

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

LIBERTY CENTER III, LTD, a Florida limited partnership,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

FHFC CASE NO.

2006-070VW

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FLORIDA HOUSING
FINANCE CORPORATION

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**PETITION FOR VARIANCE OF
RULE 9I-35.006, FLORIDA ADMINISTRATIVE CODE**

LIBERTY CENTER III, LTD., a Florida limited partnership (“Petitioner”), by and through its undersigned advisor and pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code (“F.A.C.”), hereby petitions the Florida Housing Finance Corporation (the “Corporation”) for a variance of Rule 9I-35.006, Florida Administrative Code, which imposes certain conditions on mortgage loans issued by the Corporation under its State Apartment Incentive Loan Program (“SAIL”). In support, Petitioner states the following:

THE PETITIONER

1. The address, telephone number and facsimile number of the Petitioner is:

Liberty Center III, LTD.
c/o Liberty Center for the Homeless
909 North Liberty Street
Jacksonville, FL 32206

THE RULE FROM WHICH VARIANCE IS SOUGHT

2. Petitioner requests a variance of Rule 9I-35.006, F.A.C. (the “Rule”), which requires repayment of a \$1,800,000 SAIL loan and outstanding interest as of October 2006.

* * *

**JUSTIFICATION FOR GRANTING
VARIANCE OF RULE 9I-35.006, F.A.C.**

3. Liberty Center III is a homeless housing development operating since 1996 in Jacksonville. The residents are all formerly homeless single adult women. Petitioner Under the rules that applied to SAIL at that time, no provisions were made for the unique financial situations of homeless housing developments. While the development has operated successfully for 10 years, it never generates significant cash flow—as the residents have incomes and rents are charged that barely cover expenses of operation. There is no economic upside to a homeless development—by definition, SAIL interest (which is based upon cash flow is highly unlikely to ever be paid in any significant amount. Therefore, there is no source of money to pay outstanding SAIL interest and there is no way to refinance the SAIL loan with other funding. If the rule waiver is granted this sorely needed development will continue to operate successfully—if the rule waiver is not granted, the development will default on the SAIL loan.

4. Petitioner seeks a variance from Rule 9I-35-006 to obtain forgiveness of outstanding SAIL interest and extension of the SAIL loan at 0% interest until October 2026.

5. The Corporation is authorized by Section 120.542, Florida Statutes, and Rule Chapter 28-104, F.A.C., to grant variances to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended consequences in particular instances. Variances shall be granted when the person subject to the rule demonstrates that the application of the rule would: (1) create a substantial hardship or violate principles of fairness¹;

¹ “Substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. “Principles of Fairness” are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to Rule 120.542(2), Florida Statutes.

and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542(2), Florida Statutes.

6. In this case, strict application of Rule 9I-35.006, F.A.C. will lead to unreasonable, unfair and unintended consequences. Subsequent SAIL cycles and legislative changes have recognized the homeless developments cannot pay SAIL interest—it would be unreasonable and unfair to treat this successful but financial struggling existing development as a typical garden apartment complex. This would lead to loss of homeless units in pursuit of SAIL interest that is no longer part of homeless SAIL deals.

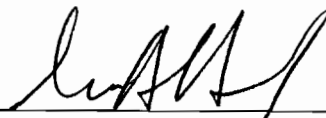
ACTION REQUESTED

7. For the reasons set forth herein, Petitioner respectfully requests the Corporation to grant the requested variance of Rule 9I-35.006, to provide forgiveness of all outstanding SAIL interest and extension of the SAIL loan at 0% interest until October 2026.

8. The variance would be permanent as to the Petitioner.

9. A copy of the Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300, as required by Section 120.542(5), Florida Statutes.

Respectfully submitted this 11th day of October, 2006.



MARK A. HENDRICKSON
Financial Advisor
Liberty Center III, LTD.