

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: LIBERTY CENTER II, LTD.

FHFC Case No. : 2008-011VW

**ORDER GRANTING PETITION FOR VARIANCE FROM
RULE 9I-35.006(6), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on May 2, 2008, pursuant to a Petition for Waiver/Variance of Rule 9I-35.006(6), Florida Administrative Code, (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on March 28, 2008, from Liberty Center II, Ltd. ("Petitioner"). On April 11, 2008, the Notice of the Petition was published in Volume 34, Number 08, of the Florida Administrative Weekly. Florida Housing has received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors of Florida Housing (the "Board") hereby finds:

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

2. During the 1992-1993 SAIL V Cycle, Liberty Center II, Ltd., ("Petitioner") applied for and was awarded a State Apartment Incentive Loan

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Green /DATE: 5-2-08

("SAIL") to finance the construction of Liberty Center II, a homeless housing development located in Duval County, Florida (the "Development").

3. Petitioner and Florida Housing have been in negotiations regarding the Petitioner's request to renegotiate and extend the loan, which matures on May 20, 2008, and have reached a tentative agreement to extend the loan.¹

4. In its original application for the Development, the Petitioner committed to extend the low income housing set-aside into perpetuity. Pursuant to Rule 9I-35.006(6), F.A.C., \$963,564 of the total deferred interest of \$1,863,678 will be eligible for forgiveness under the Rule as of the loan maturity date.

5. Petitioner requests a variance from Rule 9I-35.006(6), F.A.C., which provides as follows:

(6) If, in its 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 Rule 9I - 35.006, F.A.C., shall be forgiven in an amount equal to the amount of interest due pursuant to Rule 9I - 35.006, F.A.C., 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.

(a) The amount of interest to be forgiven shall be completed upon maturity of the note.

(b) Only interest which is in excess of the base interest rates specified in Rule Chapter 9I-35.006, F.A.C. shall be eligible for forgiveness.

¹Rule 9I-35.006(14) provides that Florida Housing "may renegotiate and extend the loan in order to extend the availability of housing for the target population."

6. Petitioner requests a variance of the rule in order to obtain forgiveness of the entire \$1,863,678 deferred SAIL interest on the maturing loan and to re-amortize the outstanding principal balance on the loan over a thirty year term at a rate of 0% interest.

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 Development is a homeless housing development operating in Jacksonville, serving all formerly homeless single adult men. Under the rules applicable when the Development was approved, there was no homeless set-aside category, and thus, no preferential loan terms such as a reduced interest rate available to accommodate homeless housing developments. The Development has operated successfully for fifteen years, but does not generate significant cash flow because the rental revenue barely covers the expenses of operation.

9. The SAIL statute now includes a homeless set-aside and authorizes SAIL loans for homeless developments to be made at an interest rate of zero to three percent. *See*, Sections 420.507(22)(a)(1) and (2), 420.5087(3)(c) and 420.5087 (6)(a), Florida Statutes. The 2008 SAIL rule establishes a 0% interest

rate on loans to developments that set aside at least 80% of the units for Homeless residents. Rule 67-48.010(3)(a), F.A.C. (2008).

10. While the Development has always operated as one committed to serving the homeless, the Petitioner, as part of its negotiations to extend the term of its SAIL loan, has agreed to set aside 100% of the units in the Development for the Homeless. With that set-aside, the Development would have qualified for a 0% interest rate loan at its inception had the SAIL statute and rule in effect at that time recognized Homeless developments as they do currently.

11. Granting this request for a waiver forgiving all deferred interest will serve the purpose of the underlying statute in that it will enhance the financial viability of the Development and thus ensure the continued availability of affordable housing to the homeless in this Development. Granting Petitioner's request will also facilitate a new loan structure with the Petitioner's SAIL loan interest at 0%, and with the principal balance amortized over a new thirty year term. Denial of the Petition would result in substantial hardship to the Petitioner in that the Development could not continue to operate as a homeless development without relief from the terms of the existing SAIL loan and the limitation on interest forgiveness as set forth in Rule 91-35.006(6), F.A.C.

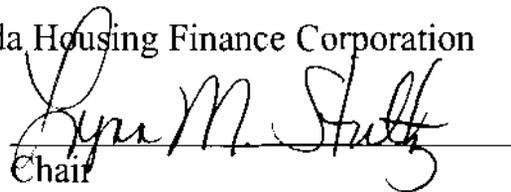
IT IS THEREFORE ORDERED:

The Petition for Variance from Rule 9I-35.006(6), F.A.C. is hereby **GRANTED** to forgive all deferred SAIL interest due on the maturing loan with the variance conditioned upon and subject to the closing of the loan modification and extension in accordance with the workout proposal as approved by the Board and attached hereto as Exhibit "A."

DONE and ORDERED this 2nd day of May, 2008.

Florida Housing Finance Corporation

By:


Chair

Copies furnished to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Derek Helms
Multifamily Loans Administrator
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Todd Fowler
Special Assets Director
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

William L. Joel, Esq.
Stoneburner, Berry, Glocker, & Joel, P.A.
841 Prudential Drive, Suite 1400
Jacksonville, Florida 32207

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

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.



