

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: BROOK HAVEN, LTD.

FHFC Case No. : 2006-018VW

**ORDER GRANTING VARIANCE FROM
RULE 67-21.008(1)(b), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on June 9, 2006, pursuant to a Petition for Variance of Rule 67-21.008(1)(b), Florida Administrative Code, (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 10, 2006, from Brook Haven, Ltd., ("Petitioner"). On May 19, 2006, the Notice of the Petition was published in Volume 32, Number 20, of the Florida Administrative Weekly. Florida Housing did not receive any 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.

2. During the 2005 Universal Cycle, Florida Housing awarded an allocation of \$9,200,000 in Multifamily Mortgage Revenue Bond (MMRB) funding to Petitioner to finance the construction of a 160-unit apartment development intended to serve the Family demographic to be located in Hernando County, Florida (the "Development").

3. Rule 67-21.008(1)(b), Florida Administrative Code, states in pertinent part:

(1) Each Mortgage Loan for a Development made by the Corporation shall:

(b) Provide for a fully amortized payment of the Mortgage Loan in full beginning on the earlier of 36 months after closing, or

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE. 6-12-06

stabilized occupancy, or conversion to permanent financing under the loan documents and ending no later than the expiration of the useful life of the property, and in any event, no later than 45 years from the date of the Mortgage Loan.

4. 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.

5. Petitioner requests a variance from the above Rule to delay the start of the fully amortized payment of the mortgage loan to Florida Housing for a period of up to an additional 72 months beyond the 36 months after closing of the MMRB financing.

6. Strict application of the Rule will create a substantial hardship for Petitioner. Petitioner has negotiated a loan with its lender to allow sufficient time for rents to stabilize in today's market prior to servicing the principal on the debt. By stabilizing rents over a longer period of time, Petitioner is ensuring the economic viability of the Development and the ability of the Development to generate sufficient revenue to service the principal, interest, taxes and insurance for the MMRB loan.

7. Granting the variance will serve the purpose of the underlying statutes because the variance will ensure the viability of the Development by allowing Petitioner to proceed with a viable financing structure in a timely manner to acquire and construct the Development and thus further the Corporation's statutory mandate to provide safe, sanitary and affordable housing in Florida.

IT IS THEREFORE ORDERED:

The Petition for Variance from Rule 67-21.008(1)(b), Florida Administrative Code, is hereby **GRANTED** such that Petitioner shall be allowed to delay the start of payment of the fully amortized mortgage payments for a period of up to an additional 72 months beyond the 36 months after closing of the MMRB financing that is allowed under the Rule. All other relief requested in the Petition, if any, is hereby denied.

DONE and ORDERED this 9th day of June, 2006.

Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Wayne Conner
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Maureen McCarthy Daughton, Esq.
Broad and Cassel
Suite 400
215 South Monroe Street (32301)
Post Office Drawer 11300
Tallahassee, Florida 32302

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



NOTICE OF RIGHTS

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 MARTIL L. KING, JR., BOULEVARD, 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.