules 67-21.003(1)-(3), F.A.C. (2006), adopt and incorporate the 2006 Universal Application Package used to apply for Supplemental MMRB funding. Part

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

D. J. [Signature]

/DATE.

10-23-06

III.A.3.a.4. of the 2006 Universal Application Instructions states that applications requesting funding under the MMRB program “must be for a proposed Development consisting of 5 or more dwelling units in each residential building” (the “5-unit requirement”). Rule 67-21.006(2) repeats the 5-unit requirement in the above stated instructions.

4. Rule 67-21.003(13), F.A.C. (2006) allows the Board to reject an application, after submission of cure materials, where the application does not conform to the application requirements or fails to meet threshold criteria and states in pertinent part:

“The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate . . . :

(a) The Development is inconsistent with the purpose of the MMRB Program or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application and Application instructions;

. . . .”

5. Old Orchard Village was designed with duplex units consisting of 2 units per building, as opposed to the 5 units per building requirement. The design was selected at the urging of local government and civil leaders to allow the units to integrate more successfully with the surrounding neighborhood of existing single-family homes.

6. Accordingly, Petitioner requests a variance from the foregoing rules and the 5-unit requirement rule to allow for the application and possible funding of the proposed development with Supplemental MMRB funding.

7. Section 120.542(2), Florida Statutes provides in pertinent part:

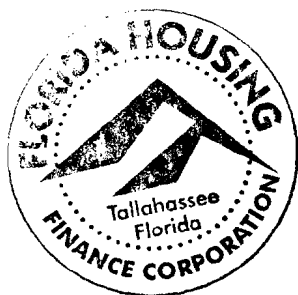
Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

8. The granting of this request for variance will serve the purpose of the underlying statute by encouraging private investment in the creation of affordable housing for low-income and very-low-income families, and in turn, FHFC will continue to realize this goal and ensure the development of 50 units of new affordable housing for the residents of Hardee County, Florida. Strict application of the Emergency Rules will lead to unreasonable, unfair and unintended consequences, and create a substantial hardship for Petitioner since it would make it impossible for Old Orchard to construct the residential dwelling units desired by the local community. Denial of the variance would violate principles of fairness in that the 5-unit requirement affects Old Orchard and the city's citizens in a significantly different manner than it affects other developers and communities where the construction of more dense housing (of 5 or more dwelling units per building) is appropriate for the community in question.

IT IS THEREFORE ORDERED:


A Variance of Rules 67-21.003(1)-(3), (13) & 67-21.006(2), F.A.C. (2006), is hereby **GRANTED** to allow Petitioner to develop duplex-style town home units (2 per building) rather than garden-style apartment of 5-units or more per building with Supplemental MMRB funding.

DONE and ORDERED this 20th day of October, 2006.



Florida Housing Finance Corporation

By:


Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHTS

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.