

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

ROHNERT CIVIC, LLC

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION

APPLICATION NO. _____
FHFC Case # 2006-007VW

Respondent,

_____ /

**PETITION FOR VARIANCE
FROM RULE 67-21.008(1)(g), F.A.C.**

Rhonert Civic, LLC, a California limited liability company (which, together with any affiliated entity to which it may assign its interest in the Project is hereinafter referred to as "Petitioner"), which is under contract to purchase the Sterling Palms Apartments, located in Hillsborough County, Florida, the legal description of which is attached hereto as Exhibit "A" (the "Project"), hereby petitions Florida Housing Finance Corporation ("Corporation") for a variance from Rule 67-21.008(1)(g), Florida Administrative Code. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104.002, Florida Administrative Code.

The Petitioner

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

Rhonert Civic, LLC
500 Washington Street, Suite 700
San Francisco, California 94111
Attention: Mr. Jeff Jaeger

2. The address, telephone number and facsimile number of the Petitioner's representative are:

Randall M. Babbush, Esq.
Rutan & Tucker LLP
611 Anton Boulevard
Fourteenth Floor
Costa Mesa, California 92626
Telephone: (714) 641-3456
Facsimile: (714) 546-9035

3. Petitioner has applied for 2006 Series Taxable Multifamily Mortgage Revenue Bonds ("**TMMRB**") financing. This TMMRB financing is being obtained to defease the Florida Housing Agency's \$14,450,000 Housing Revenue Bonds 1996 Series D-1 (Sterling Palms Apartment Project) (the "**Tax-Exempt Series 1996 Bonds**") which currently finance the Project. The financing structure for the Project will consist of a first mortgage loan from the Corporation for MMRB proceeds, which will be placed in escrow to defease the Tax-Exempt Series 1996 Bonds, with credit enhancement for the MMRB being provided via a direct pay credit enhancement instrument from Fannie Mae. On or about November 1, 2006, tax-exempt refunding bonds (the "**Tax-Exempt MMRB**") will be issued. The Tax-Exempt MMRB will be credit enhanced with a direct pay credit enhancement instrument from Fannie Mae. It is anticipated that the proceeds of the Tax-Exempt MMRB will be used to redeem the Tax-Exempt Series 1996 Bonds. The TMMRB will be paid off with a draw on the Fannie Mae credit enhancement. The defeasance escrow will be used to repay Fannie Mae for the draw on its credit enhancement instrument used to pay off the TMMRB. The TMMRB loan closing for the Project is intended to take place on or before May 1, 2006.

The Rule From Which Variance is Sought and Action Requested

4. Petitioner requests a variance from a portion of Rule 67-21.008(1)(g), Florida Administrative Code (the "Audited Statements Rule"). More specifically, Petitioner is seeking a variance from the requirement that the audited financial statements are required with respect to both the TMMRB and the Tax-Exempt MMRB, such that Petitioner will provide certified financial statements in all events and audited financial statements only to the extent required by Fannie Mae as the credit enhancement provider. The Audited Statements Rule provides:

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

(g) Require the submission to the Corporation of an annual audited financial statement for the Development, and for the Applicant if revenue from multiple projects is being pledged. An annual financial statement compiled or certified by a licensed Certified Public Accountant may be submitted in lieu of an audited financial statement for the Development prior to the issuance of a certificate of occupancy for any unit in the Development, provided that the subsequent annual audited financial statement shall include all operations since inception.

**Petitioner Requests A Variance Of The Rule
Set Forth Above for the Following Reasons**

5. The Petitioner will invest significant sums of its own capital in purchasing the Project. The requested waiver of the Audited Statements Rule will improve the cash flow of the Project, thereby insuring adequacy of funds to properly operate and maintain the Project, provide for more flexibility in the event of any disruption in project revenues, and will decrease the chances that the Project could have cash flow issues at some point in time.

Variance Will Serve the Underlying Purpose Of The Statute

6. Petitioner believes that a variance of the Rule will serve the purposes of the Statute, which is implemented by the Rule. The AAA credit rating of the enhancer, Fannie Mae, provides the bondholders and the Corporation with the assurance of principal safety for the Development.

7. The Corporation has the authority pursuant to Sections 120.542(1) and (2), Florida Statutes, to provide relief from its rule if the purpose of the underlying statute will be or has been achieved by other means and when strict application of the rule would create a substantial hardship or would violate principles of fairness. Unless the Rule variance is granted, the Petitioner will be subject to a substantial hardship, which will have a negative and unintended effect on the viability of an otherwise economically reasonable project. Without approval of this request, quality affordable housing in Hillsborough could be sacrificed. In a market where several multifamily projects have converted to condominiums, Sterling Palms Apartments remains a viable and high quality alternative for affordable housing.

Type of Variance

8. The Petitioner requests a variance of the Rule as set forth above such that no amortization of the TMMRB or the Tax-Exempt MMRB would be required.

