

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: ARBOURS AT MADISON, LTD.,

FHFC Case No.: 2005-045VW  
Application No.: 2005-016C

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**ORDER GRANTING VARIANCE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on December 9, 2005, pursuant to a Petition for Variance/Waiver from Florida Administrative Code Rule 67-48.004(1)(a). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 02, 2005, from Arbours at Madison, Ltd. ("Petitioner"). On November 10, 2005, the Notice of the Petition was published in Volume 31, Number 45, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised, the Board of Directors ("Board") of Florida Housing hereby finds as follows:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. Petitioner is requesting a waiver of Rule 67-48.004(1)(a), Fla. Admin. Code, (2005). The rule, 67-48.004(1)(a), adopts and incorporates the "Universal Application Package" or "UA 1016(Rev. 02-05)," which is the forms and instructions used to make application for funding in the 2005 Universal Application Cycle. The 2005 Universal Application Instructions provide as follows, in pertinent part, at page 4, (Part II.A.2.a(1)):

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

M. Olson /DATE: 12/12/05

If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. 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 an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.

3. Petitioner was formed as a single purpose entity for the development, construction, and ownership of Arbours at Madison (“Development”), a 72-unit multifamily rental property in Madison, Madison County, Florida.

4. Petitioner filed an application for an allocation of Low Income Housing Tax Credits during the 2005 Universal Cycle, and received a preliminary commitment for an allocation of Housing Credits in the amount of \$637,385.00 for the Development.

5. 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.

6. Petitioner seeks to replace the existing General Partners of the Applicant, Arbour One, Inc. and Cahaba Valley Development Corporation, with Madison GP, LLC, which will be owned by the four principals of the existing General Partners. The purpose of the change is to satisfy “single purpose entity,” and “bankruptcy remote,” requirements imposed by the lender and tax credit syndicator after the application was filed. No other financial benefit will accrue to the Applicant or related entities if the waiver is granted.

7. Granting a waiver and variance in this case would serve the purpose of the underlying statute, by relieving the Development of a unnecessary expense while advancing Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. Granting a variance from the requirements of Rule 67-48.004(1)(a), Fla. Admin. Code (2005), will further this purpose.

8. Denying this variance would result in a substantial hardship to Petitioner, in that it would result in Petitioner's being unable to secure funding sufficient to construct the project.

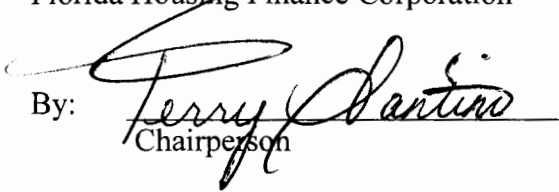
**IT IS THEREFORE ORDERED:**

The Petitioner is hereby **GRANTED** a waiver from the requirements of the 2005 Universal Application Instructions, Part II.A.2.a(1), as adopted by and incorporated in Rule 67-48.004(1)(a), Florida Administrative Code (2005), allowing Petitioner to replace the current general partners of Arbours at Madison, Ltd., Arbour One, Inc. and Cahaba Valley Development Corporation, with Madison GP, LLC, the ownership of which is reflected in the facts recited above.

DONE and ORDERED this 9<sup>th</sup> day of December, 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 TO JUDICIAL REVIEW**

**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 MARTIL 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.**