

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: LIBERTY CENTER FOR THE HOMELESS, INC.

FHFC Case No. : 2006-081VW

**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 March 16, 2007, pursuant to a Petition for Waiver/Variance of Rule 9I-35.006(6), Florida Administrative Code (1996), (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 1, 2006, from Liberty Center for the Homeless, Inc. ("Petitioner"). On December 15, 2006, the Notice of the Petition was published in Volume 32, Number 50, 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. The Petitioner waived the 90-day time period imposed by Section 120.542(8), F.S., for granting or denying the Petition and agreed to have the Petition considered by the Board at its meeting held on March 16, 2007.
3. During the 1996-1997 SAIL Cycle IX, Petitioner was awarded an allocation of SAIL funds for the construction of Liberty Center III, a 100-unit garden apartment development intended to serve the Family (SRO-Homeless) demographic to be located in Duval County,

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D. Green /DATE: 4-27-07

Florida (the "Development"). The SAIL loan closed on March 27, 1997, with an original maturity date of November 30, 2006.

4. The Petitioner and Florida Housing have been in negotiations regarding the Petitioner's request to renegotiate and extend the loan. In the meantime, Florida Housing, at its October 20, 2006, Board meeting granted Petitioner's request to extend the SAIL loan for six (6) months to May 31, 2007, in order to allow time to complete the renegotiations.

5. In its original application for the Development, the Petitioner committed to extend the low income housing set-aside to 75 years. Pursuant to Rule 9I – 35.006(6), F.A.C. (1996), \$823,536.99 of the total deferred interest of \$1,552,898.21 is, or will be, eligible for forgiveness under the Rule as of the May 31, 2007, extended loan maturity date.

6. Petitioner requests a variance from Rule 9I-35.006(6), F.A.C. (1996), 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.

7. Specifically, Petitioner requests a variance of the rule in order to obtain forgiveness of all deferred SAIL interest on the maturing loan.

8. 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. The residents are all formerly homeless single adult women. Under the rules that applied to SAIL at the time 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 the unique financial situations of homeless housing developments. While the Development has operated successfully for 10 years, it does not generate significant cash flow because the residents' incomes and rents are charged that barely cover expenses of operation.

9. The SAIL statutes have since been amended to create a homeless set-aside and to authorize SAIL loans for homeless developments to be made at an interest rate of zero to 3 percent. *See*, Sections 420.507(22)(a)1. and 2., 420.5087(3)(c) and 420.5087 (6)(a), F.S. The 2007 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. (2007). 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 formalize the Development as one committed to serving the Homeless, as that term is defined by statute and rule, and has committed 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.

10. Recognizing the unique financial circumstances faced by homeless developments, the granting of this request for variance 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 currently being provided by the Development, and will facilitate a new loan structure wherein the principal balance of the Petitioner's SAIL loan will amortize. 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 original repayment terms of the SAIL loan and the limitation on interest forgiveness as set forth in Rule 9I-35.006(6), F.A.C. (1996).

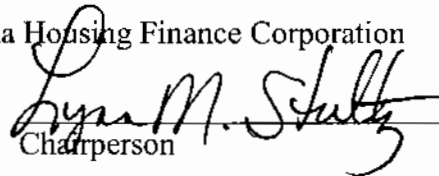
IT IS THEREFORE ORDERED:

The Petition for Variance from Rule 9I-35.006(6), F.A.C. (1996), 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 concurrently herewith and a positive credit underwriting report.

DONE and ORDERED this 27th day of April, 2007.

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 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.