

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: FLORIDA LOW INCOME  
HOUSING ASSOCIATES, INC.

FHFC Case No. : 2008-013VW

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**ORDER GRANTING PETITION FOR VARIANCE FROM  
RULE 91-35.006(6), FLORIDA ADMINISTRATIVE CODE**

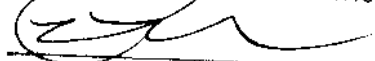
THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on June 13, 2008, pursuant to a "Petition for Waiver/Variance of Rule 91-35.006(6), Florida Administrative Code<sup>12</sup>," (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 6, 2008, from Florida Low Income Housing Associates, Inc. ("Petitioner"). On May 16, 2008, the Notice of the Petition was published in Volume 34, Number 20, 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:

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<sup>1</sup> 91-35.006(6) is a typographical error. The correct citation is 91-35.006(6).

<sup>2</sup> The Petitioner sought relief from 91-35.006 for a second SAIL loan, but failed to cite the correct rule, 91-28.007. Petitioner withdrew that portion of its Petition on May 22, 2008.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

  
/DATE. 6/16/2008

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

2. During the 1992-1993 SAIL V Cycle, Petitioner applied for and was awarded a State Apartment Incentive Loan ("SAIL") to finance the construction of Atlantic Pines, a farm worker/family housing development located in Big Pines Key, Monroe 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 matured on January 29, 2008, and have reached a tentative agreement to extend the loan.<sup>3</sup>

4. In its original application for the Development, the Petitioner committed to extend the low income housing set-aside into perpetuity. Pursuant to Rule 91-35.006(6), F.A.C., \$42,783.27 of the total deferred interest of \$85,556.03 will be eligible for forgiveness under the Rule as of the loan maturity date.

5. Petitioner requests a variance from Rule 91-35.006(6), F.A.C., (1993) 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 91 - 35.006, F.A.C., shall be forgiven in an amount equal to the amount of interest due pursuant to Rule 91 - 35.006, F.A.C., multiplied by .05 multiplied by the number of years, not to exceed 15, that the

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<sup>3</sup>Rule 91-35.006(14) provides that Florida Housing "may renegotiate and extend the loan in order to extend the availability of housing for the target population."

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 91-35.006, F.A.C. shall be eligible for forgiveness.

6. Petitioner requests a variance of the rule in order to obtain forgiveness of the entire \$42,782.76 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:

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.

8. The Development is a farm worker/family housing development operating in Big Pines Key. Monroe County has the highest housing costs in Florida, so continuing to provide affordable housing is critical. Under the rules applicable when the Development was approved, the interest rate for a farm worker and family development was 9%. 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 commercial fishing worker set-aside and authorizes SAIL loans for commercial fishing worker 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 commercial fishing worker residents. Rule 67-48.010(3)(a), F.A.C. (2008).

10. The Development has always operated as one committed to serving the commercial fishing worker and the Petitioner, as part of its negotiations to extend the term of its SAIL loan, has agreed to set aside 80% of the units in the Development for the commercial fishing worker. 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 commercial fishing worker 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 commercial fishing workers 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 commercial fishing worker development without relief from the terms of the existing SAIL loan and the limitation on interest forgiveness as set forth in Rule 9I-35.006(6), F.A.C.

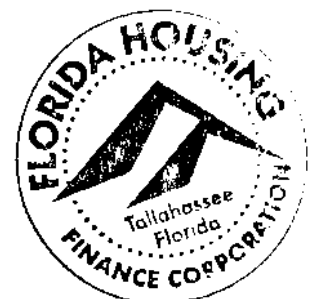
**IT IS THEREFORE ORDERED:**

The Petition for Variance from Rule 9I-35.006(6), F.A.C. (1993) is hereby **GRANTED** to forgive all deferred SAIL interest due on the matured loan with the variance conditioned upon and subject to the closing of the loan modification and extension in accordance with the workout proposal as submitted by Special Assets contemporaneous herewith.

DONE and ORDERED this 13th day of June, 2008.

Florida Housing Finance Corporation

By: *Laura M. Stultz*  
Chair



**Copies furnished to:**

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

Pat Kenney  
Florida Low Income Housing Associates, Inc.  
701 White Blvd.  
Inverness, Fl 34453

**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.**