

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: VILLA AURORA, LLLP.

FHFC Case No.: 2013-009VW  
Application No.: 2005-020CS  
2007-004CS

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**ORDER GRANTING A VARIANCE FROM RULE 67-48.010(3)(b),  
FLORIDA ADMINISTRATIVE CODE (2006)**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on June 21, 2013, pursuant to a "Petition for Waiver of Rules 67-48.010(3)(b), and 67-48.010(5), As In Effect On January 29, 2006" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 21, 2013, from Villa Aurora, LLLP ("Petitioner"). On May 23, 2013, Florida Housing published the Notice of the Petition in the Florida Administrative Register. Florida Housing received no 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 Universal Cycle, Florida Housing awarded \$3,000,000.00 in State Apartment Incentive Loan Program (SAIL) funding and

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Della Harrell /DATE: 6/21/2013

\$2,189,869.00 in low income housing Tax Credits to Petitioner, Limited Liability Limited Partnership, to build a 76 unit rental apartment complex in Miami-Dade County, Florida, known as Villa Aurora (“the Development”). The Development has completed construction and placed all units in service.

3. Petitioner requested a waiver of Rule 67-48.0108, Florida Administrative Code (2006), to allow it the benefit of the rule as amended in 2007, to allow a blended interest rate between 0% and 1% based upon the number of homeless units in the development, effective with respect to SAIL interest owed for fiscal year 2011, and provide Petitioner a variance from the application of Rule 67-48.010(3)(b), Florida Administrative Code (2006), to allow cash flow from the development to pay operating expenses before paying SAIL interest.

4. At hearing, Petitioner withdrew its request for variance from Rule 67-48.010(5), Florida Administrative Code, to allow payment of operating expenses before payment of SAIL interest.

5. Villa Aurora is a 76-unit homeless project in East Little Havana area of Miami. Due to the nature of the tenants, mostly homeless and disabled, rent revenues are not sufficient to support debt service at the 3% SAIL interest rate, while operating expenses are comparable, if not higher than other affordable housing units. Development cash flow is limited.

6. Rule 67-48.010(3), Florida Administrative Code (2006), provides in pertinent part:

(3) The loans shall be non-amortizing and shall have interest rates as follows:

(a) 1% simple interest per annum on loans to Developments that maintain an 80% occupancy of residents qualifying as Farmworkers, Commercial Fishing Workers or Homeless, over the life of the loan;

(b) 3% simple interest per annum on loans to Developments other than those identified in paragraph (a) above;

7. Villa Aurora has not maintained 80 per cent or more of its units for homeless occupancy, thus its SAIL interest rate is presently subject to the 2006 provisions of paragraph (3)(b).

8. Effective April 1, 2007, Rule 67-48.010(3), Florida Administrative Code, was amended to read, in pertinent part:

(3) The loans shall be non-amortizing and shall have interest rates as follows:

(a) 0 percent simple interest per annum on loans to Developments that set aside at least 80 percent of their units for residents qualifying as Farmworkers, Commercial Fishing Workers or Homeless, over the life of the loan;

(b) 0 percent simple interest per annum on loans based on the pro rata share of units set aside for homeless residents if the total of such units is less than 80 percent of the units and 1 percent simple interest per annum on the remaining units;

(c) 1 percent simple interest per annum on loans to Developments other than those identified in paragraphs (a) and (b) above;

9. Florida Housing has previously granted the benefit of the later rule to allow blended interest rates for similarly situated projects.

10. 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.

11. Petitioner has demonstrated entitlement to a variance from the interest rate established by Rule 67-48.010(3)(b), Florida Administrative Code (2006). Denying Petitioner the benefit of the blended interest rate provided in Rule 67-48.010(3)(b), Florida Administrative Code (2007), would violate principles of fairness, as Florida Housing has previously granted the benefit of blended interest rates to similarly situated homeless developments.

12. The variance sought by Petitioner from the order of payment used to calculate SAIL interest owed as established in Rule 67-48.010(5), Florida Administrative Code (2006), is dismissed at Petitioner's request.

**IT IS THEREFORE ORDERED:**

1. Petitioner is hereby **GRANTED** a variance from Rule 67-48.010(3)(b), Florida Administrative Code (2006), to allow a blended interest rate as provided in Rule 67-48.010(3)(b), Florida Administrative Code (2007), effective with the 2011 fiscal year.

2. Any other relief except as specifically provided above, is hereby **DENIED.**

DONE and ORDERED this 21<sup>st</sup> day of June, 2013.



Florida Housing Finance Corporation

By: \_\_\_\_\_  
Chair

**Copies furnished to:**

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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.**