

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: GOLDEN ACRES REDEVELOPMENT PHASE II LTD.

FHFC Case No.: 2008-015VW  
Application No.: 2006-322HR


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**ORDER GRANTING PETITION FOR WAIVER  
OF FLA. ADMIN. CODE R. 67ER06-34(4) (2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 13, 2008, pursuant to a Petition for Waiver of Fla. Admin. Code R. 67ER06-34(4) (2006) ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 13, 2008, from **GOLDEN ACRES REDEVELOPMENT PHASE II LTD.**, ("Petitioner"). On May 23, 2008, the Notice of the Petition was published in Volume 34, Number 21, 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.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

  
DATE 6/16/2008

2. During Florida Housing's 2006 Rental Recovery Loan Program ("RRLP") Cycle, Petitioner successfully applied for financing (under Application #2006-322HR). Petitioner applied for an RRLP loan to finance a portion of the Development known as Golden Villas, a 120-unit apartment complex located in Broward County, Florida (the "Development").

3. 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.

4. Fla. Admin. Code R. 67ER06-34(4) provides in pertinent part:

The supplemental loan shall be non-amortizing and shall be based on each ELI unit at 0% simple interest per annum with the principal forgivable provided the units for which supplemental loan amount is awarded are targeted to ELI Households for at least 20 years.

5. Petitioner now requests a waiver of the above rule.

6. Petitioner requests a waiver to the rule requiring Florida Housing to automatically forgive a supplemental loan's principal balance when the awarded amount funds ELI Household units for at least 20 years.

7. Granting this request advances Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of

Florida. Under these circumstances, waiver of Fla. Admin. Code R. 67ER06-34(4) furthers this purpose.

Petitioner has demonstrated that if Florida Housing fails to grant this waiver, Petitioner will suffer negative federal income tax ramifications pertaining to forgivable loans. Designation of this loan as “forgivable”, whether ultimately forgiven or not, may cause the IRS to consider this loan as “phantom” taxable income, or income that the IRS would tax, but for which Petitioner has not yet received a benefit.

8. Under these circumstances, the effect of this rule on this dissimilarly situated Petitioner would create a substantial hardship and violate the principals of fairness.

**IT IS THEREFORE ORDERED:**

The Petitioner’s request for a waiver of Fla. Admin. Code R. 67ER06-34(4) is hereby **GRANTED** to permit Petitioner to forgo the automatic forgiveness a supplemental loan’s principal balance receives when the awarded amount funds ELI Household units for at least 20 years. All other relief requested in the Petition, if any, is denied.

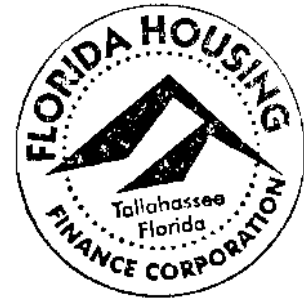
DONE and ORDERED this 13th day of June, 2008.

Florida Housing Finance Corporation

By: *Susan M. Stull*  
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
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Tallahassee, Florida 32399-1300

## **NOTICE OF RIGHT TO JUDICIAL REVIEW**

**A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.**