To: Jan Rayboun, Loan Closing Coordinator
Florida Housing Finance Corporation

From: William J. Metler, Asst. Vice President
First Housing Development Corporation

Date: April 25, 2008

Subject: Liberty Center II (91L-075 and 93S-054)
Jacksonville, Duval County - \$1,429,329
SAIL Loan - Maturity Date of May 20, 2008

At the request of the Florida Housing Finance Corporation ("FHFC"), First Housing has reviewed the request for a renewal and restructure of the existing SAIL loan. The modification would provide for a reduction in the interest rate from 9% to 0%, a graduated 30 year amortization with a maturity date of May 2038, and forgiveness of all deferred interest which, as of May 20, 2008, is expected to total \$1,863,543. Currently, pursuant to Fla. Admin. Code R.9I-35.006, \$963,496 of the total deferred interest is eligible for forgiveness.

The scope of the analysis includes the following items:

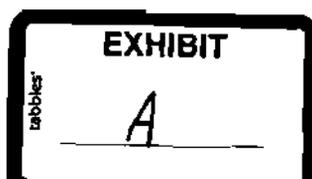
1. Overview
2. Economics of the Subject Property
3. Status of the Property Compliance
4. Recommendation
5. Conditions

This report shall address each of the items in turn following a brief synopsis of the transaction.

Overview

The Project, known as Liberty Center II is located at 945 North Liberty Street, Jacksonville, Duval County, Florida 32206.

The property was purchased and renovated in 1992, and consists of 134 Single Room Occupancy ("SRO") units and initially was designated to target the Family demographic. However, the property has always targeted homeless, single men which were not a defined designated target when the Development was first funded. The Development is encumbered by Florida Housing's SAIL Loan and by a Duval County Housing Authority First Mortgage with an outstanding balance of approximately \$153,124 that is superior to the FHFC SAIL Loan. The \$1,429,329 SAIL Loan is



FHDC

non-amortizing with a 3% soft pay interest payment. The subject property is owned by Liberty Center II, Ltd. Its General Partner is Harris Group II, Inc. Boston Capital Corporate Tax Credit Fund, a limited partnership, is its Limited Partner. The Borrower is in negotiations to purchase the limited partnership interest in the Applicant. As of the date of this credit underwriting report that transaction had not occurred.

The current Housing Credit set-asides are 20% at 40% AMI (27 units) and 80% at 60% AMI (remaining units) based upon a Family demographic for 30 years. The SAIL set-asides are 100% of the units at 40% AMI based upon a Family demographic for 50 years. While the Development has always operated as one committed to serving the homeless, the Borrower, as part of its negotiations to extend the term of its SAIL Loan, has agreed to change the Development's demographic to serving as a Development for the Homeless, as defined by Statute and Rule, and has committed to set aside 100% of the units and extend the LURA for an additional 15 years.

Economics

The property reported occupancy of 93% as of March 2008. However, the property is effectively serving a transient population and, historically, the property has run at occupancy levels in the very high nineties. The property is supported by a HAP Contract covering 100% of the units. The 2007 occupancy rates average 97% occupancy.

Following are the property's 2006 and 2007 income and expenses, which were developed from the actual audited financial statements for the property for fiscal years 2006 and 2007 as well as the underwriter's projected annual proforma.

The Credit Underwriter has reviewed a payment history and Owner's coupon book to determine annual debt service for the first mortgage. Furthermore, the Owner's Accountant provided an amortization schedule that shows the note maturing in April 2014. It is a condition of this report that appropriate loan documents that confirm the monthly payment and maturity date of the first mortgage be provided to the Credit Underwriter prior to restructuring this loan.

The anticipated debt service for the SAIL Loan in 2008 is based upon graduated principal payments initially in the amount of \$3,300.00 per month or \$39,600 per year, beginning on July 1, 2008 and remaining the same until April of 2014 (70 months) when the first mortgage is scheduled to pay off. On May 1, 2014 the principal only payment on the remaining balance at that time of \$1,198,329 will increase to \$4,132.17 or \$ 49,586 annually thus enabling the loan to pay out within its scheduled 30 year term. The proforma and operating statements are summarized as follows:

