

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: VILLA PATRICIA PHASE III, LLC

FHFC Case No.: 2008-116VW  
Application Nos.: 2007-014C  
2006-348CHR

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**ORDER GRANTING PETITION FOR WAIVER  
OF RULE 67ER06-34(4)  
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 23, 2009, pursuant to a "Petition" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 19, 2008, from ("Petitioner"). On December 31, 2008, the Notice of the Petition was published in Volume 34, Number 52, 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:

I. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

1 Della M. Harris / DATE: 1/26/09

2. During the 2006 Rental Recovery Loan Program (RRLP) application cycle, Villa Patricia Phase III, LLC, (“Petitioner”) applied for and was awarded an allocation of RRLP loan funds (and subsequently, Competitive Housing Credits) to finance a portion of the costs to construct the Development, an 89 unit high-rise apartment building to be located in Miami-Dade County, Florida.

3. Section 120.542(2), Florida Statutes provides in pertinent part:

(2) 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.

4. Rule. 67ER06-34(4), Fla. Admin. Code states, in pertinent part:

The supplemental loan shall be non-amortizing and shall be based on each [Extremely Low Income or “ELI”] unit at 0% simple interest per annum with the principle forgivable provided the units for which supplemental loan amount is awarded are targeted to ELI Households for at least 20 years.

5. Petitioner requests a waiver of the above rule to allow Petitioner to forgo the automatic forgiveness of the supplemental principle loan balance. In addition, Petitioner requests an extension of the maturity date of the loan to 30 years from closing.

6. The Board finds that failure to grant this request to waive the automatic forgiveness provisions of the above Rule will likely result in the Developer incurring substantial adverse tax consequences.

7. Although Petitioner requested a thirty (30) year term for the supplemental loan, the Board finds that the loan should be extended to a date coterminous with senior financing, in accordance with previous waivers that have been granted regarding this Rule.

8. Since approval will not affect Application scoring, Petitioner derives no unfair advantage over other applicants.

9. The Board finds that strict application of the above Rule under these circumstances will give rise to substantial hardship or otherwise violate the principles of fairness. Under the circumstances described in the Petition, granting these requests furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. This waiver of Rule 67ER06-34(4), Fla. Admin. Code furthers this purpose.

**IT IS THEREFORE ORDERED:**

Petitioner's request for waiver of R. 67-48.0075(7)(a)(1), Fla. Admin. Code is hereby **GRANTED** to allow Petitioner to forgo the automatic forgiveness of the supplemental ELI principal loan balance, and to allow Petitioner to

extend the maturity date at the end of the initial 15-year term, to a date coterminous with senior financing. Any other relief requested in the Petition is denied.

DONE and ORDERED this 23rd day of January, 2009.

Florida Housing Finance Corporation

By:   
Chairperson



Copies furnished to:

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
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**NOTICE OF RIGHTS**

**A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION, PURSUANT TO R. 28-106.201 OR 28-106.301, FLORIDA ADMINISTRATIVE CODE, WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.**