

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Fox Hollow Associates Ltd.

Case No. 2007-024VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE
67-21.003(14)(j) & 67-48.004(14)(j), FLORIDA ADMINISTRATIVE CODE
(2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on July 27, 2007, pursuant to a "Petition for Variance [from] Rule 67-21.003(14)(j) & 67-48.004(14)(j), Florida Administrative Code (2006)" (the "Petition"), filed by Fox Hollow Associates Ltd. ("Petitioner") on June 26, 2007. Notice of the Petition was published in Volume 33, Number 27, of the Florida Administrative Weekly. 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 2006 Supplemental Cycle, Petitioner applied for MMRB, SAIL, and non-competitive housing credits to finance the construction of Fox Hollow Associates in Orange County, Florida (the "Development").

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Green /DATE. 9-21-07

3. Rule 67-21.003(14)(j), Florida Administrative Code (2005), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. These items include:

(j) Total number of units;

All other items may be submitted as cures pursuant to subsection (6) above.

4. Rule 67-48.004(14)(j), Florida Administrative Code (2005), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. These items include:

(j) Total number of units;

All other items may be submitted as cures pursuant to subsection (6) above.

5. 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.

6. Petitioner requests a variance from the above rules in order to allow the reduction in total units of the Development from 156 units to 155 units. The Petitioner applied for MMRB financing to rehabilitate the Development. The Petitioner contemplated offering tenant programs and activities in the MMRB/Credit Application, but needed a Community Center to fulfill those obligations. Petitioner chose to convert a one-bedroom apartment into a Community Center to offer the contemplated programs and activities.

7. The construction of a Community Center was cost-prohibitive for a rehabilitation project, and the construction was not feasible because the permitting and approval process would take at least six to nine months. Without the approval and permits the Petitioner would not be able to complete the Community Center before the Petitioner's tax credit deadlines. The conversion of the lone one-bedroom apartment in the Development minimized the loss of living space to house the Community Center. Finally, the requested change will not affect the funding amounts requested.

8. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is converting a one-bedroom apartment into a Community Center that will benefit all tenants, instead of building a new cost-prohibitive building would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The “Petition for Variance [from] Florida Administrative Code Rule 67-21.003(14)(j) & 67-48.004(14)(j)” is hereby **GRANTED** to permit Petitioner to reduce the number of units in the Development from 156 to 155 units. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 21st day of September, 2007.

Florida Housing Finance Corporation



By:

Lynne M. Stultz
Chair

Copies furnished to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Wayne Conner
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Derek Helms
Multifamily Loans Administrator
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Jennifer Chester
Housing Credits Administrator
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Bill Cobb
Housing Credits Manager
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Heather M. Conger, Esquire
Broad and Cassel
390 North Orange Avenue, Suite 1400
Orlando, Florida 32801

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.