

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SILVER SANDS MELBOURNE, LP

FHFC Case No.: 2008-054VW
Application No.: 2007-097C

**ORDER GRANTING PETITION FOR WAIVER
OF RULE 67-48.0075(7)(a)(1)
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on August 8, 2008, pursuant to a "Petition for Waiver of Rule 67-48.0075(7)(a)(1)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 9, 2008, from **SILVER SANDS MELBOURNE, LP** ("Petitioner"). On July 18, 2008, the Notice of the Petition was published in Volume 34, Number 29, 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.

CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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2. During the 2007 Universal Cycle, Florida Housing awarded an allocation of Housing Credits (“HC”) and supplemental loan funds to Petitioner (under application #2007-097C / 2008-003C). Petitioner applied competitive HC to finance, in part, a Development known as Silver Sands, a 72-unit development in Palm Bay, Brevard County, Florida (the “Development”).

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. R. 67-48.0075(7)(a)(1), Fla. Admin. Code states:

(1) The supplemental loan shall be (i) based on each ELI Set-Aside unit above the minimum ELI Set-Aside threshold requirement in the Universal Application instructions; and (ii) non-amortizing at 0 percent simple interest per annum over the life of the loan, with the principal forgivable provided the units for which the supplemental loan amount is awarded are targeted to ELI Households for at least 15 years.

5. Petitioner requests a waiver of the above rule requiring Florida Housing to forgive a supplemental loan’s principal balance when the awarded amount funds Extremely Low Income (“ELI”) Household units for at least 15 years. In addition, Petitioner has requested an extension on the

maturity date at the end of the initial 15-year period, to a date coterminous with senior financing.

6. If Florida Housing does not grant this waiver, negative federal income tax ramifications pertaining to forgivable loans will likely arise. Designating this loan as forgivable, whether it is ultimately forgiven or not, will likely cause the IRS to consider this loan as income that the IRS would tax, but for which Petitioner has not yet received a benefit. In addition, the designation of the ELI Loan as forgivable may, whether forgiven or not, cause the full amount of the loan to be deducted from eligible basis, thereby reducing the Development's net tax credit.

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

8. 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. The waiver of R. 67-48.0075(7)(a)(1), 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 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 15 years and to extend the maturity date at the end of the initial 15-year period, to a date coterminous with senior financing. Any other relief requested in the Petition is denied.

DONE and ORDERED this 8th day of August, 2008.

Florida Housing Finance Corporation

By: *Lynna M. Stultz*
Chairperson



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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.