

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2007-036VW
Application No. 2006-249B (2006 Supplemental MMRB)

THE VILLAS AT CARVER PARK, LLLP,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

**PETITION FOR WAIVER OF PART II.A.2.a.(2) OF THE 2006 UNIVERSAL
APPLICATION INSTRUCTIONS FOR A CHANGE IN PETITIONER'S
OWNERSHIP STRUCTURE**

Petitioner The Villas at Carver Park, LLLP, a Florida limited liability limited partnership (“Carver Park”), petitions Respondent Florida Housing Finance Corporation (“Florida Housing”) for a waiver of the restriction on changing its ownership structure after submission of an Application under the 2006 Multifamily Mortgage Revenue Bond (“MMRB”) Program. *See* Part II.A.2.a.(2) of the Instructions for the 2006 Universal Application (the “MMRB Rule”).

1. Pursuant to Section 120.542, Fla. Stat. (2006), and Rules 28-104.001 through 28-104.006, F.A.C. (2006), Carver Park requests a waiver of the Rules to change its ownership structure by adding The Villas at Carver Park, GP, LLC., a Florida limited liability company (“Carver Park GP”), as its managing general partner.

A. THE PETITIONER

2. The name, address, telephone and facsimile numbers for Carver Park and its qualified representative are:

The Villas of Carver Park, LLLP
c/o Patricia Rice
390 N. Bumby Avenue
Orlando, Florida 32803
Telephone: 407-895-3300
Facsimile: 407-895-0820

3. The name, address, telephone and facsimile numbers, and e-mail of Carver Park's attorney, for purposes of this Petition, are:

Brian J. McDonough, Esquire
STEARNS WEAVER MILLER
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4. During the 2006 Supplemental MMRB Application Cycle, Carver Park applied for tax-exempt MMRBs and Housing Credits (non-competitive 4% with Tax-Exempt Bonds), and received a preliminary reservation of a State Bond Allocation of up to \$6.7 million, subject to final approval of the credit underwriter. The funds will be used towards construction costs of The Villas at Carver Park, a new 64-unit apartment development (the "Development"). The Development is intended to serve the very-low and low-income elder population in Orlando, Orange County, Florida.

5. The requested Rule waiver will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to Carver Park; (b) could

deprive Orange County of essential, affordable housing units in a timely manner; and (c) would violate principles of fairness. § 120.542(2), Fla. Stat. (2006).

B. MMRB/HC RULE FROM WHICH RELIEF IS REQUESTED AND STATUTE IMPLEMENTED BY THE RULE

6. Carver Park requests a waiver of the MMRB Rule¹ that restricts an Applicant's ability to change its ownership structure. The MMRB Rule provides as follows:

If applying for MMRB, SAIL or HOME, the Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes after loan closing require Board approval.

MMRB Application Instruction at Part II.A. 2.a.(2).

7. The MMRB Rule implements sections 420.502, 420.507, 420.508, and 420.509, Florida Statutes, which empower Florida Housing to issue revenue bonds for the purpose of funding the development of affordable housing for low-income individuals and families.

8. The waiver being sought is permanent in nature.

C. JUSTIFICATION FOR CARVER PARK'S REQUESTED CHANGE OF OWNERSHIP STRUCTURE

9. In its MMRB Application, Carver Park's ownership structure is identified as follows:

(a) the Housing Authority of the City of Orlando, Florida ("OHA"), as its limited partner, with a 99.99% interest in Carver Park; and

¹Rule 67-21.003(1)(a), F.A.C. (2006), adopts and incorporates the Instructions from the Universal Application Package.

(b) The Villas at Carver Park, Inc., a Florida corporation (“Villas Inc.”), as its general partner, with a .01% interest in Carver Park. Villas Inc. is a wholly-owned subsidiary of OHA.

10. Consequently, OHA holds the entire ownership interest of Carver Park either directly or through Villas Inc.

11. Subsequent to the filing of its MMRB Application, it has been determined that the Carver Park’s ownership structure could limit opportunities to obtain grants and/or other funds for shortfall financing for the Development. These consequences could adversely affect the Development because of a reduction of sources for shortfall financing or reduced funding for shortfall financing. In order to avoid these consequences, a Rule waiver is necessary to add Carver Park GP, as managing general partner, with a .0051% interest in Carver Park. Carver Park GP is neither a wholly-owned subsidiary of OHA nor otherwise affiliated with OHA. As a result, Villas Inc.’s ownership interest in Carver Park would be reduced from .01% to .049%.

12. The requested waiver would not have provided Carver Park with an unfair advantage in the scoring of its MMRB Application, and will not prejudice the Development or the affordable housing market to be served by the Development.

D. CONCLUSION

13. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 64 affordable housing units will be available for the elderly population of Orange County, Florida.

14. Controlling statutes and Florida Housing’s Rules are designed to allow the flexibility necessary to provide relief for changed circumstances that arise through no fault of an applicant. Florida Housing generally approves such waivers when it would not affect the scoring of an application or otherwise allow an applicant to obtain a possible unfair competitive advantage.

15. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act, through new construction, in an economical and efficient manner.

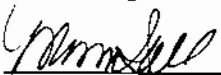
16. Should Florida Housing require additional information, Carver Park is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Part II.A.2.a.(2) of the 2006 Universal Application Instructions for a Change in Petitioner's Ownership Structure.

WHEREFORE, Petitioner The Villas at Carver Park, LLLP, respectfully requests that Florida Housing Finance Corporation grant the Petition and provide the following relief:

- A. Grant the Petition and all the relief requested herein;
- B. Waive Part II.A.2.a.(1) of the 2006 MMRB Instructions that restricts changes to the Applicant's ownership structure, and allow the change of Carver Park's ownership structure by permitting The Villas at Carver Park, GP, LLC, to be added as its manager general partner; and
- C. Grant such further relief as may be deemed appropriate.


Respectfully submitted,

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By: 
MIMI L. SALL

CERTIFICATE OF SERVICE

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 10th day of August, 2007.

By: 
Mimi L. Sall