FHDC

Operating Proforma

	Audited Year End 2006	Per Unit	Audited Year End 2007	Per Unit	Projected Annual	Per Unit
REVENUE						
Received Rent Tenants	\$673,752	\$5,028	\$673,752	\$5,028	\$673,752	\$5,028
Other Income						
Interest Income	\$1,805	\$13	\$744	\$6	\$744	\$6
Total Gross Potential Revenue	\$675,557	\$5,041	\$674,496	\$5,034	\$674,496	\$5,034
Less						
Vacancy (2%)	\$30,400	\$227	\$15,077	\$113	\$13,490	\$101
Collection Loss (1%)	\$11,986	\$89	\$3,372	\$25	\$6,745	\$50
Effective Gross Income	\$633,171	\$4,725	\$656,047	\$4,896	\$654,261	\$4,883
EXPENSES						
Real Estate Taxes	\$62,625	\$467	\$33,934	\$253	\$33,934	\$253
Insurance	\$29,776	\$222	\$36,964	\$276	\$36,964	\$276
Payroll	\$218,455	\$1,630	\$239,596	\$1,788	\$239,596	\$1,788
Marketing	\$896	\$7	\$584	\$4	\$584	\$4
Repairs/Maintenance	\$22,542	\$168	\$38,305	\$286	\$38,305	\$286
Utilities	\$73,698	\$550	\$63,517	\$474	\$63,517	\$474
Security	\$3,050	\$23	\$5,617	\$42	\$5,617	\$42
Administrative Expenses	\$113,289	\$845	\$100,845	\$753	\$100,845	\$753
Property Management	\$31,659	\$236	\$32,802	\$245	\$32,802	\$245
Grounds Maintenance & Landscaping	\$5,277	\$39	\$10,882	\$81	\$10,882	\$81
Tenant Programs	\$21,639	\$161	\$22,850	\$171	\$22,850	\$171
Total Expenses	\$582,906	\$4,350	\$585,896	\$4,372	\$585,896	\$4,372
Net Operating Income	\$50,265	\$375	\$70,151	\$524	\$68,365	\$510
First Mortgage	\$28,197	\$210	\$28,197	\$210	\$28,197	\$210
SAIL Loan	\$42,880	\$320	\$42,880	\$320	\$39,600	\$296
Total Debt Service	\$71,077	\$530	\$71,077	\$530	\$67,797	\$506
Operating Income After Debt Service	(20,812)		(926)	(7)	568	\$4
First Mortgage	1.78		2.49		2.42	
SAIL Debt Service Coverage	0.71		0.99		1.01	

Notes to the Operating Proforma:

1. The Rents for 2006 and 2007 are based on actual rents after vacancy confirmed through the audited financial statements. The 2008 rent projection is based on the current HAP contract rents which are currently being re-evaluated. It is anticipated that the HAP rents will be increased slightly. They are currently \$28 per unit/per month less than the maximum allowable HC and SAIL set-aside rents.
2. A 3% vacancy and collection loss rate has been used in light of the historical vacancy rates and the HAP Contract support. The Development has experienced historical occupancy

levels in the high nineties.

3. Payroll expenses are higher than a typical affordable housing development because the target population for this homeless demographic is single homeless men. Consequently, the development is fully staffed 24 hours a day for seven days a week. Off duty police coverage is also required and included in this expense item.

Status of Property Compliance

First Housing is currently the Compliance Monitoring Agent for the referenced property. Based on the most recent Program Reports received by the Monitoring Agent and Florida Housing, the property is in compliance with the Land Use Restriction Agreement requirements. The Underwriter is conditioning our recommendation in this report upon this property and all other properties affiliated with Liberty Center for the Homeless, Inc., and the Harris Group, Inc. being in compliance at time of the loan modification contemplated herein.

A March 2008 physical inspection of the Development by First Housing's Compliance Department found the Development in Satisfactory condition and in compliance.

Recommendation

Based upon the review of the information submitted by the principals, and within the scope of this analysis as described herein, First Housing recommends the renewal and restructure of the existing SAIL loan providing for a 0% interest rate, a graduated 30 year amortization, and a 30 year term. The monthly payments will be based on an amortization schedule that includes principal at a rate of \$3,300 per month or \$39,600 annually beginning on July 1, 2008 and remaining the same until April of 2014 (70 months) when the first mortgage is scheduled to pay off. On May 1, 2014 the principal only payment on the remaining balance at that time of \$1,198,329 will increase to \$4,132.17 or \$49,586 annually thus enabling the loan to pay out within its scheduled 30 year term. The 0% interest rate is recommended, as the current Rule allows for it with 80% of the units set-aside for Homeless Developments, which Liberty Center II satisfies. The deferred interest up to May 20, 2008 should be forgiven.

Conditions

The following is a summary of conditions outlined in this report:

1. Applicant shall agree that so long as the SAIL LURA is outstanding, Florida Housing and their Compliance Monitoring Agent shall have access to the property to perform their compliance audits.
2. Confirmation at closing that all interest and fees due and owing to FHFC and FHDC are current.
3. The Owner and/or its affiliates shall have no outstanding past due and/or non-compliance issues at the time of the closing of the renewal contemplated herein.

FHDC

4. Review, approval, and execution of all loan documents as required by Florida Housing and its legal counsel.
5. Receipt and satisfactory review of appropriate loan documents that confirm, to the Credit Underwriter's satisfaction, the monthly payment and maturity date of the first mortgage.
6. Borrower has committed to set aside 100% of the units in the Development for the Homeless for 15 additional years from the date of the current LURA expiration.
7. Any other reasonable request of FHFC, its legal counsel and Servicer.