

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: HENDERSON GLOBAL INVESTORS
(NORTH AMERICA) INC.

FHFC Case No. : 2005-020VW

**ORDER GRANTING PETITION FOR VARIANCE
OF RULE 67-21.008(1)(b), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on July 22, 2005, pursuant to a Petition for Variance of Rule 67-21.008(1)(b), F.A.C., (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on June 17, 2005, from Henderson Global Investors (North America) Inc., ("Henderson Global"). On July 1, 2005, the Notice of the Petition was published in Volume 31, Number 26, 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. Henderson Global is the purchaser of the Mariner Club Apartments, a 336 unit apartment complex ("The Development"). The Development is currently financed with \$22,850,000.00 in Multifamily Mortgage Revenue Bonds issued by Florida Housing in 1996. The closing is anticipated to occur on or about August 10, 2005.
3. Henderson Global is seeking \$23,215,000.00 of 2005 Series Multifamily Mortgage Revenue Refunding Bonds ("MMRB") in order to refinance the Development. The

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

M. J. Son

DATE: 7/22/05

financing structure for the Development consists of a first mortgage loan from Florida Housing for taxable MMRB proceeds, with credit enhancement being provided from Fannie Mae.

4. The financing structure consists of a first mortgage loan from Florida Housing for the taxable MMRB proceeds, which will be placed in escrow to defease the 1996 bonds, with credit enhancement being provided by Fannie Mae. The taxable MMRB shall then be called and remarketed as tax-exempt refunding bonds on September 1, 2006, the first call date for the 1996 bonds.

5. Henderson Global seeks a variance of the requirement that the commencement date for the amortization of the MMRB refinancing loan begin on the earlier of 36 months after closing, stabilized occupancy or conversion to permanent financing under the loan documents, for a period of eight years.

6. 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.

7. Rule 67-21.008(1)(b), Florida Administrative Code, states in pertinent part:

(1) Each Mortgage Loan for a Development made by the Corporation shall:

(b) Provide for a fully amortized payment of the Mortgage Loan in full beginning on the earlier of 36 months after closing, or stabilized occupancy, or conversion to permanent financing under the loan documents and ending no later than the expiration of the useful life of the property, and in any event, no later than 45 years from the date of the Mortgage Loan.

8. As grounds for granting this variance, Henderson Global states that the new tax-exempt MMRB loan is in the same amount as the tax-exempt MMRB loan that it is replacing. The existing MMRB loan was issued with no amortization, and that Henderson Global has

invested large sums of its own capital in purchasing the Development and has scheduled significant capital improvements over the next five years.

9. The purpose of the underlying statute will be served by granting this variance, in that granting this variance will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The AAA credit rating of Fannie Mae provides bondholders and Florida Housing with the assurance of principal safety for the Development. Fannie Mae has structured the credit enhancement, so that after the first eight years, the loan will fully amortize over the remaining twenty-two year term of the bonds.

10. Moreover, not granting this variance will create a substantial hardship for Henderson Global, in that it will be subjected to negative and unintended economic effects from having to pay the fully amortized payment and would affect the viability of the Development to remain as affordable housing in eastern Duval County, Florida.

IT IS THEREFORE ORDERED:

The Petition for Variance of Rule 67-21.008(1)(b), Florida Administrative Code, is hereby **GRANTED** for a period of eight years conditioned upon the closing of the MMRB refinancing loan and conditioned upon the remarketing of the 2005 Series Multifamily Mortgage Revenue Refunding Bonds as tax-exempt bonds.

DONE and ORDERED this 22nd day of July, 2005.

Florida Housing Finance Corporation

By:


Chairperson

Copies furnished to:

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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 FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.