

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

OLD ORCHARD VILLAGE
ASSOCIATES, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

2006-056 VW

Case No: _____

Applic. No. 2006A-234B

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FLORIDA HOUSING
FINANCE CORPORATION

**PETITION FOR WAIVER OR VARIANCE
FROM RULES 67-21.003(1)-(3), (13) & 67-21.006(2)**

Petitioner, OLD ORCHARD VILLAGE ASSOCIATES, LTD. ("Old Orchard"), pursuant to Section 120.542, Florida Statutes, and Rule Chapter 28-104, Florida Administrative Code ("F.A.C."), hereby petitions Respondent, the FLORIDA HOUSING FINANCE CORPORATION ("FHFC"), for a waiver or variance from Rules 67-21.003(1)-(3), (13) and 67-21.006(2), F.A.C., and the requirement incorporated therein that developments applying for certain FHFC funding programs must consist of residential buildings containing at least 5 dwelling units. In support of its Petition, Old Orchard states as follows:

1. The name, address, and telephone and facsimile numbers of the Petitioner are:

Old Orchard Village Associates, Ltd.
519 Linden Street
Allentown, Pennsylvania 18101
Telephone No.: (610) 439-1965
Facsimile No.: (610) 439-8102

2. The name, address, and telephone and facsimile numbers of the Petitioners' attorney, which shall be the Petitioners' address for service purposes during the course of this proceeding, are:

Warren H. Husband
Metz, Husband & Daughton, P.A.
P.O. Box 10909
Tallahassee, Florida 32302-2909
Telephone No. (850) 205-9000
Facsimile No. (850) 205-9001

3. Petitioner Old Orchard applied for Multifamily Mortgage Revenue Bonds (MMRB) in FHFC's 2006 Supplemental MMRB Application Cycle to help finance the development of a new 50-unit apartment complex in Hardee County, Florida, to be known as "Old Orchard Village" (FHFC Applic. No. 2006-234B). Old Orchard Village will be located in the city of Bowling Green.

4. Part III.A.3.a.4. of the 2006 Universal Application Instructions, which govern the application used in FHFC's Supplemental MMRB Application Cycle, states that applications requesting funding under the MMRB program "must be for a proposed Development consisting of 5 or more dwelling units in each residential building" (referred to herein as the "5-unit requirement").

5. Old Orchard Village, however, was designed as a project with 25 duplex units, as opposed to the more typical garden-style apartment complex that would contain at least 5 dwelling units per building. The duplex design of Old Orchard was selected at the urging of local government and civic leaders, because it will allow Old Orchard's 50 units to integrate more successfully with the surrounding neighborhood of existing single-family homes. Importantly, not only will Old Orchard provide much needed affordable housing in Bowling Green, but this housing will be integrated within a more established and affluent neighborhood. Old Orchard will thereby increase the economic diversity of the area and provide new opportunities for workforce housing. Notably, the Old Orchard site is directly across the street from an elementary school, providing young children with safe and convenient housing within walking distance of their school, as well as providing new housing opportunities for school employees and their families.

6. As such, Old Orchard requests a waiver or variance from Rules 67-21.003(1)-(3), (13) and 67-21.006(2), F.A.C., and the 5-unit requirement. Rules 67-21.003(1)-(3) adopt and incorporate the 2006 Universal Application Package used by Old Orchard and other applicants to apply for Supplemental MMRB funding, including the 5-unit requirement. The cited rules also require applicants to submit an application completed in accord with the Universal Application

Package. Rule 67-21.003(13) allows FHFC's Board to reject an application, after submission of cure materials, where the application does not conform to the application requirements or fails to meet threshold criteria. Rule 67-21.006(2) repeats the 5-unit requirement.

7. These rules specifically implement sections 420.502, 420.507, and 420.508, Florida Statutes, which empower FHFC to issue revenue bonds for the purpose of funding the development of affordable housing for Florida's low-income and very-low-income families.

8. For the reasons described above, Old Orchard is requesting a waiver or variance from the cited rules and the 5-unit requirement to allow for the application and possible funding of its proposed development in Bowling Green with Supplemental MMRB funding.

9. Ultimately, the requested variance in the number of dwelling units in each residential building will result in no negative impact on the city of Bowling Green or its residents. On the contrary, the surrounding community will benefit from the economic diversification of the area, while Old Orchard will provide its residents with new workforce housing in a convenient and attractive setting.

10. Pursuant to section 120.542(1), Florida Statutes, and Rule Chapter 28-104, F.A.C., FHFC has the authority to grant waivers or variances from its rule requirements when strict application of such rules in particular circumstances

would lead to unreasonable, unfair, and unintended results. A waiver or variance will be granted when the person subject to the rule demonstrates that strict application of the rule would: (a) create a substantial hardship or violate principles of fairness; and (b) the purpose of the underlying statute has been or will be achieved by other means. Fla. Stat. §120.542(2) (2005).

11. In this case, a decision to deny the requested waiver or variance would work a substantial hardship on Old Orchard in that it would make it impossible for Old Orchard to construct the residential dwelling units desired by the local community. A decision to deny the requested waiver or variance would also violate principles of fairness in that the 5-unit requirement affects Old Orchard and the citizens of Bowling Green in a significantly different manner than it affects other developers and communities where the construction of more dense housing (of 5 or more dwelling units per building) is appropriate for the community in question. Denial of the waiver or variance would deprive the future residents of the development, as well as all of the other residents of Bowling Green and Hardee County, of the opportunity to establish an economically diverse community that affords working families with decent and safe affordable housing. Moreover, approval of the waiver or variance would not negatively impact the current city or county residents in any way.

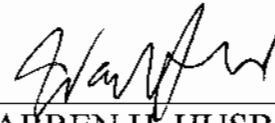
12. FHFC's granting of the requested waiver or variance also will serve the purposes of the statute that the rules implement. Sections 420.502, 420.507, and 420.508, and the rest of the Florida Housing Finance Corporation Act (§§420.501, et seq.) were enacted to encourage private investment in the creation of affordable housing for low-income and very-low-income families. With the approval of the requested waiver or variance, FHFC will continue to realize this goal and ensure the development of 50 units of new affordable housing for the residents of Hardee County.

13. The waiver or variance sought by Old Orchard is permanent in nature.

14. If FHFC has any questions or requires any additional information regarding this requested waiver or variance, Old Orchard stands ready to respond quickly to any such request.

WHEREFORE, Petitioner, Old Orchard Village Associates, Ltd., request that FHFC grant Petitioner a permanent waiver or variance from Rules 67-21.003(1)-(3), (13) and 67-21.006(2), F.A.C., and the 5-unit requirement incorporated therein, so that Old Orchard may apply for, and potentially receive, 2006 Supplemental MMRB funding for its proposed development.

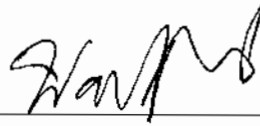
Respectfully submitted on this 18th day of September, 2006.



WARREN H. HUSBAND
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850/205-9000
850/205-9001 (Fax)
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served via U.S. Mail to the Joint Administrative Procedures Committee, Holland Building, Room 120, Tallahassee, FL, 32399-1300, on this 18th day of September, 2006.

A handwritten signature in black ink, appearing to read "W. J. ...", is written above a horizontal line.

Attorney