9. A copy of the Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300.

ROHNERT CIVIC, LLC,
a California limited liability company

By: The Gardner Family Trust U/D/T
April 19, 2002, its Member

By: 
Curtis Gardner, Trustee

EXHIBIT "A"
LEGAL DESCRIPTION

A parcel of land lying within Section 5, Township 30 South, Range 20 East, and Section 32, Township 29 South, Range 20 East, Hillsborough County, Florida, more particularly described as follows:

Commence at the Northeast corner of said Section 5; thence South 89° 38' 05" West, along the North line of said Section 5, a distance of 107.00 feet to the Westerly right of way line of Providence Road for a POINT OF BEGINNING; thence South 60° 02' 02" East, along said Westerly right of way line, a distance of 166.80 feet to the Northerly right of way line of Providence Ridge Boulevard; thence along said Northerly right of way line the following four (4) courses: (1) North 89° 45' 03" West, a distance of 287.60 feet to the beginning of a curve, having a radius of 1347.00 feet and a central angle of 12° 55' 05"; (2) Westerly along the arc of said curve to the left, a distance of 303.70 feet, said arc subtended by a chord which bears South 83° 47' 24" West, a distance of 303.08 feet to the beginning of a non-tangent curve, having a radius of 183.48 feet and a central angle of 14° 31' 59"; (3) Westerly along the arc of said curve to the left, a distance of 52.95 feet, said arc subtended by a chord which bears South 76° 18' 12" West, a distance of 52.76 feet to the beginning of a compound curve, having a radius of 3286.53 feet and a central angle of 14° 07' 42"; (4) Westerly along the arc of said curve to the left, a distance of 210.41 feet, said arc subtended by a chord which bears South 60° 59' 23" West, a distance of 208.35 feet to the Southeast corner of STARTING BLOCK, UNITS 7, 8 & 9, as recorded in Plat Book 66, page 29, Public Records of Hillsborough County, Florida; thence North 00° 07' 03" East, along the Westerly boundary line of said STARTING BLOCK, UNITS 7, 8 & 9, a distance of 894.26 feet to the North boundary line of said Section 5; thence North 89° 38' 05" East, along said North boundary line, a distance of 127.85 feet to the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 32; thence North 00° 07' 03" East, along the Westerly boundary line of said Southeast 1/4 of the Southwest 1/4, a distance of 38.92 feet; thence North 72° 18' 51" East, a distance of 87.38 feet; thence North 64° 44' 58" East, a distance of 95.86 feet; thence North 54° 59' 30" East, a distance of 97.83 feet; thence North 54° 57' 36" East, a distance of 98.71 feet; thence North 54° 16' 38" East, a distance of 96.78 feet; thence North 65° 48' 18" East, a distance of 104.27 feet; thence North 65° 17' 55" East, a distance of 103.26 feet; thence North 63° 26' 10" East, a distance of 108.47 feet; thence North 66° 38' 23" East, a distance of 112.20 feet; thence North 76° 28' 16" East, a distance of 86.88 feet; thence North 85° 57' 49" East, a distance of 67.21 feet; thence North 76° 21' 43" East, a distance of 73.78 feet; thence South 82° 37' 29" East, a distance of 20.26 feet; thence North 83° 50' 39" East, a distance of 94.30 feet; thence North 83° 50' 39" East, a distance of 58.59 feet; thence South 88° 09' 18" West, a distance of 458.22 feet, to the Point of Beginning.

ALSO DESCRIBED AS FOLLOWS:

A portion of the Southeast 1/4 of the Southeast 1/4 of Section 32, Township 29 South, Range 20 East, and a portion of the North 1/2 of the Northeast 1/4 of Section 5, Township 30 South, Range 20 East, Hillsborough County, Florida, being more particularly described as follows:

(CONTINUED ON NEXT PAGE)

Commence at the Southeast corner of said Section 32; run thence along the Southerly boundary line of said Section 32, North 89° 11' 09" West, a distance of 102.00 feet for a Point of Beginning; thence along a line 102.00 feet long and parallel to the East boundary of said Section 5, South 01° 08' 45" West, a distance of 102.00 feet; thence North 88° 34' 17" West, a distance of 287.69 feet; thence 303.75 feet along the arc of a curve to the left, said curve having a radius of 1347.00 feet and a chord of 303.06 feet which bears South 34° 58' 11" West, to a non-tangent curve whose tangent bears South 85° 45' 58" West; thence 57.95 feet along the arc of said curve to the left, said curve having a radius of 183.48 feet and a chord of 57.75 feet which bears South 77° 29' 58" West; thence 610.41 feet along the arc of a curve to the left, said curve having a radius of 2286.34 feet and a chord of 408.38 feet which bears South 62° 10' 08" West; thence North 01° 17' 50" East, a distance of 594.28 feet to the southerly boundary line of said Section 32; thence along said Southerly boundary line, South 89° 11' 09" East, a distance of 127.85 feet to the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 32; thence along the Westerly boundary line of the Southeast 1/4 of the Southeast 1/4 of said Section 32, North 01° 17' 50" East, a distance of 38.92 feet; thence North 73° 37' 38" East, a distance of 87.20 feet; thence North 65° 57' 45" East, a distance of 95.88 feet; thence North 66° 10' 07" East, a distance of 97.83 feet; thence North 68° 08' 21" East, a distance of 96.71 feet; thence North 65° 27' 24" East, a distance of 96.79 feet; thence North 67° 59' 05" East, a distance of 104.27 feet; thence North 66° 28' 41" East, a distance of 103.26 feet; thence North 63° 46' 55" East, a distance of 108.47 feet; thence North 67° 29' 10" East, a distance of 112.20 feet; thence North 77° 29' 02" East, a distance of 86.88 feet; thence North 87° 08' 36" East, a distance of 67.91 feet; thence North 77° 32' 29" East, a distance of 73.78 feet; thence South 81° 26' 42" East, a distance of 20.27 feet; thence North 85° 01' 26" East, a distance of 153.83 feet to a line 102.00 feet long and parallel to the East boundary of said Section 32; thence along said line South 01° 20' 04" West, a distance of 458.22 feet to the Point of Beginning.